



Civic Arts Commission
Office of Economic Development

Minutes Civic Arts Commission

Wednesday, January 23, 2019 at 6:00 – 8:00 p.m.

Tarea Hall Pittman South Branch Library, 1901 Russell St., Berkeley, CA 94703

Please refrain from wearing scented products to public meetings.

1. **CALL TO ORDER**

6:01 PM

2. **ROLL CALL**

Present: Kim Anno, Dana Blecher, Lisa Bullwinkel, Modesto Covarrubias, Liz Ozol, Matthew Passmore, John Slattery

Absence: Hiroko Tamano (unexcused)

Late: Jennifer Ross (arrived 6:08 PM)

Staff: Jennifer Lovvorn, Commission Secretary & Chief Cultural Affairs Officer and Mara Engelson, Civic Arts Analyst

3. **PUBLIC COMMENT**

No public comment

4. **APPROVAL OF MINUTES**

Action (Motion/Second: Ozol/Slattery) to approve minutes from November 18, 2019 Civic Arts Commission Meeting.

Ayes: Unanimous; Nays: None; Abstain: None; Absent: Ross, Tamano

5. **CHAIR'S REPORT**

- a) Welcomed new Commissioners Modesto Covarrubias and Jennifer Ross
- b) Retreat Reminder – Saturday, February 9, 2019, noon – 5 PM
- c) Cannabis Regulations and Arts Funding. Civic Arts Commission will not be involved in the details of the regulations except to recommend that the Cannabis Commission include protections to ensure that art spaces are not displaced by Cannabis businesses. There is interest in advocating for some of the funds generated by these regulations to support the arts.

- d) Affordable Housing Measures: Measure O was passed by voters which will dedicate \$135 million to affordable housing in Berkeley. City Council held its first work session on the topic on January 15, 2019. Berkeley Cultural Trust helped advocate for affordable housing for artists as part of the discussions. Council is just beginning to make plans to structure how the bond funds will be spent, but their discussion reflected an interest in using a variety of strategies that ranged from small scale to large affordable housing developments. The Chair invited Rick Auerbach to explain the art space survey he conducted for the City in 2008. Mr. Auerbach suggested that it might be good to reexamine the artist protections that were written into the City's zoning codes to ensure that art spaces remain affordable for artists and that zoning is not exploited to create luxury lifestyle lofts which would not be affordable for practicing artists.

6. **ACTION ITEMS** *(All items for discussion and possible action)*

- a) Final Grants Guidelines & Revised Civic Art Grants Guidelines
Action: Bullwinkel/Anno to approve the Final Grants Guidelines & Revised Civic Art Grants Guidelines. The motion carried.

Ayes: Unanimous; Nays: None; Abstain: None; Absent: Hiroko Tamano

- b) John Toki "s-Hertogenbosch" sculpture relocation site
Action: The motion was tabled.

- c) Telegraph Historical Walking Tour Markers

Action: Bullwinkel/Passmore to reject the design and to request new designs for the topper elements for the markers.

Amendment: Anno/Passmore to amend the motion to request that the each topper element be unique and relate to the story and area that it marks. The amendment motion carried.

Ayes: Anno, Blecher, Bullwinkel, Covarrubias, Ozol, Passmore, Ross; Nays: None; Abstain: Slattery; Absent: Tamano

- d) 1947 Center Street Lobby art display program/Install permanent work
Action: Ozol/Bullwinkel to approve discontinuing curated rotating exhibitions in the lobby of 1947 Center Street and instead install permanent artwork in the lobby. The motion carried.

Ayes: Unanimous; Nays: None; Abstain: None; Absent: Hiroko Tamano

- e) Joseph Slusky donation of "Innerscape 8"

Action: Covarrubias/Blecher to accept the donation of "Innerscape 8" by Joseph

Slusky, valued at \$800. The motion carried.

Ayes: Anno, Blecher, Bullwinkel, Covarrubias, Ozol, Passmore, Slattery; Nays: None; Abstained: Ross; Absent: Tamano

- f) Public Art Committee recommendation to decline participation in Alameda County Hometown Herd

Action: Anno/Passmore to decline participation in the Alameda County Hometown Herd. The motion carried.

Ayes: Unanimous; Nays: None; Abstain: None; Absent: Hiroko Tamano

- g) Slate of artists for 2020 Civic Center Exhibition

Action: Anno/Blecher to approve the slate of artists for the 2020 Civic Center Exhibition. The motion carried.

Ayes: Unanimous; Nays: None; Abstain: None; Absent: Hiroko Tamano

- h) Proposed Ohlone Mural plantings and stone sculpture by Jean LeMarr, presented by Stephen Most

Action: The motion was tabled.

7. **PRESENTATIONS and DISCUSSION** (*All items for discussion only and no action*)

- a) Subcommittee Assignments: Lisa Bullwinkel has stepped down from Grants Committee. Modesto Covarrubias has joined Public Art Committee. Jennifer Ross will be added to Policy Committee. The Arts Education Committee will disband because it is duplicative of the Berkeley Arts Education Steering Committee (BAESC) which has all the stakeholders for arts education related initiatives. Liz Ozol will continue to represent the Commission at BAESC. Any other Commissioners are welcome to attend the BAESC meetings. There was further discussion about the possibility of appointing two Civic Arts Commissioners to the Design Review Committee who could alternate attending the meetings.

8. **STAFF REPORT**

- a) Public Art on Private Development Quarterly Update – included as an attachment.
b) Updated Commission Roster – included as an attachment.
c) Announce Public Process for Update to the Local Hazard Mitigation Plan – included as an attachment.

9. **COMMITTEE REPORTS**

- a) Grants

Grants Committee had a joint meeting with Policy on January 8 to do a final

review of the Festival Grants Guidelines and revised guidelines for Arts Organizations and Individual Artists.

b) Policy

See Grants Committee report.

c) Public Art

The Public Art Committee met on January 17 and discussed:

- John Toki “s-Hertogenbosch” sculpture relocation
- Telegraph Historical Walking Tour Markers
- 1947 Center Street Lobby art display program/Install permanent work
- Joseph Slusky donation of “Innerscape 8” (Value \$800)
- Alameda County Hometown Herd
- Draft Policies for: Deaccessions; Gifts; and Monuments, Memorial Artworks & Commemorative Plaques
- Homelessness Social Practice Art Project Discussion

d) Berkeley Arts Education Steering Committee (BAESC) Representative

There was no BAESC meeting in January.

e) Design Review

11. ANNOUNCEMENTS and COMMUNICATIONS

- a) Announce elections of new Chair and Vice Chair in February

12. ADJOURNMENT

8:00pm

13.

Attachments:

1. November 28, 2018 Draft Minutes
2. Civic Art Grant Guidelines
3. John Toki "s-Hertogenbosch" sculpture relocation
4. Telegraph Historical Walking Tour Markers
5. Joseph Slusky donation of "Innerscape 8"
6. Alameda County Hometown Herd
7. Public Art on Private Development Quarterly Update
8. Updated Commission Roster
9. Local Hazard Mitigation Plan

Staff

Contact:

Jennifer Lovvorn

Secretary to the Civic Arts

Commission Berkeley, CA 94704

(510) 981-7533

civicarts@cityofberkeley.info

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Civic Arts Office located at 2180 Milvia Street, First Floor, Berkeley, CA 94704.

ADA Disclaimer

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



Civic Arts Commission
Office of Economic Development

Minutes Civic Arts Commission – Special Meeting

Saturday, February 9 at 12:00 – 5:00 p.m.
East Bay Media Center, 1939 Addison St, Berkeley, CA 94704

Please refrain from wearing scented products to public meetings.

1. **Call to Order**
12:00 PM
2. **Roll Call**
Present: Kim Anno, Dana Blecher, Lisa Bullwinkel, Modesto Covarrubias, Liz Ozol, Matthew Passmore, Jennifer Ross, John Slattery
Absence: Hiroko Tamano (unexcused)
Staff: Jennifer Lovvorn, Commission Secretary & Chief Cultural Affairs Officer and Mara Engelson, Civic Arts Analyst
3. **Public Comment**
No public comment
4. **Introductions (Working Lunch)** – Commissioners introduced themselves to the group. Commissioners' resumes and narrative bios were shared
5. **Orientation to the Commission and Roles** – Commissioners were oriented to the recent past initiatives of the Civic Arts Commission and the roles of Chair and Vice Chair were described and discussed.
6. **Review Commission Work Plan (Attachment 1) and Arts & Culture Plan Update (Attachment 2) and Strategize Initiatives** – Commissioners reviewed and discussed these documents which were provided as attachments.
7. **Tour Veterans Building** – Commissioners toured Veterans Building
8. **Discuss and Draft Cultural Equity Statement (Attachment 3)** – Commissioners discussed the merits of the example Equity Statements from other cities and organizations. They ultimately decided that they would like to rework the Civic Arts Commission Mission Statement to refresh in and to include equity in the mission. Commissioners Bullwinkel, Covarrubias and Slattery will draft something to share with the Commission.
9. **Reflect on Day (What was Missing?)**

10. Adjournment

5:00 PM

Attachments:

1. Approved Commission Work Plan for FY2019
2. Arts and Culture Plan
3. Example Equity Statements from San Francisco Arts Commission, City of Oakland, Americans for the Arts, and Grantmakers in the Arts

Staff

Contact:

Jennifer Lovvorn

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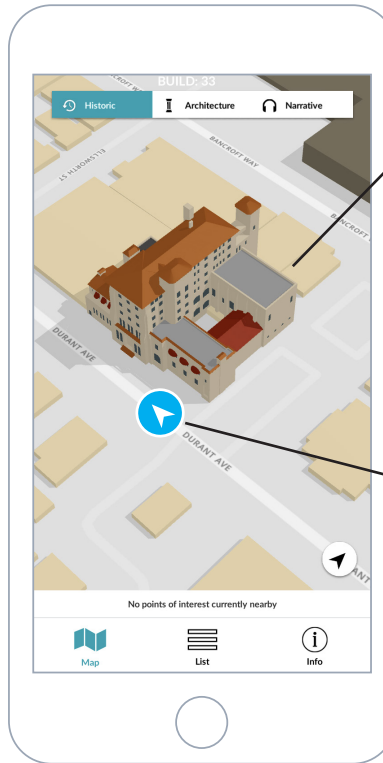
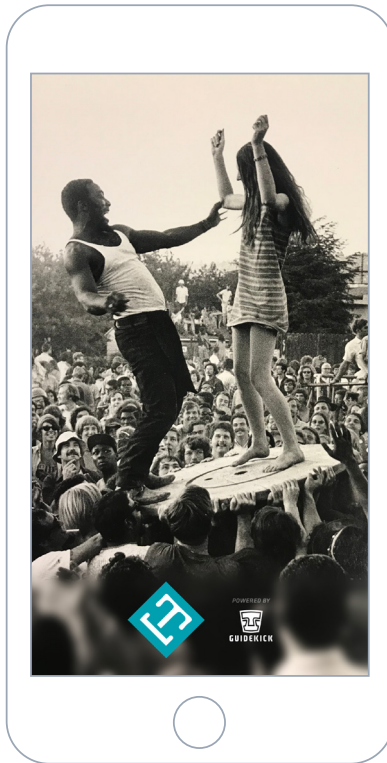
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THE TELEGRAPH HISTORICAL WALKING TOUR

The smart phone-enabled Telegraph Historical Walking Tour will featured the area's compelling stories, told to us by people who experienced the events in person. Powered by an engaging and interactive 3D map developed by Guidekick, the location-sensitive app will help visitors to navigate the space and learn how the events that occurred in the District impact our lives today.

Historical points of interest will be highlighted on the map in the context of your location, providing a simple way to navigate from A to B.

Students preparing to move to the District will be able to explore and experience it in 3D from home--as well as their parents! They can access all the stories and content remotely.



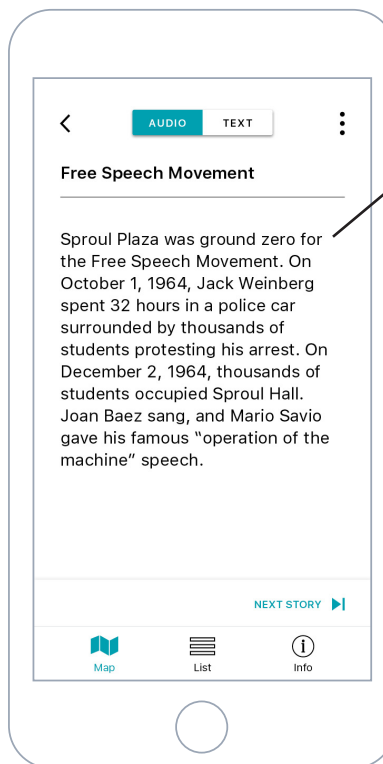
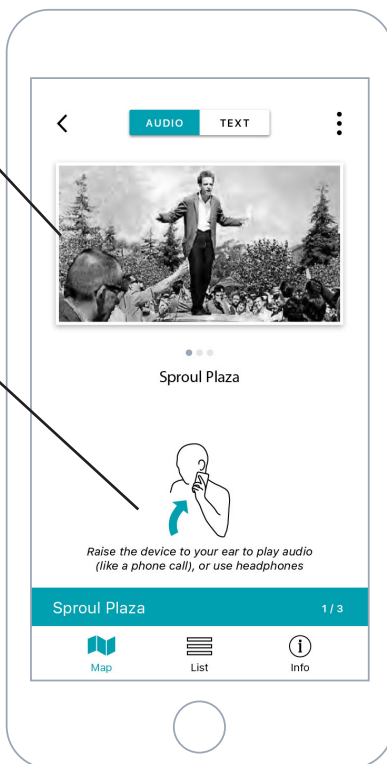
When you open the app, you are presented with an interactive 3D map of the entire Telegraph District, including 3D renderings of architecturally significant buildings.

When you use the app on-site, your location is displayed on the map, and your path is followed as you move through the space in real time.

Each location offers multiple historical images.

The technology enables you to participate without headphones.

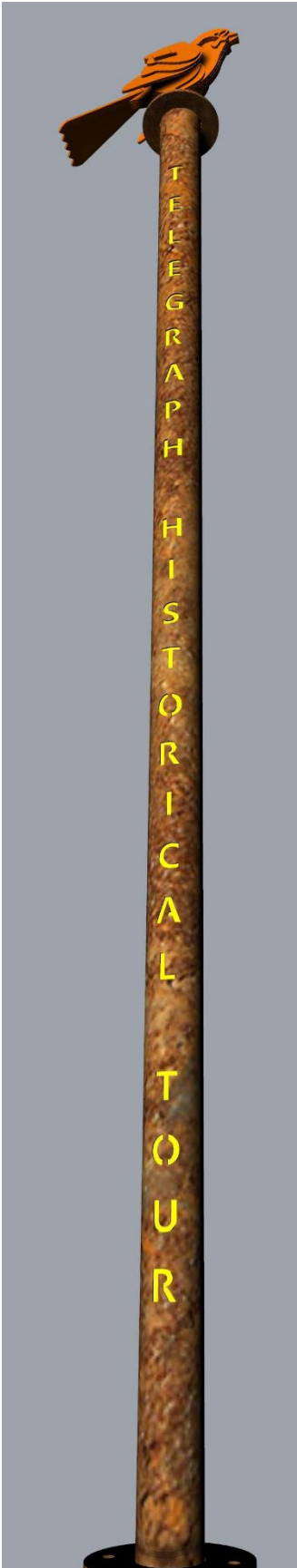
Many of the events will be spoken by people who were there and experienced them directly.



