AGENDA

1. Roll Call
2. Public Comment
3. Approval of Minutes: January 11, 2010
4. Review and Action of draft agenda for January 26, 2010
   a. 1/26/10 – 7:00 p.m. Regular City Council Meeting
5. Upcoming Council Items:
   a. Proposed Upcoming Council Workshops
      1. Recycling Programs
   b. Items Referred to Agenda Committee for Future or Possible Scheduling
      1. Alcohol Fee and Program Ordinance
      2. Nuisance Abatement Against Pacific Steel Casting, 1333 Second Street
6. Land Use Calendar – accept and file
7. Adjournment – next meeting Monday, February 1, 2010
Additional items may be added to the draft agenda per Council Rules of Procedure.

Rules of Procedure Resolution No. 64,235-N.S., Article III, C3c - Agenda - Submission of Time Critical Items

Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee’s published agenda.

The City Clerk shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.

The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.

This is a meeting of the Berkeley City Council Agenda Committee. Since a quorum of the Berkeley City Council may actually be present to discuss matters with the Council Agenda Committee, this meeting is being noticed as a special meeting of the Berkeley City Council as well as a Council Agenda Committee meeting.

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

COMMUNICATION ACCESS INFORMATION:
This meeting is being held in a wheelchair accessible location.
To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.
Please refrain from wearing scented products to this meeting.

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I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on January 14, 2010

Deanna Despain, CMC, City Clerk

Tuesday, January 19, 2010

AGENDA

Page 2
BERKELEY CITY COUNCIL AGENDA COMMITTEE
REGULAR MEETING MINUTES

MONDAY, JANUARY 11, 2010
2:30 P.M.
6th Floor Conference Room, 2180 Milvia Street
Committee Members:
Mayor Bates, Councilmembers Linda Maio and Gordon Wozniak

1. Roll Call: 2:33 p.m. All present.

2. Public Comment : 0 speakers.

3. M/S/C (Maio/Wozniak) to approve the minutes of December 7, 2009

4. Review and Action of draft agenda for January 19, 2010
   a. M/S/C (Maio/Wozniak) to approve the agenda of 1/19/09 – 5:30 p.m.
      Special City Council Worksession – Center Street Plaza.
   b. M/S/C (Wozniak/Maio) to approve the agenda of 1/19/09 – 7:00 p.m.
      Regular City Council Meeting as amended to reflect the following:
      Item 19: Shore-to-Shore Bicycle-Pedestrian-Maintenance Pathway on the
      SF-Oakland Bay Bridge – Added Councilmembers Maio and Wozniak as
      co-sponsors.
      • Item 20: Relinquishment of Council Office Budget Funds to General Fund and
        Grant of Such Funds to the Berkeley Public Library Foundation’s “8th Annual
        Authors Dinner” – revised for clarification.
      • Item 21: Ugandan Anti-Homosexuality Bill – revised report submitted added
        Councilmembers Moore, Anderson, Arreguin and Maio as co-sponsors.
      • Item 28: Possible Ballot Measure for June 2010 Election - City Pools – revised
        recommendation submitted.
      • Item 30: Request to City Manager: Report on City of Berkeley’s Involvement in
        SB 113 – Moved to January 26, 2010.
      • Item 31: Supporting SCA 21, Granting Legislative Authority Over UC Policy –
        removed from agenda.

5. Upcoming Council Items:
   a. Proposed Upcoming Council Workshops
      1 Recycling Programs
   b. Items Referred to Agenda Committee for Future or Possible
      Scheduling
      1. Alcohol Fee and Program Ordinance
      2. Nuisance Abatement Against Pacific Steel Casting, 1333 Second
         Street

6. Land Use Calendar – accepted and filed

7. Adjournment – 2:51 p.m.
This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Deanna Despain, CMC, City Clerk, 981-6900.

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

Preliminary Matters

Roll Call:

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

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

Public Comment on Non-Agenda Matters: Five persons selected by lottery will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters.
Public Comment on Consent Calendar and Information Items Only: The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in opposition to or support of a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective opposition to or support of the item.

In the event that there are more than three persons wishing to speak either in opposition to or support of a “Consent” item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.

Consent Calendar

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

After hearing from public speakers regarding items remaining on the Consent Calendar, any Council Member may move any Information or Consent item to “Action”, however no additional items can be moved onto the Consent Calendar at that point. Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period.