Written text enables an experience for those who are hearing impaired.

You will also have the option to take thematic tours of the District, including, for example, an architecture tour or one focused on the Japanese internment.





Telegraph Historical Walking Tour Street Markers

Six months after the launch of our smartphone-based historical tour we realized that we needed a way to raise awareness of the tour sites on the street. We decided upon poles with lettering as the most efficient use of space in our compact district. To avoid getting lost in the busy streetscape we decided the poles needed something on the crown.

We decided on the image of a bird for the following reasons:

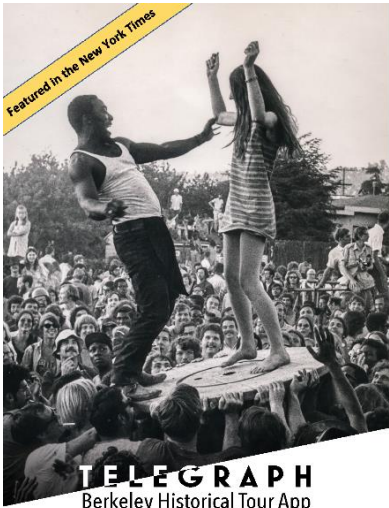
- With its ability to fly, a bird is a positive representation of freedom. Freedom is the one theme that ties each of the tour stops together. The tour has myriad topics: the Japanese Internment, the Free Speech Movement, the Lucky shop-in, the response to the bombing of Cody's Books, among others. All relate to freedom: Freedom to speak, work, or--simply BE.
- We wanted the markers to include an object that would serve as a beacon for those who take the tour.
- We wanted to create an aesthetically pleasing sight for passers-by who are not participating in the Historical Walking Tour.
- We wanted to associate the District with a positive icon that unifies this history.
- We wanted something eye-catching and quirky that creates curiosity. A bird on a pole is not out of the ordinary, but a purple bird that is lit up at night is.

To add visual interest, the birds will be powder-coated in a variety of colors which will create added visual interest.

If we want to consider alternatives to a bird, we have a few options:

1. I've discussed with the artist the cost involved in doing 12 separate icons. Not including my time to take this on, it would be \$4,300.00 - \$5,000.00 for design content development. We are currently \$3,000 over budget with the requirements imposed by the City Planning Department around core drilling. My board will not allow for any additional expenses. In this case, is the commission able to authorize City funds to pay for this difference?
2. We can get rid of any adornment and simply have a pole. This option would be a shame because stakeholders have said that they like the idea that people can walk around the district in the evening and see a variety of colorfully-lit birds. In this case there would no longer be an artistic element remaining, and we would simply get approvals from the City Planning Department.

3. We can come up with a singular alternative icon that represents and applies to all 12 stops. We strongly encourage avoiding clichés such as a peace symbol which creates the impression that the tour only covers certain time periods such as the 1960s.



1. The Free Speech Movement



Storyline: Before the riots, there was the Free Speech Movement (FSM). It defined the ability for college students to protest in the US. How FSM changed the campus and student life across the country.

Commentator: Jack Radley, an organizer of the FSM demonstrations and knew Mario Savio

2. Community Memory at Leopold's Records



Storyline: Telegraph had the first public computerized bulletin board system, a precursor to Craigslist. What was it like when modern technology was young and you did not have a smartphone in your hand?

Commentator: Lee Felsenstein, one of the creators of "Community Memory"

3. Street Artists



Storyline: Telegraph is unique with its street artists and vendors. It was even more unique in the days when nothing was sold unless it came from inside a store.

Commentator: Ed Monroe, street artist since 1974

4. Japanese Internment and the First Congregational Church



Storyline: This spot was where Japanese Americans were bussed from Berkeley to internment camps in the eastern Sierras in WWII. Why this location is a place of pride for the local Japanese community.

Commentator: Ken Namura, grandson of Internment survivor

5. Counterculture, Teeny-boppers, and Drugs



Storyline: Teeny-boppers, hippies, and the Summer of Love. Telegraph as the center, along with the Haight, of the Counterculture movement.

Commentator: Al Geyer, owner Annapurna since 1969

6. Foreign Cinema and Literary Culture



Storyline: There was a time when foreign cinema was, well, foreign. When it was super-cool to show off your reading list to friends.

Commentator: Steve Wasserman, Owner, Heyday Press, who grew up on Telegraph

7. Satanic Verses at Cody's Books



Storyline: Before Amazon, bookstores were a gathering spot and a place of expression. When Salomon Rushdie's book *The Satanic Verses* came out in 1989, Cody's was fire-bombed, one of the earliest acts of religious-related terrorism in the US.

Commentator: Andy Ross, former owner of Cody's Books

8. Moe



Storyline: Moe was a kind of loud mouth beatnik father to a generation: Arrested for selling comic books, cited by the City for smoking his trademark cigar, and remembered for his radical bookselling.

Commentator: Doris Moskowitz, owner of Moe's Books

9. Race, Discrimination, and the Shop-In



Storyline: If you were black in 1963, don't bother applying to work at this supermarket. Lucky's as a target of civil rights demonstrations until 1965.

Commentator: Anita Medal, a Civil Rights protester who was at Lucky's

10. People's Park Mural and the Riots of '69



Storyline: The story of People's Park and the protests around the park and told through the mural.

Commentator: Osha Newman, Creator of People's Park mural

11. Curb cuts and the Center for Independent Living



Storyline: Telegraph is where handicapped curb cut-outs began. How this happened and how it changed the lives of people who use wheelchairs.

Commentator: Susan O'Hara from Director of the UC Berkeley Disabled Students' Program



Civic Arts Commission
Office of Economic Development

NORTH BERKELEY SENIOR CENTER ARTIST SELECTION PANEL MEETING TWO

MEETING DATE

February, 15, 2019

SELECTION PANELISTS

Regina Almaguer, Arts Professional
Weston Teruya, Arts Professional
Trisha Lagaso Goldberg, Arts Professional
Matthew Passmore, Civic Arts Commissioner
Eugeni Candau, Commission on Aging Commissioner
Teri Mai, City of Berkeley Project Architect Team
Mary Drinnon, North Berkeley Senior Center Community Representative
*Elmar Kapfer, City of Berkeley Project Architect Team

* Non-voting panelist

PROCESS

The following finalists presented an overview of their practice and proposals for the North Berkeley Senior Center Public Art Project:

- Aileen Barr
- Mildred Howard
- Masayuki Nagase

The panelists discussed and evaluated each of the proposals based on the following criteria:

- Artistic excellence, innovation and originality as evidenced by representations of past work
- The artist's work is judged to be appropriate to the goals of the civic art collection/project.

The panelist then ranked the artists: 1, 2, or 3 (1=highest rank) accordingly.

RESULTS

- Aileen Barr: 14
- Mildred Howard: 20
- Masayuki Nagase: 8

PANEL RECOMMENDATIONS:

The panel selected Masayuki Nagase's proposal for the North Berkeley Senior Center Public Art Project and recommends this selection to the Civic Arts Commission for approval at their 2/27/19 meeting.

The panel recommends that Masayuki Nagase eliminate the two wall panels and instead add additional floor pavers around the Entry Plaza Table-Bench.

Masayuki Nagase North Berkeley Senior Center Public Art Proposal "Song of Trees"

ENTRY PLAZA ART ELEMENTS LOCATION

North Berkeley Senior Center Public Art Proposal "Song of Trees" Masayuki Nagase

When I visited the North Berkeley Senior Center, I could feel this place vitalized so many people's lives in a variety of ways. Since I always work with the theme of nature I envisioned how throughout history, people would choose a prominent tree as a spiritual marker and a gathering place for their community.

Trees are the longest living organisms on earth. They create oxygen for all life, carry the essence of abundance, growth and rebirth. I chose the tree as the main metaphor of the artwork representing unity, community and diversity. The North Berkeley Senior Center's essence is like the deep-rooted trees that endure and nourish and inspire us.

Additionally, I propose to have a design community workshop where I can find out what inspires the community here about nature and trees. I would like to then integrate meaningful quotes or poems that community members choose and integrate into the artwork in the plaza.

The artwork consists of three elements located in and around an entry plaza for the main building.

The 1st elements are 2 stone panels placed in the walls for the 2 main entrance walkways into the entry plaza. Each panel will have a design of 2 different types of trees and these panels will act as visual markers for visitors.

The 2nd element is a stone table-bench with a design based on the Redwood tree and placed in the entry plaza. This element represents community.

The 3rd element is a series of circular stone pavers with images of varied types of trees and placed in the entry plaza. This element represents diversity.

ENTRY PLAZA TABLE-BENCH

This stone table-bench sculpture is a functional art element and acts as a main focal point in the entry plaza.

The design of the sculpture is based on the Coast Redwood tree. The sides of the table-bench will have a hand carved texture like the bark of the tree. The top surface of the table-bench will be engraved with an abstract pattern based on Redwood cone and leaves.

ENTRY PLAZA TABLE-BENCH

ENTRY PLAZA STONE PAVERS

1 # 12"	Hazelnut	5 # 30"	Big Leaf Maple
2 # 16"	CA. Bay Laurel	6 # 36"	Valley Oak
3 # 20"	Coast Live Oak	7 # 36"	Sycamore
4 # 24"	Eucalyptus		

WALL A and WALL B with STONE PANELS

There are two low walls on the main entrance walkways to the plaza facing the streets of Martin Luther King Jr. Way and Hearst Ave.

I propose to place a stone panel in each wall. They will be engraved with two different designs based on native trees. These panels will enhance the walls and give additional visual markers as the visitors enter the plaza.

STONE WALL PANEL A (California Bay Laurel)

STONE WALL PANEL B (California Buckeye)

COLOR and TEXTURE SAMPLE

Proposal Narrative

When I visited the North Berkeley Senior Center, I could feel this place vitalized so many people's lives in a variety of ways. Since I always work with the theme of nature I envisioned how throughout history, people would choose a prominent tree as a spiritual marker and a gathering place for their community.

Trees are the longest living organisms on earth. They are essential, creating oxygen for all life. Trees carry the essence of abundance, growth, and rebirth. I chose the tree as the main metaphor of the artwork representing unity, community and diversity. The North Berkeley Senior Center's essence is like the deep-rooted trees that endure and nourish and inspire us.

Additionally, I propose to have a design community workshop where I can find out what inspires the community here about nature and trees. I would like to then integrate meaningful quotes or poems that community members choose and integrate into the artwork in the plaza.

The artwork consists of three elements located in and around an entry plaza for the main building.

The 1st elements are two stone panels placed in the walls for the 2 main entrance walkways into the entry plaza. Each panel will have a design of 2 different types of trees and these panels will act as visual markers for visitors.

Material: Granite
Color: Dark gray, Black
Panel dimensions: Width 4 ft. Height 2 ft.

The 2nd element is a stone table-bench with a design based on the Redwood tree and placed in the entry plaza. This element represents Community. This element represents community.

Material: Granite
Color: Dark gray, Black
Dimension: Diameter 5 ft. Height 18 inches

The 3rd element is a series of circular stone pavers with images of varied types of trees and placed in the entry plaza. These pavers represent Diversity.

Material: Granite
Color: Dark gray, Black
Dimensions: Series of 7 pavers. Diameter ranges from 12 inches to 3 ft.

Additional community involvement component will be discussed in detail in the future design development phase. Preliminary ideas would be integrating quotes or phrases from poems in the paving or wall areas.

Maintenance:

Cleaning with water and light detergent as needed (every few months) to remove dirt and stains when necessary.

Artist's role on the project:

Artist will be the main fabricator of the stone elements. Subcontractors will prepare the stone material such as saw cuts, polishing and some sandblasting.

Subcontractors:

1) Cold Spring Granite Company
17482 Granite West Road, Cold Spring, MN 56320
800-551-7502

2) American Soil & Stone
2121 San Joaquin St A, Richmond, CA 94804
510-292-3000

Preliminary Description of Work Process and Timeline

I. RESEARCH PHASE **1-3 months**

- a) Finalize schematic design details, plans and contract
- b) Coordinate with design team all design details and material selections
- c) Select structural engineer for concrete foundation for table-bench and other elements.
- d) Select subcontractors for preparation of stone materials including polishing and sandblasting and for concrete foundation
- e) Select stone materials and order saw cuts in factory

II. FABRICATION PHASE **2-3 months**

- a) Fabrication of table-bench in studio by artist
- b) Fabrication of sandblasted, engraved pavers by subcontractor

III. SITE PREPARATION PHASE **1 month**

- a) Pouring of the concrete foundation for the table-bench by subcontractor
- b) Preparation of paving area and concrete foundation by artist

IV. INSTALLATION PHASE **1-2 months**

- a) Transportation of table-bench to the site by trucking company
- b) Installation of table-bench by subcontractor
- c) Transportation of granite panels and pavers by artist or subcontractor
- d) Installation of granite panels by subcontractor
- e) Installation of granite pavers by subcontractor

**Proposed Budget
North Berkeley Senior Center
Public Art Project**

I. FABRICATION PHASE

a) Design fee 15%	\$15,000.
b) Stone material, factory sawcut and sandblasting	\$16,000.
c) Transport stone material to studio	\$1,000.
d) Forklift rental	\$3,000.
e) Structural engineer design services for foundation	\$2,000.
f) Artist's labor: 2 and half months @ \$80.00 per hour	\$32,000.
g) Studio overhead	\$2,000.

II. SITE PREPARATION PHASE

a) Concrete foundation for stone elements	\$4,000
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III. INSTALLATION PHASE

a) Transportation of stone elements to the site including loading/unloading	\$1,000.
b) Crane rental	\$2,000.
c) Forklift rental	\$1,000.
d) Installation of art components	\$6,000.
e) Artist onsite consultation during installation	\$2,000.

IV. MISCELLANEOUS COSTS

a) Insurance	\$1,000.
b) Project overhead and management	\$2,000.

Subtotal:	\$90,000.
10% Contingency:	\$10,000
Total Budget:	\$100,000.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY

Arads Sott

CITY ATTORNEY'S OFFICE

18 MAR 23 AM 8:37

AS AMENDED IN CITY COUNCIL MARCH 8, 2018

OAKLAND CITY COUNCIL
ORDINANCE NO. ~~13478~~ 13478 C.M.S.

INTRODUCED BY COUNCIL MEMBER KAPLAN, MAYOR LIBBY SCHAAF, AND CITY
ADMINISTRATOR SABRINA LANDRETH

ORDINANCE AMENDING CHAPTERS 5.80 AND 5.81 OF THE OAKLAND MUNICIPAL CODE TO RESTRICT OR PROHIBIT APPROVAL AND/OR PERMITTING OF CANNABIS BUSINESSES AT LOCATIONS (A) WHERE "WORK/LIVE" TYPE USES, AS DEFINED IN CHAPTERS 5.80 AND 5.81, EXISTED AS OF MARCH 6, 2018 OR (B) WHERE RESIDENTIAL USES EXISTED AS OF MARCH 6, 2018.

WHEREAS, in 1996, California voters approved Proposition 215 (codified at Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"), which provides criminal immunity for patients and primary caregivers for the cultivation and possession of cannabis if a doctor has recommended the cannabis for medical purposes; and

WHEREAS, in 2004, Senate Bill 420 was enacted (codified at Health and Safety Code section 11362.7 *et seq.* and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows cities and other governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, neither the Compassionate Use Act of 1996 nor the Medical Marijuana Program Act provided an effective statewide regulatory system for the medical cannabis industry, and this lack of uniform regulation created uncertainty about the legality of medical cannabis activities and endangered the safety of end users, who have not had the benefit of a monitored supply chain for medical cannabis, quality control, testing or labeling requirements; and

WHEREAS, in 2011, Assembly Bill 2650 was enacted (codified at Health and Safety Code section 11362.768). This law affirms that cities can adopt ordinances that restrict the location and establishment of medical marijuana collectives, cooperatives, and dispensaries; and

WHEREAS, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court concluded that nothing in the Compassionate Use Act or the Medical Marijuana Program Act precludes a local jurisdiction from regulating or prohibiting facilities that distribute medical marijuana; and

WHEREAS, in 2015, Assembly Bills 243 and 266 and Senate Bill 643 were enacted (codified at Business and Professions Code section 19300 *et seq.* and titled the "Medical Cannabis Regulation and Safety Act"). These bills also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical marijuana; and

WHEREAS, the Medical Cannabis Regulation and Safety Act ("MCRSA") preserved local control in a number of ways: (1) by requiring medical cannabis businesses to obtain both a state license and a local license or permit to operate legally in California, (2) by terminating the ability of a medical cannabis business to operate if its local license or permit is terminated, (3) by authorizing local governments to enforce state law in addition to local ordinances, if they request that authority and it is granted by the relevant state agency, (4) by providing for civil penalties for unlicensed activities, and continuing to apply applicable criminal penalties under existing law, and (5) by expressly protecting local licensing practices, zoning ordinances, and local actions taken under the constitutional police power; and

WHEREAS, the voters of California approved Proposition 64 on November 8, 2016, legalizing the use of cannabis for persons aged 21 or older under state law and establishing certain sales and cultivation taxes; and

WHEREAS, in 2017 the State legislature passed S.B. 94, or the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), the reconciliation legislation merging the regulation of medical and adult-use cannabis at the State level as much as possible. S.B. 94 generally imposes the same requirements on both commercial medicinal and commercial adult-use cannabis activity, with specific exceptions. The governor signed S.B. 94 on June 27, 2017; and

WHEREAS, the City of Oakland has been a leader in regulating medical cannabis and adult use cannabis businesses to protect the public health, safety and general welfare of the community, as well as the interest of patients who qualify to obtain, possess and use cannabis for medical purposes; and

WHEREAS, in parallel with developments in state law, the City of Oakland amended its cannabis ordinances, Oakland Municipal Code ("OMC") Chapters 5.80 and 5.81 in May 2016 to create a permitting process for the entire supply chain of cannabis businesses; and

WHEREAS, the May 2016 updates to OMC Chapters 5.80 and 5.81 established areas where cannabis businesses may locate; and

WHEREAS, since May 2016, the City of Oakland has received countless inquiries from property owners, investors, realtors, attorneys and operators interested in operating cannabis businesses in the areas where cannabis businesses are permitted in the City of Oakland; and

WHEREAS, the City of Oakland has received over eight hundred (800) hundred applications for cannabis businesses since the City began receiving such applications in the Spring of 2017; and

WHEREAS, the City Council finds and declares that a substantial number of industrial and commercial buildings in the City have lost industrial and commercial tenants to more modern industrial and commercial premises, and that the untenanted portions of such buildings constitute a potential resource capable of accommodating joint living and work quarters which are physically and economically suitable particularly for use by artists, artisans, and small economic enterprises and businesses; and

WHEREAS, the City of Oakland Planning Code allows for a variety of Work/Live uses in its industrial and commercial zones, some of which otherwise do not permit residential uses, providing much needed affordable housing and space for artistic and creative enterprises and small economic enterprises and businesses; and

WHEREAS, the City of Oakland has identified at least twenty-five (25) permitted Work/Live work properties in the areas where cannabis businesses are allowed to situate under OMC Chapters 5.80 and 5.81; and

WHEREAS, the City of Oakland is experiencing an affordability crisis in terms of housing as well as commercial and industrial spaces; and

WHEREAS, it is critical to preserve affordable housing and commercial and industrial spaces in the City of Oakland; and

WHEREAS, properties located in the areas where cannabis businesses are permitted tend to be both more affordable for residents and more conducive to businesses that support artists, makers and other workers in creative sectors than in other areas of the City that allow more traditional housing and commercial uses; and

WHEREAS, The City Council independently finds and determines that this action does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") based on: (1) CEQA Guidelines, 14 California Code of Regulations, Section 15060(c)(2) because there is no potential that it will result in a direct or reasonably foreseeable indirect physical change in the environment and (2) CEQA Guidelines, 14 California Code of Regulations, Section 15378 because it has no potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment; and

WHEREAS, the City Council further independently finds that even if this action does comprise a project for CEQA analysis, the following CEQA Guidelines, 14 California Code of Regulations, exemptions apply to this action: (1) CEQA Guidelines Section 15061(b)(3) (general rule exemption), and (2) CEQA Guidelines section 15301 (existing facilities exemption), each of which provides a separate and independent basis for CEQA clearance and when viewed together provide an overall basis for CEQA clearance now, therefore

The City Council of the City of Oakland Does Ordain as Follows:

SECTION 1. Recitals. The City Council finds and determines the foregoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2. Purpose and Intent. It is the purpose and intent of this Ordinance to restrict and prohibit the issuance of cannabis approvals and permits in properties utilized for Work/Live or residential purposes to preserve the public peace, health, safety, and general welfare of the citizens and residents of the City of Oakland.

SECTION 3. Amendments to Oakland Municipal Code Chapter 5.80. Oakland Municipal Code Chapter 5.80 is hereby amended as follows:

Chapter 5.80 - MEDICAL AND ADULT-USE CANNABIS DISPENSARY PERMITS

5.80.010 - Definitions

The following words or phrases, whenever used in this chapter, shall be given the following definitions:

- A. "Applicant" shall mean any individual or business entity that applies for a permit required by this chapter.
- B. "Cannabis" or "Marijuana" shall have the same definition as Business and Professions Code Section 19300.5(f), as may be amended, which, as of March 2016, defines "cannabis" as all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound. Manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Health and Safety Code Section 11018, "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant which is incapable of germination. "Cannabis" does not mean "industrial hemp" as defined

by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

- C. "Cannabis dispensary" or "Dispensary" shall mean a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale or in exchange for entrance to an event, to either adults over 21 years of age, qualified patients or primary caregivers. This includes an establishment that delivers cannabis and cannabis products as part of a retail sale.
- D. "City Administrator" means the City Administrator of the City of Oakland or his/her designee.
- E. "Collective" means any association, affiliation, or establishment jointly owned and operated by its members, which facilitates the collaborative efforts of qualified patients and primary caregivers, as described in State law.
- F. "Commercial Zone" means any zone in the Planning Code with a name that contains the words "Commercial Zone."
- G. "Delivery" means the commercial transfer of cannabis or cannabis products from a dispensary to adults over 21 years of age, a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform that enables adults over 21 years of age, qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of cannabis or cannabis products.
- H. "Delivery only dispensary" means a cannabis dispensary that provides cannabis or cannabis products to adults over 21 years of age, primary caregivers or qualified patients as defined in Section 11362.7 of the Health and Safety Code exclusively through delivery.
- I. "Equity Applicant" shall mean an Applicant whose ownership/owner:
 - 1. Is an Oakland resident; and
 - 2. In the last year, had an annual income at or less than 80 percent of Oakland Average Medium Income (AMI) adjusted for household size; and
 - 3. Either (i) has lived in any combination of Oakland police beats 2X, 2Y, 6X, 7X, 19X, 21X, 21Y, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X and 35X for at least ten of the last twenty years or (ii) was arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland, California.

- J. "General Applicant" shall mean an Applicant other than an Equity Applicant.
- K. "Industrial Zone" means any zone in the Planning Code with a name that contains the words "Industrial Zone."
- L. "Medical marijuana" or "Medical cannabis" means marijuana authorized in strict compliance with Health and Safety Code Sections 11362.5, 11362.7 et seq., as such sections may be amended from time to time.
- M. "Ownership" shall mean the individual or individuals who:
- (i) with respect to for-profit entities, including without limitation corporations, partnerships, limited liability companies, has or have an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 50 percent or more in the entity.
 - (ii) with respect to not for-profit entities, including without limitation a non-profit corporation or similar entity, constitutes or constitute a majority of the board of directors.
 - (iii) with respect to collectives, has or have a controlling interest in the collective's governing body.
- N. "Parcel of land" means a single contiguous parcel of real property as identified by the county assessor's parcel number (APN), which is used to identify real property and its boundaries for legal purposes.
- O. "Premises" shall have the same definition as California Business and Professions Code Section 26001, as may be amended, which as of March 2018, defines "Premises" as "the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted" but shall be construed to mean the portion of a property or structure where the commercial cannabis activity will be or is conducted.
- P. "Primary caregiver" shall have the same definition as California Health and Safety Code Section 11362.7, as may be amended, which, as of March 2016, defines "Primary Caregiver" as an individual designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include a licensed health care facility, a residential care facility, a hospice, or a home health agency as allowed by California Health and Safety Code Section 11362.7(d)(1)—(3).
- Q. "Qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as may be amended, which, as of March 2016, means a person who is entitled to the protections of California Health and Safety Code Section 11362.5. For purposes of this ordinance, qualified patient shall

include a person with an identification card, as that term is defined by California Health and Safety Code Section 11362.7 et seq.

- R. "Principal Street" means on interior lots, the street that abuts a lot. On corner lots and through lots, the principal street is the street that abuts the lot that is highest on the street hierarchy as defined in the Land Use and Transportation Element of the General Plan. Where streets have the same street hierarchy, the principal street shall be determined by the Zoning Administrator based on the street widths, traffic capacity, land uses, transit activity, bicycle and pedestrian uses, and control of intersections.
- S. "Smoking" shall have the same definition as Oakland Municipal Code Chapter 8.30, which as of March 2017 means "inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, or other combustible substance."
~~"State licensed entity" means a person or entity that has been authorized by the state of California to~~
- T. "Youth Center" means a community or recreation facility that primarily serves persons eighteen (18) years or younger.
- U. "Work/Live" means permitted uses that fall under any of the following use activity or facility types of the Oakland Planning Code: Work/live unit (as defined in Subsection 17.73.040.B in a CIX, IG, and IO Zone); or Work/live nonresidential facilities (as defined in Chapter 17.101E in a D-CE-5 Zone); or Live/work facilities (as defined in Chapters 17.65 and 17.101E in HBX and D-CE Zone); or Work/live nonresidential facilities (as defined in Chapters 17.65 and 17.101E in a D-CE-3 or D-CE-4 Zone); or Joint work and living quarters (as defined in Section 17.102.190); or Residentially-oriented joint living and working quarters (as defined in Section 17.102.195) or such unpermitted uses that involve a work and live component.

5.80.020 - Business permit and application required

- A. Except for hospitals, research facilities, state licensed entities issued a special event permit under Section 9.52, or an entity authorized pursuant to Section 8.46.030, it is unlawful for any owner, operator, or association to own, conduct, operate, maintain, participate therein, or to cause or allow to be conducted, operated, or maintained, any dispensary, delivery or delivery only dispensary in or into the City unless there exists a valid business permit in compliance with the provisions of Chapter 5.02 and a permit issued under this chapter. However, entities authorized under OMC Chapter 8.46 must abide by the same requirements imposed herein on dispensaries.
- B. This chapter, and the requirement to obtain a business permit, do not apply to the individual possession or cultivation of cannabis for personal use, nor does this chapter and such requirement apply to the usage, distribution, cultivation or processing of cannabis by qualified patients or primary caregivers when such

group is of three (3) or fewer individuals, and distributing, cultivating or processing the cannabis from a residential unit or a parcel of land. Such associations shall not be required to obtain a permit under Chapter 5.80, but must comply with applicable State law.

- C. The City Administrator shall issue no more than eight new valid permits for the operation of dispensaries in the City per calendar year, with a minimum of half of the dispensary permits issued each calendar year issued to Equity Applicants. Delivery only dispensaries shall not be subject to these limits. Dispensary permits shall be issued through an equity permit process done in collaboration with the department of race and equity.
- D. In addition to the requirements specified in Section 5.02.020 for business permits, the application for a dispensary permit shall set forth the following information:
 - 1. Unless the City Administrator in his/her discretion determines that the location will not impact the peace, order and welfare of the public evidence that the proposed location of such dispensary is not within six hundred (600) feet of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive (but not including any private school in which education is primarily conducted in private homes), another dispensary or youth center, unless the school or youth center moved into the area after the dispensary was issued a permit under this chapter. The distance between facilities shall be measured via path of travel from the closest door of one facility to the closest door of the other facility unless otherwise prescribed by state law. The proposed dispensary must be located in a commercial or industrial zone, or its equivalent as may be amended, of the City. The proposed delivery only dispensary must also be located in a Commercial or Industrial Zone, excluding the CN Neighborhood Center Commercial Zones and the D-BV Broadway Valdez District Commercial Zones, or their equivalent as may be amended, of the City. Delivery only dispensaries shall not occupy more than one thousand (1,000) square feet of ground floor storefront space in a building facing a Commercially zoned principal streets. The limitations on locations for delivery only dispensaries shall apply to those applicants who submit applications after the effective date of these amendments.
 - 2. A plan of operations that will describe how the dispensary or delivery only dispensary will operate consistent with State law and the provisions of this chapter, including but not limited to:
 - a. Controls to ensure cannabis will be dispensed only to adults over 21 years of age, qualified patients and or primary caregivers, and
 - b. Controls to acquire, possess, transport and distribute cannabis to and from State licensed cannabis entities.

3. A security plan, as a separate document, outlining the proposed security arrangements to deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products at the dispensary, in accordance with minimum security measures required by State law. The security plan shall be reviewed by the Police Department and the Office of the City Administrator and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).
 4. A community beautification plan to reduce illegal dumping, littering, graffiti and blight and promote beautification of the adjacent community within 50 feet of the dispensary or delivery-only dispensary.
 5. If the applicant is an Equity Applicant, information documenting such status, as described in Section 5.80.045 and any applicable administrative guidelines.
 6. Such other information deemed necessary to conduct any investigation or background check of the applicant, and for the City Administrator to determine compliance with this chapter, the City's Municipal Code and Zoning Code.
 - a. Background checks shall only apply to Dispensary and Delivery-Only Dispensary Applicants and they shall be limited to determining whether in the last seven (7) years an Applicant has been convicted or plead nolo contender or guilty to a violent offense or crime of fraud or deceit as defined by the City Administrator's administrative guidelines.
 - b. Applicants with recent relevant convictions may still petition the City Administrator for reconsideration if they can demonstrate evidence of rehabilitation, such as participation in rehabilitative services and payment of restitution.
 7. An applicant for a dispensary permit shall not be disqualified from receiving a permit under this Chapter on the ground that the applicant also operates or intends to operate in a cannabis-related field by providing additional, non-dispensary activities (such as cultivation).
- E. Applications for dispensaries shall be subject to a public hearing with public notice of the hearing in accordance with Section 5.02.050. Applications for delivery only dispensaries shall not be subject to a hearing requirement. The City Administrator shall be the investigating official referred to in Section 5.02.030 to whom the application shall be referred. All General applicants shall pay an application fee, a permit fee, and all inspection fees that may be required as part of the application process, as specified in the City's Master Fee Schedule. There shall be no application fee for Equity Applicants.