1. Side Letter of Agreement - Berkeley Fire Fighters Association
   From: City Manager
   Recommendation: Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter of Agreement to the Memorandum Agreement with the Berkeley Fire Fighters Association/I.A.F.F. Local 1227 to modify wages, and terms and conditions of employment to implement the First Responder Advanced Life Support (FRALS) service that will staff fire engine and fire truck companies with Alameda County accredited paramedics.
   Financial Implications: Measure GG Fire Preparedness Tax Fund - $150,000 in FY 2010, $440,000 in FY 2011
   Contact: David Hodgkins, Human Resources, 981-6800

2. Waiver of Annual Marina Berth Fees for Four Non-Profits
   From: City Manager
   Recommendation: 1 Affirming the determination by City staff and the Waterfront Commission that four non-profit organizations at the Berkeley Marina (Berkeley Racing Canoe Center, Cal Sailing Club, Cordell Explorer and The Pegasus Project) are in full compliance with all aspects of Resolution No. 58,859-N.S. 2 Approving the annual waiver of berth fees for the four groups for calendar year 2010.
   Financial Implications: See report.
   Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700
Consent Calendar

3. Establishment of a Joint Subcommittee for the Downtown Street and Open Space Improvement Plan(SOSIP)
   From: City Manager
   **Recommendation:** Adopt a Resolution establishing a Joint Subcommittee to guide the development of the Downtown Streets & Open Space Improvement Plan (SOSIP) and to make its recommendation to City Council by the end of September 2010.
   **Financial Implications:** See report
   Contact: Dan Marks, Planning and Development, 981-7400

   From: Board of Library Trustees
   **Recommendation:** Adopt a Resolution authorizing the City Manager to amend the existing Contract No. 7961 with Kitchell CEM, Inc. by increasing expenditure authority in an amount not to exceed $1,198,580 for the provision of construction / project management services and LEED commissioning agent services for the branch library bond program and extend the contract term through September 30, 2013.
   **Financial Implications:** Measure FF Fund - $108,962
   Contact: Donna Corbeil, Commission Secretary, 981-6100

5. Reappointment of Howard King and Michael Diehl to the Mental Health Commission
   From: Mental Health Commission
   **Recommendation:** Approve the reappointment of Howard King and Michael Diehl to the Mental Health Commission, as representatives of the General Public Interest Category, for three-year terms beginning January 27, 2010 and ending January 26, 2013.
   **Financial Implications:** None
   Contact: Carol Patterson, Commission Secretary, 981-5290

Council Consent Items

6. California Democracy Act
   From: Councilmembers Anderson, Moore, Arreguin and Worthington
   **Recommendation:** Adopt a Resolution to endorse the California Democracy Act.
   **Financial Implications:** None
   Contact: Max Anderson, Councilmember, District 3, 981-7130

7. Letter to Iran for 3 UC Berkeley Students
   From: Councilmember Worthington
   **Recommendation:** Send a letter urging the Iranian government to release the three UC Berkeley Graduates: Sarah Shourd, 31, Shane Bauer, 27, and Josh Fattal, 27.
   **Financial Implications:** None
   Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Council Consent Items

8. **Send a Letter Supporting Water Protection and Reinvestment Trust Fund**
   **From:** Councilmember Worthington  
   **Recommendation:** Send letters urging Congresswoman Barbara Lee, Senator Barbara Boxer, and Diane Feinstein to support the creation of a Water Protection and Reinvestment Trust Fund and amend the Trust Fund bill (H.R. 3202).
   **Financial Implications:** None
   **Contact:** Kriss Worthington, Councilmember, District 7, 981-7170

9. **Ticketmaster/Live Nation Potential Merger**
   **From:** Councilmember Worthington  
   **Recommendation:** That the Council jointly call on Assistant Attorney General Christine Varney to prevent the two ticket-dispensing entities Ticketmaster and Live Nation from merging.
   **Financial Implications:** Miniscule
   **Contact:** Kriss Worthington, Councilmember, District 7, 981-7170

10. **Approve Instant Runoff Voting for November 2010**
    **From:** Councilmember Worthington  
    **Recommendation:** The Berkeley City Council move forward with the implementation and use of Instant-Runoff Voting.
    **Financial Implications:** Unknown
    **Contact:** Kriss Worthington, Councilmember, District 7, 981-7170

11. **25th Silver Anniversary Jewish Music Festival - March 26 to 28 2010**
    **From:** Councilmember Worthington  
    **Recommendation:** Adopt a Resolution proclaiming March 26-28, 2010 as the 25th Silver Anniversary Jewish Music Festival.
    **Financial Implications:** None
    **Contact:** Kriss Worthington, Councilmember, District 7, 981-7170

**Action Calendar**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.

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

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment.