- F. All dispensary permits shall be special business permits and shall be issued for a term of one year. No property interest, vested right, or entitlement to receive a future license to operate a cannabis business shall ever inure to the benefit of such permit holder.

5.80.025 - Onsite consumption permit

- A. A dispensary must obtain a secondary onsite consumption permit in order for cannabis to be consumed on the premises of the dispensary.
- B. An onsite consumption permit may be issued at the discretion of the City Administrator to existing dispensaries in good standing following a public hearing conducted according to the requirements of Chapter 5.02 and based on an evaluative point system that takes into consideration the operating history and business practices of the applicant, and any other factors that are deemed necessary to promote the peace, order and welfare of the public. An application for an onsite consumption permit may be denied for failure to meet requirements of the City Building Code, City Fire Code, City Planning Code, this chapter, and/or any violation of State or local law relevant to the operation of dispensaries.
- C. The City Administrator shall establish conditions of approval for each onsite consumption permit, including but not limited to a parking plan, ventilation plan, anti-drugged driving plan, and set hours of operation. Set hours of operation may only be adjusted by submitting a written request to and obtaining approval from the City Administrator's Office.
- D. The permit shall be subject to suspension or revocation in accordance with Section 5.80.070, and the owner/operator shall be liable for excessive police costs related to enforcement.
- E. The application fee and annual fee for the onsite consumption permit shall be specified in the City's Master Fee Schedule.
- F. All onsite consumption permits shall be special business permits and shall be issued for a term of one year. No property interest, vested right, or entitlement to receive a future license to operate a cannabis business shall ever inure to the benefit of such permit holder as such permits are revocable at any time with our without cause by the City Administrator subject to Section 5.80.070.

5.80.030 - Regulations

The City Administrator shall establish administrative regulations for the permitting of dispensaries, delivery only dispensaries, and onsite consumption, and may set further standards for such operations and activities through administrative guidance and formal regulations. In order to maintain a dispensary or delivery only dispensary permit in good standing, each dispensary and delivery only dispensary must meet all the

operating criteria for the dispensing of cannabis required pursuant to State law, the City Administrator's administrative regulations, and this Chapter.

5.80.035 – Prohibition on Disclosing Applicant Information with the Federal Government

The City of Oakland shall not disclose any Applicant information to the federal government unless disclosure of such information is required by law including but not limited to a warrant, subpoena, or Court order. In addition, the City shall comply with the California Public Records Act (Government Code Section 5250 et seq.) and the City of Oakland's Sunshine Ordinance (Oakland Municipal Code Section 2.20.180 et seq.) and will protect privacy and safety to the extent permitted by law.

5.80.040 - Performance and operating standards

The City Administrator shall develop and implement performance and operating standards consistent with those set forth in Ordinance No. 12585 in the Office of the City Administrator Guidelines and shall modify such Guidelines from time to time as required by applicable law and consistent with public health, welfare and safety. Noncompliance of such operating standards shall constitute a breach of the permit issued hereunder and may render such permit suspended or revoked based upon the City Administrator's determination.

The following performance standards shall be included in the City Administrative regulations:

- A. No cannabis shall be smoked inside the premises of the dispensary.
- B. The dispensary shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.
- C. Dispensaries must maintain a staff comprised of at least fifty percent (50%) Oakland residents and twenty-five percent (25%) Oakland residents in census tracts identified by the City Administrator as having high unemployment rates or low household incomes. The City Administrator's guidelines and regulations may provide details of these requirements, including for phasing in this requirement for existing facilities.
- D. Dispensaries and delivery only dispensaries that hire and retain formerly incarcerated current Oakland residents may apply for a tax credit or license fee reduction based on criteria established by the City Administrator.
- E. All dispensary employees and delivery only dispensary employees shall be paid a living wage as defined by OMC Chapter 2.28.

- F. Dispensaries and delivery only dispensaries must implement a track and trace program as prescribed by state law that records the movement of cannabis and cannabis products in their custody and make these records available to the City Administrator upon request.
- G. No cannabis odors shall be detectable outside of the permitted facility.
- H. Delivery-Only dispensaries are not open to the public.

5.80.045 - Equity Permit Program.

- A. Equity Criteria. Applicant ownership/owner must satisfy the following criteria:
 - 1. Be an Oakland resident; and
 - 2. In the last year, had an annual income at or less than 80% Oakland average median income (AMI) adjusted for household size; and
 - 3. Either (i) has lived in any combination of Oakland Police Department Beats 2X, 2Y, 6X, 7X, 19X, 21X, 21Y, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X and 35X for at least ten of the last twenty years; or (ii) was arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland, California.
- B. Review of Criteria.
 - 1. Proof of Income shall be supported with federal tax returns and at least one of the following documents: two months of pay stubs, current Profit and Loss Statement, or Balance Sheet, or proof of current eligibility for General Assistance, Food Stamps, Medical/CALWORKs, or Supplemental Security Income or Social Security Disability (SSI/SSDI)
 - 2. Residency must be for a total of ten years in any combination of the designated Oakland police beats as set forth in Section 5.80.010.H.3. A minimum of two of the documents listed below, evidencing 10 years of residency, shall be considered acceptable proof of residency. All residency documents must list the applicant's first and last name, and the Oakland residence address in the police beats set forth in Section 5.80.010.H.3:
 - California driver's record; or
 - California identification card record; or
 - Property tax billing and payments; or
 - Verified copies of state or federal income tax returns where an Oakland address within the police beats is listed as a primary address; or
 - School records; or
 - Medical Records; or
 - Banking records; or

- Oakland Housing Authority records; or
 - Utility, cable or internet company billing and payment covering any month in each of the ten years.
3. Proof of Conviction should be demonstrated through federal or state court records indicating the disposition of the criminal matter.
- C. Assistance. Equity Applicants will be eligible for participation in the Equity Assistance program, which will include industry specific technical assistance, business ownership technical assistance, no interest business start-up loans, and waivers from City permitting fees.
- D. Initial Permitting Phase.
1. The period of time before the Equity Assistance Program referred to in OMC 5.80.045(C), is established, funded and implemented shall be referred to as the Initial Permitting Phase
 2. At any point during the Initial Permitting Phase, a minimum of fifty (50) percent of all permits collectively issued under OMC Chapters 5.80 and 5.81 shall be issued to Equity Applicants. This excludes the permits issued to the initial eight (8) dispensaries.
 3. In the Initial Permitting Phase, a General Applicant will receive the next available General Applicant permit if it serves as an Equity Incubator by providing free real estate or rent to an Equity Applicant who obtains a cannabis permit. In order to receive this permitting priority, the General Applicant must also comply with the following conditions:
 - a. The free real estate or rent shall be for a minimum of three years.
 - b. The Equity Applicant shall have access to a minimum of 1,000 square feet to conduct its business operations.
 - c. The General Applicant must provide any City required security measures, including camera systems, safes, and alarm systems for the space utilized by the Equity Applicant.
 - d. The General Applicant is otherwise compliant with all other requirements of OMC Chapter 5.80 or 5.81.
 4. If a General Applicant obtains a cannabis permit utilizing the Equity Incubator priority provisions of OMC 5.80.045 (D)(3) and the Equity Applicant ceases its business operations, the General Applicant must:
 - a. Notify the City Administrator within thirty (30) days of the Equity Applicant ceasing its business operations; and

- b. Re-apply for a cannabis permit subject to the permitting restrictions of this Chapter, including OMC 5.80.045 (D)(2).
- 5. Failure to notify the City Administrator, submit a new application and obtain a new cannabis permit as required under OMC 5.80.045 (D) is grounds for revocation and a violation of this chapter.

E. Renewal.

- 1. In order to continue to receive new Equity Assistance Program services, an Equity Applicant must provide proof that it continues to satisfy the Equity Criteria at the time of its annual permit renewal.
- 2. An Equity Applicant who no longer satisfies the Equity Criteria but is compliant with all other requirements of OMC Chapter 5.80 or 5.81 will be entitled to renew the permit but will no longer be entitled to receive new Equity Assistance Program services. Such an Applicant may utilize any services previously granted under the Equity Assistance Program, though, such as previously issued loans.

5.80.050 - Regulatory fees; seller's permit

- A. Unless exempted under OMC 5.80.045, in addition to the dispensary application fee, the dispensary shall pay an annual regulatory fee. The dispensary shall post a copy of the dispensary permit and onsite consumption permit (if applicable) issued pursuant to this chapter in a conspicuous place in the premises approved as a dispensary at all times.
- B. The fees referenced herein shall be set by the Master Fee Schedule, as modified from time to time.

5.80.060 - Sales

Sales of cannabis that violate California law or this chapter are expressly prohibited.

5.80.070 - Revocation, suspension and appeals

The City Administrator's decision to issue or deny a permit shall be subject to an appeal by the Applicant pursuant to Section 5.02.100, except that the appeal authorized in Section 5.02.100 shall be to an independent hearing officer and not the City Council. The request for an appeal must be made in writing within fourteen (14) days of the City Administrator's decision. The decision of the independent hearing officer shall be final and conclusive.

For suspensions or revocations of permits the City shall follow the procedures set forth in Section 5.02.080, except that the City Administrator shall provide fourteen (14) days' notice of the hearing on the proposed action to suspend or revoke the permit. The appeal authorized in Section 5.02.100 shall be to an independent hearing officer, and such request for appeal must be made in writing within fourteen (14) days of the City Administrator's decision. The decision of the independent hearing officer shall be final and conclusive.

5.80.080 - Prohibited operations; nonconforming uses

- A. Operation of a dispensary or delivery only dispensary in violation of California Health and Safety Code Section 11326.7, et seq., 11362.5, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and this chapter are expressly prohibited. It is unlawful for any dispensary or delivery only dispensary in the City, or any agent, employee or representative of such dispensary or delivery only dispensary, to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct on the premises of the dispensary or during the delivery of cannabis.
- B. Except for uses established pursuant to Chapter 8.46, no use which purports to have distributed cannabis prior to the enactment of this chapter shall be deemed to have been a legally established use under the provisions of the Oakland Planning Code, this Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.
- C. Any violations of this chapter, including administrative regulations authorized by this chapter, may be subject to administrative citation, pursuant to Chapters 1.08 and 1.12, and other applicable legal, injunctive or equitable remedies.

5.80.090 - Liability and indemnification

- A. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the City.
- B. To the maximum extent permitted by law, the permittees under this chapter shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Oakland, the Oakland City Council, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called City) from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "action") against the City to attack, set aside, void or annul, any cannabis-related approvals and actions and comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said action and the

permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.

- C. Within ten (10) calendar days of the service of the pleadings upon the City of any action as specified in Subsection B. above, the permittee shall execute a letter of agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the letter of agreement shall survive termination, extinguishment or invalidation of the cannabis-related approval. Failure to timely execute the letter of agreement does not relieve the applicant of any of the obligations contained in this section or any other requirements or performance or operating standards that may be imposed by the City.

5.80.100 - Examination of books, records, witnesses—Penalty

- A. Permittees must provide the City Administrator with access to any licensed dispensary during normal business hours to verify compliance with this chapter.
- B. Permittees must provide the City Administrator with access to any and all financial information regarding the dispensary at any time, as needed to conduct an audit of the permittees under this chapter to verify tax compliance under Chapter 5.80 and/or gross receipts tax requirements.
- C. The City Administrator is authorized to examine the books, papers, tax returns and records of any permittee for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax due.
- D. The City Administrator is authorized to examine a person under oath, for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax, registration or permit fees due under this chapter. In order to ascertain the business tax, registration or permit fees due under this chapter, the City Administrator may compel, by administrative subpoena, the production of relevant books, papers and records and the attendance of all persons as parties or witnesses.
- E. Every permittee is directed and required to furnish to the City Administrator, the means, facilities and opportunity for making such financial examinations and investigations.
- F. Any permittee refusal to comply with this section shall be deemed a violation of this chapter, and administrative subpoenas shall be enforced pursuant to applicable law.

5.80.110 – Co-location of Medical and Adult-Use Cannabis Businesses

- A. Any permit issued under Oakland Municipal Code Chapters 5.80 and 5.81 may be utilized for medical or adult-use purposes as authorized by the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) provided the permit holder abide by the performance and operating standards promulgated by the City Administrator, which may contain distinct requirements for medical and adult-use operations. This authorization to conduct both medical and adult-use operations does not relieve an operator from all applicable tax obligations, including paying different tax rates for medical and adult-use activities.
- B. Permittees under Oakland Municipal Code Chapters 5.80 and 5.81 must notify the City Administrator, in a form determined by the City Administrator, whether they wish to conduct medical, adult-use or both activities prior to operating or renewing a permit. Permittees who wish to add or amend their cannabis operations must notify the City Administrator, in a form determined by the City Administrator, and the City Administrator shall grant said request after determining said permittee is in good standing with this chapter and other relevant local or state requirements.

5.80.120 - Local Authorization for Temporary State Licenses

- A. For the purpose of qualifying for a temporary state license to conduct commercial cannabis activity pursuant to California Business and Professions Code Section 26050.1, the City Administrator shall only provide local authorization to the following:
 - 1. Individuals or entities that have been issued a permit under Oakland Municipal Code Chapters 5.80 and 5.81.
 - 2. Applicants with a pending application pursuant to Oakland Municipal Code Chapters 5.80 or 5.81 who have been approved by the Planning Department and Revenue Management Bureau.
- B. Temporary permits shall only be issued to applicants meeting the requirements of Oakland Municipal Code Section 5.80.120.A.2 above, and in compliance with the processing of permits during the Initial Permitting Phase of the Equity Permit Program, at any point in time a minimum of fifty (50) percent of all Applicants authorized under Oakland Municipal Code Sections 5.80.120.A.2 and 5.81.140.A.2 shall be issued to Equity Applicants. Likewise, a General Applicant that serves as an Equity Incubator will receive the next available General Applicant local authorization under Oakland Municipal Code Sections 5.80.120.A.2 and 5.81.140.A.2.
- C. Local authorization for Applicants under Oakland Municipal Code Sections 5.80.120.A.2 and 5.81.140.A.2 shall be provided based on the timing of the approvals received by the Planning Department and Revenue Management

Bureau and the restrictions described under Oakland Municipal Code Sections 5.80.120.B and 5.81.140.B.

Nothing herein shall be construed to have the Planning Department or Revenue Management Bureau precondition any approval on the actions of another City Department. The Planning Department and Revenue Management Bureau are to act independently as quickly as practical to approve permits. Approval from the Revenue Management Bureau shall be granted if the Applicant has a current business license. The foregoing includes businesses that are in the process of disputing taxes owed to the City of Oakland through the Revenue Management Bureau's formal appeals process.

5.80.130 – Restrictions on Approvals for Properties Used for Work/Live or Residential Purposes

A. No permit or local authorization shall be issued under OMC Chapters 5.80 or 5.81 to a cannabis applicant at premises where either:

1. Work/Live use existed as of March 6, 2018; or
2. Residential use existed as of March 6, 2018.

In both the foregoing, this applies irrespective of any subsequent reconfiguration of the premises.