12. ZAB Appeal: 1930 Martin Luther King, Jr. Way
From: City Manager
Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 09-10000028 to establish a quick-service restaurant with incidental beer and wine service, sidewalk café seating, and hours of operation beginning at 6 a.m.
Financial Implications: None
Contact: Dan Marks, Planning and Development, 981-7400

13. ZAB Appeal: 3001 Telegraph Avenue
From: City Manager
Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 08-10000092 to construct a five-story mixed use building with 38 dwelling units, 4,039 square feet of ground-floor commercial space, and 42 parking spaces.
Financial Implications: None
Contact: Dan Marks, Planning and Development, 981-7400

14. ZAB Appeal: 3001 Dwight Way
From: City Manager
Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to deny Administrative Use Permit No. 08-20000145 to construct an accessory building and convert the accessory building to habitable space.
Financial Implications: None
Contact: Dan Marks, Planning and Development, 981-7400

Action Calendar – New Business

15. Affordable Housing Policies
From: City Manager
Recommendation: Direct the City Manager to pursue consideration of three new affordable housing policies: an affordable housing mitigation fee, a special tax, and revisions to the density bonus program and/or zoning regulations to encourage affordable housing. Allocate $30,000 for consultant services for an affordable housing impact fee nexus study. All three policies are responses to Palmer/Sixth Street Properties vs. City of Los Angeles, a recent court decision which found that inclusionary zoning programs that apply affordability requirements to rental housing violate the Costa-Hawkins Act. The Council could also consider requesting the state legislature to adopt legislation responding to this court decision.
Financial Implications: General Fund - $30,000
Contact: Jane Micallef, Housing, 981-5400
Action Calendar – New Business

16. **Pools - Identify Ballot Language**  
   **From:** City Manager  
   **Recommendation:** placeholder  
   **Financial Implications:**  
   Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700

17. **Panoramic Hill (ESR) Zoning Ordinance Revision**  
   **From:** City Manager  
   **Recommendation:** Adopt first reading of proposed amendments to the ESR District Ordinance (Panoramic Hill) as recommended by the Planning Commission.  
   **Financial Implications:** See report  
   Contact: Dan Marks, Planning and Development, 981-7400

18. **City Auditor's Annual Report for the Fiscal Year 2009**  
   **From:** Auditor  
   **Recommendation:** Accept report: Consider Council budget policies to safeguard internal controls.  
   **Financial Implications:** See report  
   Contact: Ann-Marie Hogan, Auditor, 981-6750

19. **Outstanding Audit Actions, Budget Policies, and Internal Controls**  
   **From:** Auditor  
   **Recommendation:** Accept report; consider and reaffirm Council budget policies aimed at safeguarding internal controls, including implementation of audit recommendations.  
   **Financial Implications:** See report  
   Contact: Ann-Marie Hogan, Auditor, 981-6750

Information Reports

20. **2009 Peer Review: Audit of the City of Berkeley Auditor's Office**  
   **From:** Auditor  
   Contact: Ann-Marie Hogan, Auditor, 981-6750

Public Comment – Including Items Not Listed on the Agenda –

Adjournment
NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at http://www.ci.berkeley.ca.us/video and KPFB Radio 89.3. Archived indexed video streams are available at http://www.ci.berkeley.ca.us/citycouncil. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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

Agendas and agenda reports may be accessed via the Internet at http://www.ci.berkeley.ca.us/citycouncil and may be read at reference desks at the following locations:

City Clerk Department
2180 Milvia Street
Tel: 510-981-6900
TDD: 510-981-6903
Fax: 510-981-6901
Email: clerk@ci.berkeley.ca.us

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

COMMUNICATION ACCESS INFORMATION:
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Please refrain from wearing scented products to this meeting.
To: Honorable Mayor and Members of the City Council
From: Board of Library Trustees
Submitted by: Donna Corbeil, Director of Library Services
Subject: Contract No. 7961 Amendment: Kitchell CEM, Inc.

RECOMMENDATION
Adopt a Resolution authorizing the City Manager to amend the existing Contract No. 7961 with Kitchell CEM, Inc. by increasing expenditure authority by $201,590 to an amount not to exceed $1,198,580 for the provision of construction / project management services and LEED commissioning agent services for the branch library bond program and extend the contract term through September 30, 2013.

FISCAL IMPACTS OF RECOMMENDATION
Following City Council approval the contract scope will be amended to include the provision of LEED commissioning agent services for the Claremont, North, and South branch libraries in an amount of $92,628, and add a contingency provision of 10% amounting to $108,962; thereby, increasing the contract authorized amount from $996,990 to a revised amount not to exceed $1,198,580 and extending the contract term through September 30, 2013.