B. A permit or local authorization may be issued under OMC Chapters 5.80 or 5.81 to a cannabis applicant utilizing different premises within a parcel of land that also contains Work/Live or residential uses, so long as the cannabis applicant mitigates potential impacts, if possible, as directed by the City Administrator, Fire Marshall, and/or Building Official, including any mitigations required by the Fire Marshall and/or Building Official, and so long as volatile manufacturing may only take place in a separate building with approval of the Fire Marshall and Building Official and under such mitigations as they or the City Administrator may require.

C. The City Administrator may develop further guidelines and operating standards to implement this section.

SECTION 4. Amendments to Oakland Municipal Code Chapter 5.81. Oakland Municipal Code Chapter 5.81 is hereby amended as follows:

Chapter 5.81 - MEDICAL AND ADULT-USE CANNABIS CULTIVATION, MANUFACTURING AND OTHER FACILITY PERMITS

Sections:

5.81.010 - Findings and purpose

- A. The City Council, based on evidence presented to it in the proceedings leading to the adoption of this chapter hereby finds that the lack of regulation of cannabis facilities other than cannabis dispensaries, including unregulated cultivation, manufacturing and processing of cannabis in the City has caused and is causing ongoing impacts to the community. These impacts include disparities in enforcement of drug laws, damage to buildings containing indoor cannabis cultivation facilities, including improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, increased frequency of home-invasion robberies and similar crimes, and that many of these impacts have fallen disproportionately on residential neighborhoods. These impacts have also created an increase in response costs, including code enforcement, building, fire, and police staff time and expenses.
- B. The City acknowledges that the voters of the State have provided an exemption to prosecution for the cultivation, possession of cannabis for medical purposes under the Compassionate Use Act (CUA), but that the CUA does not address land use or building code impacts or issues arising from the resulting increase in cannabis cultivation within the City.
- C. The City acknowledges that sales of cannabis are subject to taxation by both the City and the State and that the California State Board of Equalization (BOE) is also requiring that businesses engaging in such retail transactions hold a seller's permit.
- D. The primary purpose and intent of this chapter is to regulate non-dispensary cannabis facilities, including the cultivation of cannabis, in a manner that protects the public health, safety and welfare of the community, as authorized by the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

5.81.020 - Definitions

The following words or phrases, whenever used in this chapter, shall be given the following definitions:

- A. "Applicant" as used only in this chapter shall be any individual or business entity that applies for a permit required under this chapter.

- B. "Batch" as used only in this chapter shall be defined by the City Administrator to mean a discrete quantity of dried cannabis produced and sold together.
- C. "Cannabis" or "Marijuana" as used only in this chapter shall be the same, and as may be amended, as is defined in Section 5.80.010.
- D. "Cannabis concentrate" as used only in this chapter shall mean manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency.
- E. "Cannabis Dispensary" as used only in this chapter shall be the same, and as may be amended, as is defined in Section 5.80.010 and is also referred to herein as "dispensary."
- F. "City Administrator" as used only in this chapter shall mean the City Administrator for the City of Oakland and his or her designee.
- G. "Cultivate" as used only in this chapter shall mean to plant, grow, harvest, dry, cure, grade or trim cannabis in an area greater than two-hundred and fifty square feet of total area within one parcel of land.
- H. "Distribute" as used only in this chapter shall mean the procurement, sale, and transport of cannabis and cannabis products between State licensed cannabis entities.
- I. "Edible cannabis product" as used only in this chapter shall mean manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum.
- J. "Equity Applicant" shall mean an Applicant whose ownership/owner:
 - 1. Is an Oakland resident; and
 - 2. In the last year, had an annual income at or less than 80 percent of Oakland Average Medium Income (AMI) adjusted for household size; and
 - 3. Either (i) has lived in any combination of Oakland police beats 2X, 2Y, 6X, 7X, 19X, 21X, 21Y, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X and 35X for at least ten of the last twenty years or (ii) was arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland.
- K. "General Applicant" shall mean an Applicant other than an Equity Applicant.
- L. "Manufactured cannabis" as used only in this chapter shall mean raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

- M. "Manufacture" as used only in this chapter shall mean to produce, prepare, propagate, or compound manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- N. "Medical cannabis collective" as used only in this chapter shall be the same, and as may be amended, as is defined in Section 5.80.010.
- O. "Medical marijuana" or "Medical cannabis" as used only in this chapter shall be the same, and as may be amended, as is defined in Section 5.80.010.
- P. "Ownership" as used only in this chapter shall mean the individual or individuals who:
- (i) with respect to for-profit entities, including without limitation corporations, partnerships, limited liability companies, has or have an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 50 percent or more in the entity.
 - (ii) with respect to not for-profit entities, including without limitation a non-profit corporation or similar entity, constitutes or constitute a majority of the board of directors.
 - (iii) with respect to collectives, has or have a controlling interest in the collective's governing body.
- Q. "Parcel of land" as used only in this chapter shall be the same, and as may be amended, as is defined in Section 5.80.010.
- R. "Permittees" as used only in this chapter are individuals or businesses that have obtained a permit under this chapter to cultivate, distribute, manufacture, test or transport.
- S. "Premises" shall have the same definition as California Business and Professions Code Section 26001, as may be amended, which as of March 2018, defines "Premises" as "the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted" but shall be construed to mean the portion of a property or structure where the commercial cannabis activity will be or is conducted.
- T. "Primary caregiver" as used only in this chapter shall be the same, and as may be amended, as is defined in Section 5.80.010.
- U. "Qualified patient" as used only in this chapter shall be the same, and as may be amended, as is defined in Section 5.80.010.
- V. "Testing" as used only in this chapter shall mean the conducting of analytical testing of cannabis, cannabis-derived products, hemp, or hemp-derived products.

- W. "Topical cannabis" as used only in this chapter shall mean a product intended for external use such as with cannabis-enriched lotions, balms and salves.
- X. "Transport" as used only in this chapter means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity, as defined by State law.
- Y. "Transporter" as used only in this chapter means a person licensed to transport medical cannabis or medical cannabis products between State licensed medical cannabis facilities.
- Z. "Volatile solvents" as used only in this chapter shall mean those solvents used in the cannabis manufacturing process determined to be volatile by the California Department of Public Health or Oakland Fire Department.
- AA. "Work/Live" means permitted uses that fall under any of the following use activity or facility types of the Oakland Planning Code: Work/live unit (as defined in Subsection 17.73.040.B in a CIX, IG, and IO Zone); or Work/live nonresidential facilities (as defined in Chapter 17.101E in a D-CE-5 Zone); or Live/work residential facilities (as defined in Chapters 17.65 and 17.101E in HBX and D-CE Zone); or Work/live nonresidential facilities (as defined in Chapters 17.65 and 17.101E in a D-CE-3 or D-CE-4 Zone); or Joint living and work quarters (as defined in Section 17.102.190); or Residentially-oriented joint living and working quarters (as defined in Section 17.102.195) or such unpermitted uses that involve a work and live component.

5.81.030 - Business permit and application required

- A. Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to cultivate, distribute, manufacture, test or transport without a valid business permit issued pursuant to the provisions of this chapter. Possession of other types of State or City permits or licenses does not exempt an applicant from the requirement of obtaining a permit under this chapter.
- B. The City Administrator shall issue, as detailed below, special business permits for cannabis cultivation, distributing, manufacturing, testing and transporting. All General Applicants shall pay any necessary fees including without limitation application fees, inspection fees and regulatory fees that may be required hereunder.
- C. All cultivation, distribution, manufacturing, testing and transporting permits shall be special business permits and shall be issued for a term of one year. No property interest, vested right, or entitlement to receive a future license to operate a cannabis business shall ever inure to the benefit of such permit holder.

- D. Cultivation, distribution, manufacturing, testing, and transporting permits shall only be granted to entities operating legally according to State law.
- E. More than one cannabis operator may situate on a single parcel of land, however, each operator will be required to obtain a permit for their applicable permit category.
- F. No proposed use under this Chapter shall be located within a 600-foot radius of any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive (but not including any private school in which education is primarily conducted in private homes). The distance between facilities shall be measured via path of travel from the closest door of one facility to the closest door of the other facility.
- G. An applicant for a permit under this chapter shall not be disqualified from receiving a permit on the ground that the applicant also operates or intends to operate in an additional cannabis related field, such as a dispensary.

5.81.035 – Prohibition on Disclosing Applicant Information with the Federal Government

The City of Oakland shall not disclose any Applicant information to the federal government unless disclosure of such information is required by law including but not limited to a warrant, subpoena, or Court order. In addition, the City shall comply with the California Public Records Act (Government Code Section 5250 et seq.) and the City of Oakland's Sunshine Ordinance (Oakland Municipal Code Section 2.20.180 et seq.) and will protect privacy and safety to the extent permitted by law.

5.81.040 - Cultivation, distribution, testing and transporting of cannabis

- A. Proposed cultivation, distribution, testing or transporting locations shall be in areas where "light manufacturing industrial," "research and development," or their equivalent use, is permitted by right under the Oakland Planning Code, as may be amended; provided, however, that no vested or other right shall inure to the benefit of any cultivation, distribution, testing or transporting facility permittee.
- B. The aforementioned location restrictions shall not apply to existing dispensary cultivation facilities located at a retail location that are compliant with building and fire codes.
- C. The maximum size of any areas of cultivation shall not exceed any limitations or restrictions set forth in State law.

5.81.045 - Manufacturing of cannabis

- A. Proposed locations for manufacturing of cannabis products using nonvolatile solvents shall be in areas where "custom manufacturing industrial," or its

equivalent use, is permitted by right under the Oakland Planning Code, as may be amended, or in residential zones if the manufacturing is compliant with the restrictions imposed on cottage food operators under the California Homemade Food Act, Chapter 6.1 (commencing with Section 51035) of Part 1 of Division 1 of Title 5 of the Government Code.

Applicants seeking to engage in the production of infused edible cannabis products and topicals may be located in commercial zones where commercial kitchens are allowed.

- B. Proposed locations for manufacturing of cannabis products using volatile solvents shall be in areas where "general manufacturing industrial" or its equivalent use, is permitted by right under the Oakland Planning Code, as may be amended.

5.81.050 - Application for permit

- A. All General applicants shall pay an application fee as specified in the Master Fee Schedule. There shall be no application fee for Equity Applicants.
- B. All applicants shall submit written information to the City Administrator that shall include, as applicable, plans for security, odor mitigation, waste disposal, pest management, product testing, worker safety and compensation, local hiring, non-diversion of product, facility location, applicant complaint history, criminal background checks, plan for minimizing environmental impacts, compliance with City building and fire codes, and any additional information deemed necessary by the City Administrator. The City Administrator may design application forms specific to each permitted category and require inspections of proposed facilities before issuing a permit under this chapter.
 - 1. Background checks shall only apply to Applicants and they shall be limited to determining whether in the last seven years an Applicant has been convicted or plead nolo contendere or guilty to a violent offense or crime of fraud or deceit as defined by the City Administrator's administrative guidelines.
 - 2. Applicants with recent relevant convictions may still petition the City Administrator for reconsideration if they can demonstrate evidence of rehabilitation, such as participation in rehabilitative services and payment of restitution.
- C. The City Administrator shall establish criteria for minimizing the carbon footprint, environmental impact and resource needs of permitted facilities. Applicants that demonstrate they can satisfy these environmental criteria, such as cultivators seeking to operate greenhouse facilities, will be given preference in the processing of their application.

- D. All applicants shall demonstrate compliance with State law, during the course of the permit application procedure described under this section, prior to issuing any permit, and upon the issuance of a permit, thereafter.

5.81.060 - Equity Permit Program

- A. Equity Criteria. Applicant ownership/owner must satisfy the following criteria:

1. Is an Oakland resident; and
2. In the last year, had an annual income at or less than 80% Oakland Average Median Income (AMI) Adjusted for household size; and
3. Either (i) has lived in any combination of Oakland Police Department Beats 2X, 2Y, 6X, 7X, 19X, 21X, 21Y, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X and 35X for at least ten of the last twenty years or (ii) was arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland, California.

- B. Review of Criteria.

1. Proof of Income shall be supported with federal tax returns and at least one of the following documents: two months of pay stubs, current Profit and Loss Statement, or Balance Sheet, or proof of current eligibility for General Assistance, Food Stamps, Medical/CALWORKs, or Supplemental Security Income or Social Security Disability (SSI/SSDI)
2. Residency must be for a total of ten years in any combination of the designated Oakland police beats as set forth in Section 5.81.020.J.3. A minimum of two of the documents listed below, evidencing 10 years of residency, shall be considered acceptable proof of residency. All residency documents must list the applicant's first and last name, and the Oakland residence address in the police beats set forth in Section 5.81.020.J.3:
 - California driver's record; or
 - California identification card record ; or
 - Property tax billing and payments; or
 - Verified copies of state or federal income tax returns where an Oakland address within the police beats is listed as a primary address; or
 - School records; or
 - Medical Records; or
 - Banking records; or
 - Oakland Housing Authority records; or
 - Utility, cable or internet company billing and payment covering any month in each of the ten years.

3. Proof of Conviction should be demonstrated through federal or state court records indicating the disposition of the criminal matter.
- C. Assistance. Equity Applicants will be eligible for participation in the Equity Assistance Program, which will include industry specific technical assistance, business ownership technical assistance, no interest business start-up loans, and waivers from City permitting fees.
- D. Initial Permitting Phase.
1. The period of time before the Equity Assistance Program referred to in OMC 5.81.060(C) is established, funded and implemented shall be referred to as the Initial Permitting Phase
 2. At any point during the Initial Permitting Phase, a minimum of fifty (50) percent of all permits collectively issued under OMC Chapters 5.80 and 5.81 shall be issued to Equity Applicants. This excludes the permits issued to the initial eight (8) dispensaries.
 3. In the Initial Permitting Phase, a General Applicant will receive the next available General Applicant permit if it serves as an Equity Incubator by providing free real estate or rent to an Equity Applicant who obtains a medical cannabis permit. In order to receive this permitting priority, the General Applicant must also comply with the following conditions:
 - a. The free real estate or rent shall be for a minimum of three years.
 - b. The Equity Applicant shall have access to a minimum of 1,000 square feet to conduct its business operations.
 - c. The General Applicant must provide any City required security measures, including camera systems, safes, and alarm systems for the space utilized by the Equity Applicant.
 - d. The General Applicant is otherwise compliant with all other requirements of OMC Chapter 5.80 or 5.81.
 4. If a General Applicant obtains a cannabis permit utilizing the Equity Incubator priority provisions of OMC 5.81.060 (D) (3) and the Equity Applicant ceases its business operations, the General Applicant must:
 - a. Notify the City Administrator within thirty (30) days of the Equity Applicant ceasing its business operations.
 - b. Re-apply for a cannabis permit subject to the permitting restrictions of this Chapter, including OMC 5.80.045 (D) (2).

5. Failure to notify the City Administrator, submit a new application and obtain a new cannabis permit as required under OMC 5.80.045 (D) is grounds for revocation and a violation of this chapter.

E. Renewal.

1. In order to continue to receive new Equity Assistance Program services, an Equity Applicant must provide proof that it continues to satisfy the Equity Criteria at the time of its annual permit renewal.
2. An Equity Applicant who no longer satisfies the Equity Criteria but is compliant with all other requirements of OMC Chapter 5.80 or 5.81 will be entitled to renew the permit but will no longer be entitled to receive new services under the Equity Assistance Program. Such an Applicant may utilize any services previously provided granted under the Equity Assistance Program, though, such as previously issued loans.