Funding for these tasks in the bond program is available through Measure FF in budget code 308-9301-450.65-70 = $201,590.

The CMS number for this amendment request is RA4RE.

BACKGROUND
On December 9, 2009 under Resolution No. 09-115 the Board of Library Trustees recommended to the City Council approval for the execution of an amendment to Contract No. 7961 with Kitchell CEM, Inc. (herein “Kitchell”) to authorize an amended contract amount not to exceed $1,198,580 for the period December 21, 2009 through September 30, 2013.

On May 5, 2009 under Resolution No. 64,430-N.S. the City Council authorized the City Manager to execute Contract No. 7961 with Kitchell for project management and contract administration services with funding provided from Measure FF for the renovation of the Berkeley Public Library branch libraries.
On April 14, 2009 under Resolution No. R09-35 the Board of Library Trustees recommended to the City Council approval for the execution of a contract by the City Manager with Kitchell to provide project management and contract administration services for the Measure FF bond financed renovation program of the Berkeley Public Library’s branch libraries.

CURRENT SITUATION AND ITS EFFECTS

Kitchell is providing project management and construction administration services for the Branch Libraries Renovation Program. As it is an objective of the program that all renovated branch sites attain LEED Silver or higher certification Kitchell was requested to address early-on LEED compliance issues with the contracted architectural firms as both a budgetary cost saving measure and program efficiency action – the West branch was not included in this request due to the net zero energy initiative, which includes LEED commissioning agent services, being explored at that site by the contracted architectural design firm Harley Ellis Devereaux.

An amendment is needed to allow Kitchell to fully engage with the architects and to confer upon Kitchell the responsibilities to develop and provide implementation and oversight of a LEED commissioning plan that would consist of documented confirmation that the energy related systems of a facility fulfills the functional and performance requirements of the building owner, occupants, and operators. Kitchell, as the commissioning agent would develop detailed commissioning specifications and perform design review to ensure that all components of the City’s commissioning objectives are met, develop and coordinate the execution of a testing plan including deferred testing, and complete building operation review up to 11 months after substantial completion.

Further as a precaution to prevent potential delays in any needed services for unforeseen events, staff recommends including a contingency provision to the contract.

RATIONALE FOR RECOMMENDATION

The City does not have the internal resources or staff expertise necessary to perform the specialized services required to execute and achieve LEED certification as expressed by City Council Resolution No. 62,284-N.S. “that all Covered Projects that enter design and construction after January 1, 2006 shall meet a minimum LEED “Silver” rating.”

Based on the recommendation of staff and the Library’s consultant a contingency fee of 10% is requested to be added to the overall contract authorized amount.

ALTERNATIVE ACTIONS CONSIDERED

Consideration was given to conducting an RFP specifically for commissioning agent services. It was judged that engaging another party for commissioning agent services would not be cost effective and may possibly hinder procedural efficiency during the life of the program.
Contract No. 7961 Amendment: Kitchell CEM, Inc.

Without an authorized contingency value for this contract unforeseen events could result in substantial program delays as BOLT and City Council authorizations would need to be sought per occurrence.

CONTACT PERSON
Donna Corbeil, Director, Library Services, 981-6195

Attachment:
1: Resolution
2: BOLT Resolution
RESOLUTION NO. ##,### N.S.

CONTRACT NO. 7961 AMENDMENT: KITCHELL CEM, INC.

WHEREAS, on April 14, 2009 the Board of Library Trustees recommended to the City Council approval for the execution of a contract by the City Manager with Kitchell to provide project management and contract administration services for the Measure FF bond financed renovation program of the Berkeley Public Library’s branch libraries under Resolution No. R09-35; and

WHEREAS, on May 5, 2009 the City Council authorized the City Manager to execute Contract No. 7961 with Kitchell for project management and contract administration services with funding provided from Measure FF for the renovation of the Berkeley Public Library’s branch libraries under Resolution No. 64,430-N.S.; and

WHEREAS, staff recommends the contract be amended to include commissioning agent for the development and execution of a LEED commissioning plan to achieve LEED “Silver” rating as articulated in City Council Resolution No. 65,284-N.S; and

WHEREAS, the cost for this additional service for the Claremont, North, and South branch libraries will be $92,628; and

WHEREAS, staff recommends the contract be amended to include a 10% contingency provision for to provide for any unforeseen event(s); and

WHEREAS, the cost for a 10% contingency provision for the contract will be $108,962; and

WHEREAS, the cost of commissioning agent services and for a contingency provision for the contract will total $201,590 for a revised authorized contract amount not to exceed $1,198,580; and

WHEREAS, funds are available in the Measure FF Fund in budget code 308-9301-450.65-70; and the CMS number is RA4RE; and

WHEREAS, on December 9, 2009 the Board of Library Trustees recommended to the City Council by Resolution No. R09-115 execution of an amendment to Contract No. 7961 with Kitchell CEM, Inc. to an amended contract amount not to exceed $1,198,580 for the period December 21, 2009 through September 30, 2013.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby authorizes the City Manager to execute an amendment to Contract No. 7961 with Kitchell CEM, Inc. by $201,590 to a not-to-exceed amount of $1,198,580 for the period December 21, 2009 through September 30, 2013.
RESOLUTION NO.: R09-115

CONTRACT NO. 7961 AMENDMENT: KITCHELL CEM, INC.

WHEREAS, on April 14, 2009 the Board of Library Trustees recommended to the City Council approval for the execution of a contract by the City Manager with Kitchell to provide project management and contract administration services for the Measure FF bond financed renovation program of the Berkeley Public Library’s branch libraries under Resolution No. R09-35; and

WHEREAS, on May 5, 2009 the City Council authorized the City Manager to execute Contract No. 7961 with Kitchell for project management and contract administration services with funding provided from Measure FF for the renovation of the Berkeley Public Library’s branch libraries under Resolution No. 64,430-N.S.; and

WHEREAS, staff recommends the contract be amended to include commissioning agent for the development and execution of a LEED commissioning plan to achieve LEED “Silver” rating as articulated in City Council Resolution No. 65,284-N.S.; and

WHEREAS, the cost for this additional service for the Claremont, North, and South branch libraries will be $92,628; and

WHEREAS, staff recommends the contract be amended to include a 10% contingency provision for to provide for any unforeseen event(s); and

WHEREAS, the cost for a 10% contingency provision for the contract will be $108,962; and

WHEREAS, the cost of commissioning agent services and for a contingency provision for the contract will total $201,590 for a revised authorized contract amount not to exceed $1,198,580; and

WHEREAS, funds are available in the Measure FF Fund in budget code 308-9301-450.65-70 10LB28; and the CMS number is RA4RE.

NOW THEREFORE, BE IT RESOLVED by the Board of Library Trustees of the City of Berkeley to recommend to City Council execution of an amendment to Contract No. 7961 with Kitchell CEM, Inc. to authorize an amended contract amount not to exceed $1,198,580 for the period December 21, 2009 through September 30, 2013.

ADOPTED by the Board of Library Trustees of the City of Berkeley at a regular meeting held on December 9, 2009 by the following vote:

AYES: Trustees Burton, Henry-Golphin, Kupfer, Moore and Powell.

NOES: none.

ABSENT: none.

ABSTENTIONS: none.

Susan Kupfer, Chairperson

Donna Corbell, Director of Library Services
Serving as Secretary of the Board of Library Trustees
To: Honorable Mayor and Members of the City Council
From: Mental Health Commission
Submitted by: Carol Patterson, Secretary, Mental Health Commission
Subject: Reappointment of Howard King and Michael Diehl to the Mental Health Commission

RECOMMENDATION
Adopt a Resolution approving the reappointment of Howard King and Michael Diehl to the Mental Health Commission, as representatives of the General Public Interest Category, for three-year terms beginning January 27, 2010 and ending January 26, 2013.

FISCAL IMPACTS OF RECOMMENDATION
None.

CURRENT SITUATION AND ITS EFFECTS
The Mental Health Commission is authorized to be composed of seventeen members. However, there are presently eight vacancies on the Commission. These vacancies impair the Commission’s ability to adequately review and evaluate the community’s mental health needs, resources, and programs.

Approval of the recommended action will fill two of the current vacancies, and allow the Commission to move one step closer to having a full and diverse complement of commissioners to review and evaluate the community’s mental health needs, resources, and programs.

BACKGROUND
The Mental Health Commission is authorized to be composed of seventeen members. California State law requires that appointments to the Mental Health Commission meet specific categories, who may serve up to nine years consecutively. The general public interest category may include anyone who has an interest in and some knowledge of mental health services. The special public interest category includes direct consumers of public mental health services or family members of consumers, which together must
constitute at least fifty percent or nine of the commission seats. Direct consumers and family members shall each constitute at least 20% of the commission membership. Two members shall be residents of the City of Albany with at least one of these seats filled by a direct consumer or family member.