5.81.070 - Operating and performance standards

- A. Facilities permitted under this chapter shall not be open to the public. The City Administrator shall establish operating and performance standards for permittees. The intent of these operating and performance standards is to minimize any negative effects and enhance the benefits of permitted facilities on the surrounding community.
- B. The following standards shall be included in the City Administrator's regulations:
 1. No cannabis or cannabis odors shall be detectable by sight or smell outside of a permitted facility.
 2. Permitted facilities must install security cameras capable of documenting activity inside and outside the facility, as determined by the Oakland Police Department.
 3. Permitted facilities must implement a community beautification plan to reduce illegal dumping, littering, graffiti and blight and promote beautification of the adjacent community within 50 feet of the cannabis facility
 4. Permitted facilities that hire and retain formerly incarcerated Oakland residents may apply for a tax credit or license fee reduction based on criteria established by the City Administrator.
 5. All employees shall be paid a living wage as defined by OMC Chapter 2.28.
 6. Permitted facilities must implement a track and trace program as prescribed by state law that records the movement of cannabis and cannabis products

in their custody and make these records available to the City Administrator upon request.

- C. Noncompliance of such operating standards shall constitute a breach of the permit issued hereunder and may render such permit suspended or revoked based upon the City Administrator's determination.

5.81.080 - Examination of books, records, witnesses—Information confidential—Penalty

- A. The City Administrator shall be provided access to any licensed medical cannabis cultivation, manufacturing, and other facility during normal business hours to verify compliance with this chapter.
- B. The City Administrator shall be provided access to any and all financial information at any time, as needed to conduct an audit of the permittees under this chapter to verify tax compliance under Chapter 5.81 and/or gross receipts tax requirements.
- C. The City Administrator is authorized to examine the books, papers, tax returns and records of any permittee for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax due.

The City Administrator is authorized to examine a person under oath, for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax, registration or permit fees due under this chapter. In order to ascertain the business tax, registration or permit fees due under this chapter, the City Administrator may compel, by administrative subpoena, the production of relevant books, papers and records and the attendance of all persons as parties or witnesses.

- D. Every permittee is directed and required to furnish to the City Administrator, the means, facilities and opportunity for making such financial examinations and investigations.
- E. Any permittee refusal to comply with this Section shall be deemed a violation of this chapter, and administrative subpoenas shall be enforced pursuant to applicable law.

5.81.100 - Liability and indemnification

- A. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the City.

- B. To the maximum extent permitted by law, the permittees under this chapter shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Oakland, the Oakland City Council, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called "City") from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings, or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "action") against the City to attack, set aside, void or annul, any medical cannabis-related approvals and actions and strictly comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.
- C. Within ten (10) calendar days of the service of the pleadings upon the City of any action as specified in Subsection B. above, the permittee shall execute a letter of agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the letter of agreement shall survive termination, extinguishment or invalidation of the cannabis-related approval. Failure to timely execute the letter of agreement does not relieve the applicant of any of the obligations contained in this section or any other requirements or performance or operating standards that may be imposed by the City.

5.81.101 - Personal use and individual limits for non-licensed medical cannabis cultivation

A collective or cooperative of qualified patients or primary caregivers, may cultivate medical cannabis covering an area of no more than 250 square feet inside a residential unit, or if in a nonresidential building on one parcel of land.

Adults 21 years or older may also cultivate up to six plants within a single private residence, or upon the grounds of a private residence.

In the absence of a permit under this chapter, such cultivation shall be subject to the following operating standards:

- A. Cultivation, processing, possession, and/or manufacturing of cannabis in any residential areas shall be limited to adults 21 years or older, qualified patients, primary caregivers, and medical cannabis collectives or cooperatives comprised of no more than three (3) qualified patients and/or their primary caregivers. Every member of the medical cannabis collective or cooperative shall possess an identification card issued by the County of Alameda, or the State of California, or another agency recognized by the City pursuant to California Health and Safety Code Section 11362.7 et seq.
- B. The indoor cultivation, processing, possessing, and/or manufacturing of cannabis in residential areas shall conform to the following standards:

1. The residential facility shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Cannabis cultivation, processing, possession, and/or manufacturing shall remain at all times secondary to the residential use of the property;
2. Cultivation possession, processing and/or manufacturing of cannabis in residential areas shall occur only in a secured residence occupied by the qualified patient or primary caregiver;
3. No individual residential facility or other facility housing the cultivation, processing and/or manufacturing of cannabis shall contain more than two-hundred and fifty (250) square feet of cultivation area;
4. If required by the building or fire code, the wall(s) adjacent to the indoor cultivation area shall be constructed with 5/8" Type X fire resistant drywall;
5. The cultivation area shall be in compliance with the current adopted edition of the California Building Code;
6. The cultivation area shall not adversely affect the health or safety of the residence or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes;
7. All high amperage electrical equipment (exceeding six (6) amps) used in the cultivation of medical cannabis, (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to high amperage electrical equipment (exceeding six (6) amps) used in the cultivation of medical cannabis is prohibited;
8. Any electrical rewiring or remodeling shall first require an electrical permit from the City;
9. The use of butane gas products for personal use cannabis cultivation is prohibited; and
10. From a public right-of-way, there shall be no exterior evidence of cannabis cultivation occurring at the property.

5.81.110 - Prohibited operations

- A. Any cultivating, manufacturing, testing, or transporting-without a permit under this chapter is expressly prohibited. No use that purports to have cultivated, distributed, manufactured, tested or transported cannabis shall be deemed to have been a legally established use under the provisions of the Oakland Planning Code, the Oakland Municipal Code, or any other local ordinance, rule or

regulation, and such use shall not be entitled to claim a vested right, legal nonconforming or other similar status.

- B. Any violations of this chapter may be subject to administrative citation, pursuant to Chapters 1.08 and 1.12, and other applicable legal, injunctive or equitable remedies. No enforcement of this provision shall take place, though, until after the City Administrator has published information on how to apply for cultivation, distribution, laboratory, manufacturing and transporting permits and no enforcement shall take place against a permit applicant while their application is pending.

5.81.120 - Revocation, suspension and appeals

The City Administrator's decision to issue or deny a permit shall be subject to an appeal by the Applicant pursuant to Section 5.02.100, except that the appeal authorized in Section 5.02.100 shall be to an independent hearing officer and not the City Council. The request for an appeal must be made in writing within fourteen (14) days of the City Administrator's decision. The decision of the independent hearing officer shall be final and conclusive.

For suspensions or revocations of permits the City shall follow the procedures set forth in Section 5.02.080, except that the City Administrator shall provide fourteen (14) days' notice of the hearing on the proposed action to suspend or revoke the permit. The appeal authorized in Section 5.02.100 shall be to an independent hearing officer, and such request for appeal must be made in writing within fourteen (14) days of the City Administrator's decision. The decision of the independent hearing officer shall be final and conclusive.

5.81.130 – Co-location of Medical and Adult-Use Cannabis Businesses

- A. Any permit issued under Oakland Municipal Code Chapters 5.80 and 5.81 may be utilized for medical or adult-use purposes as authorized by the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) provided the permit holder abide by the performance and operating standards promulgated by the City Administrator, which may contain distinct requirements for medical and adult-use operations. This authorization to conduct both medical and adult-use operations does not relieve an operator from all applicable tax obligations, including paying different tax rates for medical and adult-use activities.
- B. Permittees under Oakland Municipal Code Chapters 5.80 and 5.81 must notify the City Administrator, in a form determined by the City Administrator, whether they wish to conduct medical, adult-use or both activities. Permittees who wish to add or amend their cannabis operations must notify the City Administrator, in a form determined by the City Administrator, and the City Administrator shall grant said request after determining said permittee is in good standing with this chapter and other relevant local or state requirements.

5.81.140 – Local Authorization for Temporary State Licenses

- A. For the purpose of qualifying for a temporary state license to conduct commercial cannabis activity pursuant to California Business and Professions Code Section 26050.1, the City Administrator shall only provide local authorization to the following:
1. Individuals or entities that have been issued a permit under Oakland Municipal Code Chapters 5.80 and 5.81.
 2. Applicants with a pending application who have been approved by the Planning Department and Revenue Management Bureau.
- B. Temporary permits shall only be issued to applicants meeting the requirements of Oakland Municipal Code Section 5.81.140.A.2 above, and in compliance with the processing of permits during the Initial Permitting Phase of the Equity Permit Program, at any point in time a minimum of fifty (50) percent of all Applicants authorized under Oakland Municipal Code Sections 5.80.120.A.2 and 5.81.140.A.2 shall be issued to Equity Applicants. Likewise, a General Applicant that serves as an Equity Incubator will receive the next available General Applicant local authorization under Oakland Municipal Code Sections 5.80.120.A.2 and 5.81.140.A.2.
- C. Local authorization for Applicants under Oakland Municipal Code Sections 5.80.120.A.2 and 5.81.140.A.2 shall be provided based on the timing of the approvals received by the Planning Department and Revenue Management Bureau and the restrictions described under OMC 5.80.120.B and OMC 5.81.140.B.

Nothing herein shall be construed to have the Planning Department or Revenue Management Bureau precondition any approval on the actions of another City Department. The Planning Department and Revenue Management Bureau are to act independently as quickly as practical to approve permits. Approval from the Revenue Management Bureau shall be granted if the Applicant has a current business license. The foregoing includes businesses that are in the process of disputing taxes owed to the City of Oakland through the Revenue Management Bureau's formal appeals process.

5.81.150 – Restrictions on Approvals for Properties Used for Work/Live or Residential Purposes

- A. No permit or local authorization shall be issued under OMC Chapters 5.80 or 5.81 to a cannabis applicant at premises where either:
1. Work/Live use existed as of March 6, 2018; or
 2. Residential use existed as of March 6, 2018.

In both the foregoing, this applies irrespective of any subsequent reconfiguration of the premises.

- B. A permit or local authorization may be issued under OMC Chapters 5.80 or 5.81 to a cannabis applicant utilizing different premises within a parcel of land that also contains Work/Live or residential uses, so long as the cannabis applicant mitigates potential impacts, if possible, as directed by the City Administrator, Fire Marshall, and/or Building Official, including any mitigations required by the Fire Marshall and/or Building Official, and so long as volatile manufacturing may only take place in a separate building with approval of the Fire Marshall and Building Official and under such mitigations as they or the City Administrator may require.
- C. The City Administrator may develop further guidelines and operating standards to implement this section.

SECTION 5. California Environmental Quality Act. The City Council independently finds and determines that this action does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) based on: (1) CEQA Guidelines, 14 California Code of Regulations, Section 15060(c)(2) because there is no potential that it will result in a direct or reasonably foreseeable indirect physical change in the environment and (2) CEQA Guidelines, 14 California Code of Regulations, Section 15378 because it has no potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment. Even if this action does comprise a project for CEQA analysis, the following CEQA Guidelines, 14 California Code of Regulations, exemptions apply to this action: (1) CEQA Guidelines Section 15061(b)(3) (general rule exemption), and (2) CEQA Guidelines section 15301 (existing facilities exemption), each of which provides a separate and independent basis for CEQA clearance and when viewed together provide an overall basis for CEQA clearance. The City’s Environmental Review Officer or designee shall file a Notice of Exemption with the appropriate state agencies.

SECTION 6. Severability. The provisions of this Ordinance are severable, and if any section, subsection, sentence, clause, phrase, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from its coverage.

SECTION 7. Ordinance Effective Date. Pursuant to Section 216 of the Charter of the City of Oakland, this Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption by the Council of the City of Oakland.

SECTION 8. General Police Powers. This Ordinance is enacted pursuant to the City of Oakland's general police powers, including but not limited to Sections 106 of the Oakland City Charter and Section 7 of Article XI of the California Constitution.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN AND PRESIDENT REID - 8

NOES - 0

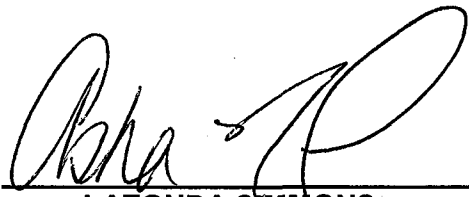
ABSENT - 0

ABSTENTION - 0

Introduction Date

MAR 08 2018

ATTEST:



LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: 3/22/2018

Measure T1 Infrastructure Bond Program

UPDATE TO PARTICIPATING COMMISSIONS

FEBRUARY 2019

1

Agenda

- ❖ Measure T1 Overview
- ❖ Projects Update
- ❖ Funding Gap
- ❖ Program Update
- ❖ Next Steps

2

T1 Overview

- ❖ 2016 - \$100 Million Bond
- ❖ Renovate Existing City Facilities and Infrastructure
- ❖ Passed with 86.5% of the Vote

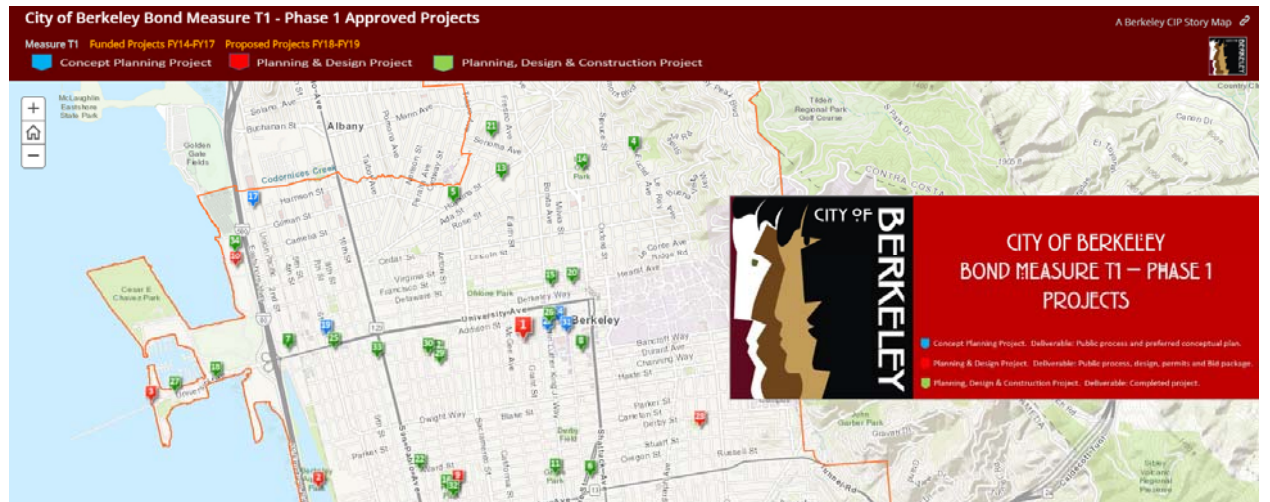
3

T1 Overview

- ❖ Phase 1
 - ❖ 2017 – 2021
 - ❖ June 2017 – Council approved list of projects for Phase 1
 - ❖ November 2017 – \$35 million bonds sold