On September 18, 2009, Howard King and Michael Diehl completed their second three year term. Both are eligible to serve one additional three-year term before being termed out.

Most recently, Mr. King served as the Chair to the Mental Health Commission, and is a regular participant on Berkeley Mental Health’s Wellness Recovery Task Force. Mr. King brings his knowledge of services to the homeless.

Mr. Diehl has served as past Chair and Vice Chair to the Mental Health Commission, and is currently the Chair of the Mental Health Commission Crisis Intervention Training Task Force. Mr. Diehl brings his knowledge of the homeless community advocacy and his connections to Radical Mental Health.

At its December 10, 2009 meeting, the Mental Health Commission passed the following motion:

M/S/C (Dixon, Smith) to recommend reappointment of Howard King and Michael Diehl as representatives of the General Public Interest to the Mental Health Commission. Ayes: Unanimous; Absent: Arreguin.

RATIONALE FOR RECOMMENDATION
Approval of the recommended action will allow the Mental Health Commission to move one step closer to having a full and diverse complement of commissioners to review and evaluate the community’s mental health needs, resources, and programs.

ALTERNATIVE ACTIONS CONSIDERED
None.

CITY MANAGER
The City Manager concurs with the content and recommendations of the Commission’s Report.

CONTACT PERSON
Kim Nemriow, Vice Chair, Mental Health Commission, (510) 922-8326
Carol Patterson, Secretary, Mental Health Commission, (510) 981-5217
Attachment
1. Resolution

WHEREAS, membership of the Mental Health Commission is composed of seventeen appointments by the City Council as a whole, including one appointment by the Mayor (or designee), nine special public interest appointments, two appointments of residents of Albany (one of which shall be a representative of the special public interest category), and five general public interest appointments; and

WHEREAS, with the ongoing implementation of the Mental Health Services Act, the City of Berkeley will need to have a full complement of diverse appointees to the Commission to review and evaluate the community’s mental health needs, resources, and programs and to fulfill its mandate; and

WHEREAS, at its December 10, 2009 meeting, the Mental Health Commission unanimously recommended that Howard King and Michael Diehl be appointed to the Mental Health Commission.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley reappoints Howard King and Michael Diehl to the Mental Health Commission for three-year terms beginning January 27, 2010 and ending January 26, 2013.
To: Honorable Mayor and Members of the City Council

From: Councilmember Max Anderson, District 3  
Councilmember Darryl Moore, District 2  
Councilmember Jesse Arreguin, District 4  
Councilmember Kriss Worthington, District 7

Subject: California Democracy Act

RECOMMENDATION
Adopt a Resolution to endorse the California Democracy Act.

FINANCIAL IMPLICATIONS
NONE

BACKGROUND
The State Constitution of California currently requires that all budget and revenue legislation pass both the Assembly and the Senate with a 2/3 vote, allowing a minority of the legislators in each house to prevent passage of such legislation. The recent consequences of this constitutional requirement has been for a minority of legislators to prevent California from addressing its current financial crisis, catastrophically undermining the ability of the majority of elected state legislators to meet California’s needs in health care, education, physical infrastructure, and public safety. The only structural way to change this requirement is via a ballot initiative. The Berkeley City Council endorses the California Democracy Act and urges all eligible Berkeley residents to sign the petition to place it on the ballot. The City of Berkeley will inform all Bay Area City Councils of this action and invite them to concur. "All legislative actions on revenue and budget must be determined by a majority vote.", an Initiative proposed by George Lakoff for the November 2010 Ballot.

CONTACT PERSON
Councilmember Max Anderson, District 3  510 981-7130

Attachment: Resolution

Reference: Website: http://www.californiasfordemocracy.com/
RESOLUTION NO. XXXXX

RESOLUTION IN SUPPORT OF THE CALIFORNIA DEMOCRACY ACT

WHEREAS, the State Constitution of California currently requires that all budget and revenue legislation pass both the Assembly and the Senate with a 2/3 vote, allowing a minority of the legislators in each house to prevent passage of such legislation; and

WHEREAS, the recent consequences of this constitutional requirement has been for a minority of legislators to prevent California from addressing its current financial crisis, catastrophically undermining the ability of the majority of elected state legislators to meet California's needs in health care, education, physical infrastructure, and public safety; and

WHEREAS, the only structural way to change this requirement is via a ballot initiative.

NOW THERFORE, BE IT RESOLVED the Berkeley City Council endorses the California Democracy Act and urges all eligible Berkeley residents to sign the petition to place it on the ballot.