4

Measure T1 Story Map



www.cityofberkeley.info/measure1

Project Updates

Excerpt from Attachment 1: T1 Project Schedule, Funding & Project Management

PROJECT NAME	PROJECT TYPE	PROJECT DESCRIPTION	T1 ORIGINAL FUNDING (\$)	T1 ART CONTRIBUTION* (\$)	T1 TOTAL PROJECT FUNDING +/(-) (\$)	APPROXIMATE TOTAL FUNDING	PM	FY18	FY19	FY20
Tom Bates (Sisman) Fields North Field House and Restroom	Planning & Design	Evaluation of needs for restroom and storage, analysis of utility and supporting infrastructure needed, and development of detailed design and construction documents.	\$250,000	\$2,975	\$247,025	\$247,025	NL			
Live Oak Community Center Seismic Upgrade and Renovations	Planning, Design & Construction	Seismic retrofit, deferred maintenance upgrades, and programming improvements to upgrade the center as a Care and Shelter facility and enable improved recreation programming.	\$4,900,000	\$58,310	\$4,841,690	\$4,841,690	TL			
North Berkeley Senior Center Seismic Upgrades and Renovations	Planning, Design & Construction	Seismic retrofit, deferred maintenance upgrades, and programming improvements to upgrade the center as a Care and Shelter facility and enable improved senior programming, solar readiness (structurally and electrically), generator hook up.	\$6,800,000	\$80,920	\$6,719,080	\$8,594,080	EK			
Corporation Yard Roof and Electrical Upgrades	Planning, Design & Construction	Roof and electrical improvements	\$540,000	\$6,426	\$533,574	\$533,574	IL			
Marina Corporation Yard Electrical Upgrades	Planning, Design & Construction	Electrical upgrades to main switchboard, two panel boards, and wiring devices.	\$360,000	\$4,284	\$355,716	\$355,716	IL			
Citywide Irrigation System	Planning, Design & Construction	Current irrigation system requires individual programming and daily monitoring by City staff. This project includes the replacement of Irrigation Control Software and Controllers and the establishment of wireless software that controls all irrigation clocks, which will conserve water and control costs.	\$750,000	\$8,925	\$741,075	\$741,075	BP/TT			
University Avenue (West Frontage Rd to Marina Blvd), Marina Blvd, and Spinner Way Renovation	Planning, Design & Construction	Final design, obtaining permits, and pavement reconstruction. Design will be based on the preferred alternative identified in the Feasibility Study on Mitigation of Undulating Pavement at University Avenue.	\$3,500,000	\$41,650	\$3,458,350	\$3,458,350	NL			

Tom Bates Regional Sports Complex Grand Re-Opening March 3, 2018



7

North Berkeley Senior Center



8

Live Oak Community Center



Mental Health Clinic

2640 Martin Luther King Jr. Way



Citywide Irrigation System



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Projected Funding Gap

Program Budget – Reductions and Additions

Program Cost	\$39,365,000
Reductions:	
Bond Transaction Cost Not Incurred	(800,000)
Transfer Station Master Plan (Funded by Zero Waste)	(500,000)
Over estimated contributions for Art	(49,000)
Reduction/ Project Savings	(798,215)
Additions:	
Escalation for NBSC and Live Oak	2,700,000
Estimated additional escalation for other construction projects	1,890,208
Revised program cost	\$41,807,993

Funding Gap = \$6,807,993

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Options for Addressing Funding Gap

- ❖ Change project phase
 - Construction to Design
 - Design to Conceptual
- ❖ Postpone projects
- ❖ Remove projects
- ❖ Identify additional funding

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Process to Address Funding Gap

- ❖ Discussions with T1 Joint Subcommittee (2018- Various dates)
- ❖ Semi-Annual Update to Council (December 2018)
- ❖ Discussion with T1 Joint Subcommittee regarding funding gap options after bidding process for major projects is complete (January 2019)
- ❖ Lead Commissions have taken unanimous action to support Option “D” (February 2019)
- ❖ Council Action to adopt option (March 2019)

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Program Update

- ❖ T1 Policies and Procedures Manual
- ❖ Audit Plan
- ❖ Communications
- ❖ Planning for Phase 2

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Thank you.

Questions?

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Attachment 1- T1 Project Schedule, Funding and Project Management

KEY: Conceptual
Planning, Design
Construction

#	DEPT	PROJECT NAME	PROJECT TYPE	PROJECT DESCRIPTION	T1 ORIGINAL FUNDING (A)	T1 ART CONTRIBUTION* (B)	T1 TOTAL PROJECT FUNDING =(A-B)	OTHER FUNDING	OTHER FUNDING AMOUNT	APPROXIMATE TOTAL FUNDING	PM	FY18	FY19	FY20	FY21	STATUS UPDATE
FACILITIES/BUILDINGS					\$15,900,000	\$189,210	\$15,710,790		\$7,671,143	\$23,339,374						
1	PW/PRW	Citywide Restrooms Citywide Needs Assessment	Conceptual	Perform needs and feasibility assessment of location for citywide restrooms; will include consideration of Ohlone Park restroom.	\$150,000	\$1,785	\$148,215			\$144,346	RM					Contract awarded. Kick-off meeting with consultant and project team held on February 13, 2019.
2	PW	Old City Hall/ Veteran's Building/ Civic Center Park	Conceptual	Structural analysis and visioning of possible conceptual design alternatives, in concert with Civic Center Park, to help determine a direction for future capital improvements to restore and secure these facilities to maximize their community benefit.	\$300,000	\$3,570	\$296,430			\$292,561	EK					Seismic Report update on-going. RFQ for planning on-going. Expect RFQ completion by March.
3	PW	Transfer Station - Master Plan	Planning	Developing a Master Plan for modernization of the City's Waste Transfer Station, including the recycling center, with the goal of creating a new facility that promotes recycling and promotes elimination of solid waste.				Zero Waste Fund	\$500,000	\$496,131	GA					Alternate funding source secured for project. Planning consultant selected and contract awarded. Next step in the public process will be a stakeholder charrette.
4	PW	West Berkeley Service Center Planning and Conceptual Design	Conceptual	Structural analysis and visioning of possible conceptual design alternatives, to help determine a direction for future capital improvements.	\$150,000	\$1,785	\$148,215			\$144,346	NC					Scope was revised and removed from T1 funded projects. Alternate funding source from Measure O.
5	PRW	Frances Albrier Community Center Planning and Design	Planning & Design	Evaluation of site conditions, facility and structural assessments, and recreation programming to determine what improvements to move forward with to upgrade the center as a Care and Shelter facility and for improved recreation programming and opportunities.	\$750,000	\$8,925	\$741,075			\$737,206	WK					Staff is finalizing scope of work for consultant proposals.
6	PRW	Tom Bates (Gilman) Fields North Field House and Restroom	Planning & Design	Evaluation of needs for restroom and storage, analysis of utility and supporting infrastructure needed, and development of detailed design and construction documents.	\$250,000	\$2,975	\$247,025			\$243,156	NL					Staff provided information regarding this project and received input from the community at a Field Users Meeting in April 2018. Conceptual design is done. Project on hold pending discussion on T1 funding gap.
7	PRW	Willard Clubhouse Renovation Planning and Design	Conceptual	Planning and design to renovate or expand the Willard Clubhouse.	\$250,000	\$2,975	\$247,025			\$243,156	WK					Staff is finalizing scope of work for consultant proposals.
8	PRW	Live Oak Community Center Seismic Upgrade and Renovations	Planning, Design & Construction	Seismic retrofit, deferred maintenance upgrades, and programming improvements to upgrade the center as a Care and Shelter facility and enable improved recreation programming.	\$4,900,000	\$58,310	\$4,841,690			\$4,837,821	TL					Public meeting held on 3/24/18. Conceptual designs were completed. FEMA grant was unsuccessful - staff revising budget and designs for review. Staff preparing for the next public meeting planned for March 6, 2019.
9	PW	North Berkeley Senior Center Seismic Upgrades and Renovations	Planning, Design & Construction	Seismic retrofit, deferred maintenance upgrades, and programming improvements to upgrade the center as a Care and Shelter facility and enable improved senior programming, generator hook up.	\$6,800,000	\$80,920	\$6,719,080	FEMA	\$1,875,000	\$8,590,211	EK					Contractor award report to Council on March 26, 2019. Construction anticipated to start in April 2019.
10	PRW	Strawberry Creek Park Restroom Replacement	Planning, Design & Construction	Replace restroom at Strawberry Creek Park.	\$350,000	\$4,165	\$345,835	Parks Tax & PRW Capital Improvement Fund	\$500,000	\$841,966	WK					Project is bundled with FY 19 Strawberry Creek Phase 2 to leverage additional funding from Parks Tax and Capital Improvement fund. Community meeting held on 5/19/18. Conceptual designs are being prepared for a Spring 2019 community meeting.
11	HHCS/PW	Mental Health Building Renovation	Planning, Design & Construction	Renovate interior for safety and energy efficiency. A Net Zero Energy project with anticipated payback savings of less than ten years.	\$2,000,000	\$23,800	\$1,976,200	Capital Improvement Fund and Mental Health Services Account	\$4,796,143	\$6,768,474	SG					Received bids. Below engineer's estimate. Award to Council on 1/29/19.
CITY WIDE SAFETY IMPROVEMENTS					\$907,827	\$10,803	\$889,286			\$881,548						
12	PW	Berkeley Health Clinic Electrical Improvements	Planning, Design & Construction	Electrical upgrades to main switchboard, two panel boards, conduit, wiring, and wiring devices.	\$27,827	\$331	\$27,496			\$23,627	EK					Design in progress.
13	PW	Corporation Yard Roof and Electrical Upgrades	Planning, Design & Construction	Roof and electrical improvements	\$520,000	\$6,188	\$509,943			\$509,943	IL					An existing condition assessment and cost estimate have been completed. The next step will be to identify the exact scope of improvements and complete design.
14	PW	Marina Corporation Yard Electrical Upgrades	Planning, Design & Construction	Electrical upgrades to main switchboard, two panel boards, and wiring devices.	\$340,000	\$4,046	\$332,085			\$332,085	IL					An existing condition assessment and cost estimate have been completed. The next step will be to identify the exact scope of improvements and complete design.
15	PW	Public Safety Building Mechanical and HVAC Efficiency Improvements	Planning, Design & Construction	Mechanical/HVAC upgrades	\$20,000	\$238	\$19,762			\$15,893	EK					Coordination with IT is ongoing to develop the scope.
PARKS IMPROVEMENT PROJECTS					\$6,965,000	\$82,884	\$6,882,117		\$2,492,499	\$9,335,926						
16	PRW	Aquatic Park - Tide Tubes	Planning & Design	Final design, acquiring regulatory permits and environmental documents, and preparation of construction documents for repair of the tide tubes connecting the main lagoon with the Bay.	\$350,000	\$4,165	\$345,835			\$341,966	LM					Staff is finalizing scope for RFP. Work to include cleaning, inspection, environmental permits/clearance, and construction docs.
17	PRW	Berkeley Municipal Pier	Planning & Design	Final design, acquiring regulatory permits and environmental documents, and preparation of construction documents for structural repairs to restore the pier for recreational use.	\$900,000	\$10,710	\$889,290			\$885,421	NL					Draft pier study and conceptual design alternatives presented for discussion at P&W Commission/Public Meeting in January 2018. Coordinated with WETA to supplement scope of work to evaluate the possibility of ferry service that meets WETA needs. MOU is currently being developed to coordinate scope and secure additional funding to include land- study of ferry services to the Berkeley Marina for possible service to the waterfront.

Attachment 1- T1 Project Schedule, Funding and Project Management

Planning, Design
Construction

#	DEPT	PROJECT NAME	PROJECT TYPE	PROJECT DESCRIPTION	T1 ORIGINAL FUNDING (A)	T1 ART CONTRIBUTION* (B)	T1 TOTAL PROJECT FUNDING =(A-B)	OTHER FUNDING	OTHER FUNDING AMOUNT	APPROXIMATE TOTAL FUNDING	PM	FY18	FY19	FY20	FY21	STATUS UPDATE
18	PW	Berkeley Rose Garden Drainage	Planning, Design & Construction	Improvements to Codornices Creek to repair erosion damage at the downstream end of Rose Garden site.	\$800,000	\$9,520	\$790,480			\$786,611	DA					Staff held pre-project permitting meeting with environmental agencies. Consultants are preparing permit applications, CEQA documents and preliminary plans. Construction is anticipated to start summer of 2019, pending receipt of environmental permits.
19	PRW	Berkeley Rose Garden Pathways, Tennis Courts	Planning, Design & Construction	Renovation of existing site pathways and construction of new pathways to provide an accessible path of travel to the center of the trellis. Reconstruction of portions or all of the tennis courts for safety.	\$1,200,000	\$14,280	\$1,185,720	Parks Tax & PRW Capital Improvement Fund	\$1,092,499	\$2,274,350	EC					Work bundled with Phase 2 of Trellis reconstruction to leverage additional funding from Parks Tax and Capital Improvement Fund. Met with LPC Subcommittee on 3/6/18. Public meeting held on 6/2/18. Survey work is almost complete and Design Development is currently in progress.
20	PRW	Citywide Irrigation System	Planning, Design & Construction	Current irrigation system requires individual programming and daily monitoring by City staff. This project includes the replacement of Irrigation Control Software and Controllers and the establishment of wireless software that controls all irrigation clocks, which will conserve water and control costs.	\$750,000	\$8,925	\$741,075			\$737,206	BP/TT					Contract awarded by Council on 5/1/18. Contract has been executed. Full implementation anticipated in 2020.
21	PRW	Grove Park Field and Restroom Renovation of ballfield backstop, dugout, lights, and irrigation	Planning, Design & Construction	Improvements to the ballfield, dugouts, site lighting and accessibility for safety and energy savings, including improvements to site drainage; partial renovation of the restroom building.	\$1,000,000	\$11,900	\$988,100			\$984,231	TL					Public meeting held on 12/13/17. A contract with an On-Call Landscape Architect was executed in September 2018 and survey and design work is underway. Second public meeting will be completed after initial design is complete.
22	PRW	George Florence Mini-Park Play Equipment Upgrade	Planning, Design & Construction	Renovate age 2-5 play structures and age 5-12 play structures and complete ADA improvements.	\$600,000	\$7,140	\$592,860			\$588,991	TL					Design contract awarded and design is underway. Public meetings were held on 10/20/18 and 11/27/18.
23	PRW	San Pablo Park Play Equipment Upgrade (Ages 5-12 Play Areas)	Planning, Design & Construction	Renovate ages 2-5 and 5-12 play structures and complete ADA improvements.	\$250,000	\$2,975	\$247,025	PRW Capital Improvement Fund	\$200,000	\$443,156	WK					Public meeting held on 6/9/18. Project bundled with San Pablo Park Tennis Renovation to leverage funding and design effort. Coordination ongoing with Civic Arts for inclusion of functional art to the project site. Contract with On-Call Landscape Architect was executed and survey and design is underway. A second public meeting will be scheduled after initial design is complete.
24	PRW	San Pablo Park Tennis Courts Renovation	Planning, Design & Construction	Renovation of the existing lighted tennis courts at San Pablo Park.	\$800,000	\$9,520	\$790,480			\$786,611	WK					Public meeting held on 6/9/18. Project bundled with San Pablo Play Renovation to leverage funding and design effort. Coordination ongoing with Civic Arts for inclusion of functional art to the project site. Contract with On-Call Landscape Architect was executed and survey and design is underway. A second public meeting will be scheduled after initial design is complete.
25	PRW	Tom Bates (Gilman) Fields Artificial/Synthetic Turf Replacement	Planning, Design & Construction	Replace artificial turf on two existing fields to include organic infill, shock pad and upgraded turf.	\$315,000	\$3,749	\$311,252	Gilman Reserve Account, Parks Tax, User Fees	\$1,200,000	\$1,507,383	NL					Grand opening held on 3/3/18. Project complete.
GREEN INFRASTRUCTURE PROJECTS					\$1,200,000	\$14,280	\$1,185,720			\$1,181,851						
26	PW	King School Park Green Infrastructure	Planning, Design & Construction	Install cistern to reduce peak stormwater flows and/or a bioswale to infiltrate rainwater, regulate flows, and improve water quality.	\$1,200,000	\$14,280	\$1,185,720			\$1,181,851	DA					Project is not feasible.
COMPLETE STREETS PROJECTS					\$8,500,000	\$101,150	\$8,398,850			\$8,394,981						
27	PW	Adeline Street & Hearst Avenue	Planning, Design & Construction	Complete streets projects to include needed upgrades to curbs, sidewalks, storm drains, bicycle/ped improvements, and pavement, as appropriate.	\$5,000,000	\$59,500	\$4,940,500			\$4,940,500	SM					Design and coordination with utility partners has been completed. Coordination with the Transportation division for a protected bicycle lane is underway. Bidding is anticipated in early 2019. Construction is expected to begin in the summer of 2019.
28	PW	Monterey Avenue and Ward Street	Planning, Design & Construction	Complete streets projects to include needed upgrades to curbs, sidewalks, storm drains, bicycle/ped improvements, and pavement, as appropriate.							SM					Utility coordination is underway. Staff is evaluating options for green infrastructure on Ward Street. On-Call Civil Engineering consultant to start design in early 2019.
29	PW	2nd Street, Hopkins Street and Bancroft Way	Planning, Design & Construction	Complete streets projects to include needed upgrades to curbs, sidewalks, storm drains, bicycle/ped improvements, and pavement, as appropriate.							SM					Staff is performing preliminary studies and confirming scope of work. On-Call Civil Engineering consultant to start design in early 2019.
30	PRW	University Avenue (West Frontage Rd to Marina Blvd), Marina Blvd, and Spinnaker Way Renovation	Planning, Design & Construction	Final design, obtaining permits, and pavement reconstruction. Design will be based on the preferred alternative identified in the Feasibility Study on Mitigation of Undulating Pavement at University Avenue.	\$3,500,000	\$41,650	\$3,458,350			\$3,454,481	NL					Conceptual design and public process for University Avenue have been completed. Design of University Avenue is in progress and construction is expected to be completed in 2020. Marina Blvd. and Spinnaker Way are in conceptual design.
TOTAL					\$33,472,827	\$398,327	\$33,066,763			\$10,163,642						