BE IT FURTHER RESOLVED the City of Berkeley will inform all Bay Area City Councils of this action and invite them to concur.
To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington
Subject: Letter to Iran for 3 UC Berkeley Students

RECOMMENDATION
Send a letter urging the Iranian government to release the three UC Berkeley Graduates: Sarah Shourd, 31, Shane Bauer, 27, and Josh Fattal, 27.

BACKGROUND
On July 31, 2009, Sarah, Shane, and Josh were arrested by Iranian authorities while on a hiking trip in a rugged area of the Iran-Iraq border. They have had no direct contact with family or friends since they were arrested indefinitely.

FINANCIAL IMPLICATIONS
None.

CONTACT PERSON
Councilmember Kriss Worthington 510-981-7170
"I have been deeply concerned at the continued detention of Shane Bauer, Sarah Shourd and Josh Fattal, and hope that the Iranian government will be able to arrange for their release without delay," Chomsky wrote in his public statement.

"Iran has ample reason for caution and suspicion with regard to the actions and plans of Washington," he added, "but these young people represent a segment of the U.S. population that is critical of these policies, and often actively opposed to them. Hence their detention is particularly distressing to all of us who are dedicated to shifting U.S. policy to one of mutual respect rather than domination."

"I therefore appeal to the Iranian leadership to act in a humanitarian spirit and release (them),"
To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington

Subject: Send a letter supporting Water Protection and Reinvestment Trust Fund

RECOMMENDATION
That the City Council send letters urging Congresswoman Barbara Lee, Senator Barbara Boxer, and Diane Feinstein to support the creation of a Water Protection and Reinvestment Trust Fund and amend the Trust Fund bill (H.R. 3202).

BACKGROUND
According to Food and Water Watch, the Water Protection and Reinvestment Trust Fund is designed to support and protect our public water systems and the Trust Fund bill would allow funds to be used only for projects of public utilities. The Trust Fund would provide a dedicated federal funding source to protect our essential water resources. It is also vital that the Trust Fund support only our public water system, not private water companies. For systems that are currently private, trust fund money should be available to local governments to support the remunicipalization of private systems.

The American Society of Civil Engineers has given a D- to the U.S. water and wastewater infrastructure. Our water system is in desperate need of repair. It is imperative that the City of Berkeley support the Trust Fund. Water is a Human Right and Public Good.

FINANCIAL IMPLICATIONS
None.

CONTACT PERSON
Councilmember Kriss Worthington 510-981-7170
To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington  
Subject: Ticketmaster/Live Nation Potential Merger  

RECOMMENDATION  
That the Council jointly call on Assistant Attorney General Christine Varney to prevent the two ticket-dispensing entities Ticketmaster and Live Nation from merging.  

BACKGROUND  
It has been brought to our attention by CALPIRG that two competitors in the live-entertainment industry, Ticketmaster and Live Nation would, if merged, monopolize the ticket-distribution industry, potentially creating a trust, and leave the market for live entertainment under the control of one megacorporation. This would change the market so that there would be little to no fair competition.  

The United States Department of Justice has been reviewing the merger before approving it for close to a year without conclusion. Assistant Attorney General Varney is charged with upholding anti-trust laws by the US Department of Justice, and therefore contact with Varney would ensure that this merger would not occur and result in a trust.  

FINANCIAL IMPLICATIONS  
Miniscule.  

CONTACT PERSON  
Councilmember Kriss Worthington  510-981-7170  

Attachments  
1 Letter from CALPIRG State Director, Emily Rusch
Memo: from Emily Rusch, CALPIRG State Director

Hi Kriss,

Ticketmaster is the king of fees. A handling fee, a processing fee, a just-cause-we-can fee. Frequently, these fees make up more than 30 percent of the overall price of the ticket. [1]

And it could get worse. Ticketmaster wants to merge with Live Nation, its leading competitor, meaning that most of the tickets we could buy would be coming from the new mega-ticket conglomerate. And from past experience we know that the less competition, the worse these guys get with their handling, processing and other nonsense fees.

We can stop this ticket monopoly from forming: Send an e-mail to Assistant Attorney General Christine Varney.

Attorney General Varney is the Department of Justice official tasked with upholding anti-trust laws, and they are reviewing the merger right now. A trust is exactly what could form if Live Nation and Ticketmaster are allowed to merge.

Ticketmaster, along with its subsidiaries, contracts with roughly 200 artists. Live Nation owns or has exclusive deals with 139 venues, and manages about 150 artists. Live Nation is Ticketmaster’s biggest competitor in the ticket selling business.