*Per Measure T1 Bond requirements, 1% of bond proceeds is to be used for functional art. Phase 1 art contribution should be 1% of the \$35 million bond sale. The calculated art contribution is based on the actual estimated Phase 1 cost of \$39 million+.

BP - Bruce Pratt x6632 BPratt@cityofberkeley.info DA - Danny Akagi x6394 DAKagi@cityofberkeley.info EK - Elmar Kapfer x6435 EKapfer@cityofberkeley.info EC - Evelyn Chan x6430 EChan@cityofberkeley.info	GA - Greg Apa x6359 GApa@cityofberkeley.info IL - Ingrid Lin x6633 ILin@cityofberkeley.info JA - Jennifer Allen X6627 JAllen@cityofberkeley.info LM - Liza McNulty x6437 LMcnulty@cityofberkeley.info	NL - Nelson Lam x6395 NeLam@cityofberkeley.info NC - Nick Cartagena xTBD NCartagena@cityofberkeley.info SM - Srinivas Muktevi x6420 SMuktevi@cityofberkeley.info SG - Steve Grolnic x5249 SGrolnic@cityofberkeley.info	TL - Taylor Lancelot x6421 MTLancelot@cityofberkeley.info TT - Thanh Thai x6505 TThai@cityofberkeley.info WK - Wendy Wellbrock x5214 WWellbrock@cityofberkeley.info
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Measure T1 Project Prioritization Scorecard and Potential Savings

Project	Criteria							Total	Project Budget	Option "A"	Option "B"	Option "C"	Option "D"	Option "D" Additional Escalation of 15% ¹	
	GB	EQ	HSR	ES/D	PR	LV	FS								
Conceptual															
West Berkeley Service Center	10	5	10	10	0	0	5	40	\$148,215	(148,215)	(148,215)	(148,215)	(148,215)	A	
Veteran's Building	5	5	10	10	0	0*	5	35	\$148,215						
Old City Hall	5	5	10	10	0	0*	5	35	\$148,215						
Willard Clubhouse	5	10	0	5	0	0	5	25	\$247,025	(150,000)		(150,000)		B	
									\$691,670	(\$298,215)	(\$148,215)	(\$298,215)	(\$148,215)	\$0	
Planning and Design															
Municipal Pier	10	5	5	10	10	10	0	50	\$889,290	(500,000)		(250,000)		C	
Frances Albrier Community Center	10	5	10	10	0	0	10	45	\$741,075	(500,000)				B	
Aquatic Park Tide Tubes	10	5	5	10	0	0	10	40	\$345,835					41,500	
Tom Bates Fieldhouse/Restroom	5	5	5	5	0	0	5	25	\$247,025	(200,000)		(200,000)		B	
									\$2,223,225	(\$1,200,000)	\$0	(\$450,000)	\$0	\$41,500	
Construction															
North Berkeley Senior Center	10	5	10	10	10	10	10	65	\$6,719,080						2
Berkeley Mental Health	5	5	10	10	10	10	5	55	\$1,976,200	(500,000)	(500,000)	(500,000)	(500,000)	D	
Live Oak Community Center	10	5	10	10	5	0	10	50	\$4,841,690						3
Rose Garden Tennis, Pathways	10	5	5	5	5	5	10	45	\$1,185,720						142,286
Rose Garden Drainage	5	5	10	5	5	0	10	40	\$790,480						94,858
San Pablo Play	10	5	5	0	0	5	10	35	\$247,025						29,643
San Pablo Tennis	10	5	5	5	0	0	10	35	\$790,480	(700,000)				B	94,858
Grove Park Fields	10	5	5	10	0	0	5	35	\$988,100	(691,670)		(271,000)		E	118,572
Strawberry Creek Park Restroom	5	5	0	0	5	5	5	25	\$345,835	(242,085)		(242,085)		B	41,500
George Florence Play	5	5	0	0	0	0	5	15	\$592,860	(415,002)		(415,002)		B	71,143
									\$18,477,470	(\$2,548,757)	(\$500,000)	(\$1,428,087)	(\$500,000)	\$592,860	
Streets and GI															
University Ave, Marina Blvd, Spinnaker	10	5	5	5	10	10	10	55	\$3,458,350						415,002
Adeline and Hearst	10	10	5	5	10	5	10	55	\$2,896,549						347,586
Monterey	5	5	5	5	10	5	10	45	\$24,703	(24,703)				F	2,964
Ward	5	5	0	10	5	5	5	35	\$1,679,770						201,572
Hopkins	10	5	5	10	0	5	0	35	\$98,810	(98,810)				F	11,857
Bancroft	10	5	5	0	5	5	0	30	\$24,703	(24,703)				F	2,964
2nd	5	5	0	0	0	5	5	20	\$247,025	(247,025)				F	29,643
King School Park (Not feasible)	5	5	0	10	0	0	0	20	\$1,185,720	(1,185,720)		(400,000)		G	142,286
									\$9,615,630	(\$1,580,961)	\$0	(\$400,000)	\$0	\$1,153,876	

Criteria and Description

	Criteria*	Description
GB	Greatest Benefit	Project provides impact to the greatest number of Berkeley Residents.
EQ	Equity	Criteria applied after looking at full list of projects. Consideration of geographic and demographic distribution of projects.
HSR	Health, safety, and resilience	Project addresses public health and safety, such as improvements for disaster preparedness or emergency response.
ES	Environmental Sustainability/ Durability	Project which improves water quality, have elements of green infrastructure, or also include energy, climate, or other zero waste goals. Project uses durable and sustainable technologies.
PR	Project readiness	Considering projects that are underway or already shovel-ready.
LV	Leveraging other funds	Project utilizes other funding sources.
FS	Feasibility	Consideration of the following: (a) the ability to complete a project/sequencing: project does not have any known barriers, such as site conditions, funding, or permitting issues, that will substantially delay or prevent completion of the project (b) renovating infrastructure before end of useful life to avoid larger expense or closure of amenity

*From Council Consent Item #4 (January 31, 2017) and Resolution 67,666-N.S.

Scoring

Criteria	10 Points	5 Points
Criteria GB: Greatest Benefit	Benefits residents Citywide and local communities/districts	Benefits local communities/districts
Criteria EQ: Equity	Project located in geographically AND demographically under-represented area	Project located in geographically OR demographically under-represented area
Criteria HSR: Health, safety and resilience	Major risk to the public if project is not done	Minor risk to the public if project is not done
Criteria ES/D: Environmental Sustainability / Durability	Has potential for considerable sustainability impact	Has potential for minor sustainability impact
Criteria PR: Project Readiness	Project already underway	Adding additional elements to existing projects
Criteria LV: Leveraging other funds	Leverages other external funding source(s)	Leverages other internal funding source(s)
Criteria FS: Feasibility	Meets both categories (a) the ability to complete a project/sequencing AND (b) renovating infrastructure before end of useful life to avoid larger expense or closure	Meets either category (a) the ability to complete a project/sequencing OR (b) renovating infrastructure before end of useful life to avoid larger expense or closure

DRAFT

BERKELEY CIVIC ARTS COMMISSION MISSION STATEMENT

The Berkeley Civic Arts Commission is committed to ensuring that the citizens of this community have the support to live a creative life, surrounded by a creative environment, with cultural equity for all. In order to achieve this vision, the Commission will strive to provide financial assistance, creative guidance, and arts advocacy through a lense of equity and transparency to advance our community toward a brilliant, creative, equitable future.

Define what cultural equity for all means. (is there a more transparent way of saying or expressing this?)

Notes from meeting:

Current Statement (from City website):

https://www.cityofberkeley.info/City_Manager/Civic_Arts/Mission_Statement.aspx

Mission Statement

The Civic Arts Commission was established to advise the City Council on all matters affecting the beauty and culture of the city. The Civic Arts Program administers and develops projects which accomplish this mission by:

- Encouraging programs for the cultural enrichment of the city and helping to make city resources available to cultural groups
- Providing assistance to groups and individuals wishing to sponsor neighborhood events
- Coordinating and strengthening existing organizations in the arts and developing cooperation with regional organizations

Goals for update:

1. incorporate Cultural Equity Statement within the Mission Statement

Examples & sources of inspiration:

1. SFAC Racial Equity Statement
2. City of Oakland's definition of Cultural Equity
3. Americans for the Arts Statement on Cultural Equity

4. Grantmakers in the Arts - Racial Equity in Arts Philanthropy
 - a. Statement of Purpose
 - b. Definitions
5. Santa Monica Arts Commission Mission Statement
https://www.smgov.net/Portals/Culture/About/Santa_Monica_Arts_Commission/Santa_Monica_Arts_Commission.aspx

Lovvorn, Jennifer

From: Diana Rossi <dianarossi@sonic.net>
Sent: Friday, February 08, 2019 3:19 PM
To: Lovvorn, Jennifer
Subject: Re: Good Fortune

Hi Jen,

Thanks for answering my questions.

About "Good Fortune" -- can you give me an approximate time for when some ideas for placement might be generated?

And likewise with the plaques for the Addison Steetscape Project, as that was supposed to be done about 17 years ago! I completely understand that this oversight is NOT of your making, as it is an issue that you inherited. Also what is completely understandable is that maybe by this point, I don't have a lot of faith in the process.

The reason why "Good Fortune" was damaged was because all the care and time that I spent to mosaic over bolts, on site and then document the location of those bolts, was completely forgotten by Ms. Merker. If you look at my file, (I certainly hope that there is a file documenting my relationship with the city in regards to "Good Fortune"), you will see this documentation. You might also see that I spent hours searching for spots of library walls to relocate good fortune. I took photos of these locations. I wrote lots of letters and emails. This might be why my patience is wearing thin at this point. My correspondence with Ms. Merker about the relocation of "Good Fortune" went on for two years!

While, I spent time on Addison Street helping to install "Good Fortune" and then mosaicing over those bolts, I met many citizens who had lots of questions about the piece. They wanted to know who was funding it, where it came from, etc. The overall vibe was positive, even when I said that the taxpayers of Berkeley paid for this piece! This is why I will continue to advocate for the placement of those plaques, as stipulated in our contracts ----- one cannot expect the public to support public art without being upfront about where public art comes from. And what can one say about not honoring a contract?

About the Arts Commission meeting attachments: I would like to see all of them. This is supposed to be posted and the public should be able to read all of them. I would like to read the attachments for the last 5 years, at minimum and I don't expect you to send them to me individually! (way too much work and then it gets rather personal). I have looked at other commission meetings, and there are hyperlinks to further documents or often, the attachments, are just attached and added to the body of the original meeting notes or sometimes agendas. The Berkeley Unified School district deals with this by attaching "packets" (or at least they used to call them that) to the agendas. I believe that having this level of transparency would be a good thing for the relationship between citizen and city.

Thank you for your time,

Diana

ps: should I no longer be including Chrystal on my communications? Also, I would like all my communications to be entered into the public record. Thanks again, I know that you must be very busy.

On 2019-02-08 13:56, Lovvorn, Jennifer wrote:

Hi Diana,

Thanks for your email. We haven't yet made any progress on a possible placement of Good Fortune. I am hoping to have that addressed as part of our collection assessment which is

just starting but moving slowly. We have your piece here in our office and will keep you posted as things start to move. I appreciate your patience.

Also a great question about creating plaques for the Addison Streetscape artworks. While I wish I had the staff capacity to address this right away, I think this will probably remain on the future projects list for a while.

About the Civic Arts Commission meeting attachments: Please let me know what you would like to view and we can make that available to you. The attachment titles are all listed at the bottom of the agendas.

My apologies for the delayed response.

Regards,
Jen

Jennifer Lovvorn
Chief Cultural Affairs Officer
Civic Arts Program

City of Berkeley
Office of Economic Development
2180 Milvia Street, 5th Floor
Berkeley, CA 94704

Pronouns: She/Her

T: 510-981-7533
JLovvorn@CityofBerkeley.info

-----Original Message-----

From: Diana Rossi [mailto:dianarossi@sonic.net]
Sent: Saturday, January 19, 2019 8:16 PM
To: Lovvorn, Jennifer <JLovvorn@cityofberkeley.info>; O'Malley, Chrystal <comalley@cityofberkeley.info>
Subject: Good Fortune

Dear Jennifer and Chrystal,

How is it going with the placement of "Good Fortune"? You asked me to be patient, as you had hired a consultant to inventory all Berkeley's public art, and wanted to get an overview of Berkeley's collection. I believe that you asked me to hold on a bit for about 3 months or so – can't remember exactly.

Also, has there been any progress or discussion of installing the plaques that were written into the contracts for all the artists who made work for the Addison Streetscape Project?

One last thing: when I look through the meeting minutes and agendas for the Arts Commission there are often attachments that I am unable to open. How does a member of the public access these documents?

Thank you,
Diana Rossi