The new mega-ticket monopoly would be the gatekeeper to most major venues and artists, meaning that they would dominate most aspects of live concerts.

The fees are already extreme. For example, in a report by the Washington Post, Ticketmaster added $16.60 in fees -- $4.10 for "processing," $3.50 for "facilities," and a $9 "convenience charge" -- to a $56 dollar ticket, about 30 percent. [2]

We need to stand up to their price-gouging now. Join me, and call on Attorney General Varney to stop the merger:

http://www.calpirg.org/action/consumer/stop-ticketmaster-merger?id4=es

Sincerely,

Emily Rusch
CALPIRG State Director
action@calpirg.org
http://www.CALPIRG.org

To:      Honorable Mayor and Members of the City Council
From:   Councilmember Kriss Worthington

Subject: Approve Instant Runoff Voting for November 2010

RECOMMENDATION
The Berkeley City Council move forward with the implementation and use of Instant-Runoff Voting.

BACKGROUND
In 2004, the citizens of Berkeley overwhelmingly supported Measure I, Instant-Runoff Voting (IRV), also known as ranked-choice voting. The citizens of Berkeley passed Measure I with 72% supporting the electoral system.

On Tuesday, January 5, 2010, the Oakland City Council approved the implementation of the IRV system. Oakland City Attorney John Russo that said officials had no choice but to follow the mandate of 2006’s Measure O and implement the system.

On Tuesday, January 19, 2010, San Leandro City Council will discuss and possibly vote to approve the IRV voting system for the City of San Leandro, thus effectively, sharing the cost for the IRV implementation with Oakland and Berkeley.

FINANCIAL IMPLICATIONS
Unknown.

CONTACT PERSON
Councilmember Kriss Worthington      510-981-7170
To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington

Subject: 25th Silver Anniversary Jewish Music Festival – March 26 to 28 2010

RECOMMENDATION
Adopt a resolution proclaiming March 26-28, 2010 as the 25th Silver Anniversary Jewish Music Festival.

BACKGROUND
The 25th year of the Jewish Music Festival will celebrate a legacy of musical heritage and innovation. The Berkeley concerts will be held at the new Freight and Salvage. Berkeley City council members are encouraged to support 25th Silver Anniversary Jewish Music Festival by use of D-13.

FINANCIAL IMPLICATIONS
$250 from Council member Kriss Worthington’s D-13.

CONTACT PERSON
Councilmember Kriss Worthington 510-981-7170
This report was not received by the City Clerk Department.

If you have questions regarding this report, please contact the person noted on the agenda.

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

or from:

The City of Berkeley, City Council’s Web site
http://www.ci.berkeley.ca.us/citycouncil/
Report Not Received

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<th>Recommended dates</th>
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<tr>
<td>January 19, 2010</td>
<td>Center Street Plaza</td>
</tr>
<tr>
<td>Winter, 2009-2010</td>
<td>Community Choice Aggregation</td>
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<tr>
<td>March 23, 2010</td>
<td>Sunshine Ordinance</td>
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### Public Hearings Scheduled

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<td>LPC</td>
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</table>

**Last updated:** 1/13/10

(1) Dates are listed under placeholder for potential public hearings are simply placeholders for the management of Council meetings. The event that follows the initial review of the appeal, Council directs that a hearing be scheduled. This in no way infers that a hearing will in fact be set.

(2) Public Hearings Scheduled are dates for a public hearing as directed by the City Council. Council’s determination of Council dates for possible public hearings is listed as placeholders for the appeal. Council Date for (1) Appeals are listed under placeholder for potential public hearings are simply placeholders for the management of Council meetings. The event that follows the initial review of the appeal, Council directs that a hearing be scheduled. This in no way infers that a hearing will in fact be set.

**Estimated Time Needed:**

- Notification (1) Appeal Receipt Letter
- Public Hearing Scheduled Letter

**Meeting Management:**

- 90 day council deadline - 3/8/2010
- 60 day council deadline - 3/8/2010

**NOD – Notices of Decision:**

- Council Date for (1) Appeals
- Council’s determination of Council dates for possible public hearings is listed as placeholders for the appeal.
- Council Date for (1) Appeals are listed under placeholder for potential public hearings are simply placeholders for the management of Council meetings. The event that follows the initial review of the appeal, Council directs that a hearing be scheduled. This in no way infers that a hearing will in fact be set.

**Address:**

- City Council

**Working Calendar for Scheduling Land Use Matters Before The**

**City Clerk’s Department**