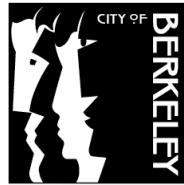


AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, April 28, 2020

6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – CHERYL DAVILA

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – LORI DROSTE

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

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

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://zoom.us/j/96207688419>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **962 0768 8419**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

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

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

Preliminary Matters

Roll Call:

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

1. Adjourn in memory of all the victims of the COVID-19 pandemic.

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

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

Consent Calendar

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

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

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

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

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

Consent Calendar

- 1. Amendment: FY 2020 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,694-N.S. amending the FY 2020 Annual Appropriations Ordinance No. 7,682-N.S. for fiscal year 2020 based upon recommended re-appropriation of committed FY 2019 funding and other adjustments in the amount of \$28,565,263 (gross) and \$15,378,568 (net).
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
- 2. Lease Agreement with 200 Marina Blvd, LLC for the Doubletree Hotel**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,695-N.S. 1. Authorizing the City Manager to execute the Ground Lease with 200 Marina Blvd, LLC, the owner/ground lessee of the Doubletree Hotel located at the Berkeley Marina for a 60-year term effective from May 14, 2020 through December 31, 2080; and 2. Approving a related Capital Contribution Agreement that 200 Marina Blvd, LLC contribute \$3 million to Marina street improvements.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 3. Zoning Ordinance Amendments for Family Daycare Homes to comply with Senate Bill 234; Amending Berkeley Municipal Code Title 23**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,696-N.S. amending Berkeley Municipal Code (BMC) Title 23 (Zoning Ordinance) to comply with Family Daycare Home regulations recently enacted by Senate Bill 234 (SB 234); and
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 4. Amending Tenant Screening Fees Ordinance for Existing Tenancies; Amending Berkeley Municipal Code Chapter 13.78**
From: Mayor Arreguin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Robinson (Co-Sponsor) (Reviewed by the Land Use, Housing & Economic Development Committee)
Recommendation: Adopt second reading of Ordinance No. 7,697-N.S. amending Berkeley Municipal Code Chapter 13.78 (Tenant Screening Fees) to add subsections to prohibit additional fees for existing tenancies and lease terminations.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Consent Calendar

5. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the council meetings of March 10, 2020 (special closed, and regular), and March 17, 2020 (special).

Financial Implications: None

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

6. Citizens Redistricting Commission Implementation Ordinance; Adding BMC Chapter 2.10

From: City Manager

Recommendation: Adopt first reading of an Ordinance establishing regulations and procedures for the Berkeley Citizens Redistricting Commission to supplement the existing provisions of the City Charter related to redistricting, and adding Berkeley Municipal Code Chapter 2.10.

Financial Implications: None

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

7. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 28, 2020

From: City Manager

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

Financial Implications: Sanitary Sewer Operations Fund - \$500,000

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

8. Contract: City Data Services for Streamlined Community Agency Contract Administration and Monitoring

From: City Manager

Recommendation: Adopt a Resolution: 1. Authorizing the City Manager to enter into a contract with City Data Services (CDS) to continue to provide its online data management system to the Department of Health, Housing, and Community Services for the period July 1, 2020 through June 30, 2021 for \$32,160, and; 2. Authorizing the City Manager to extend the contract for an additional three years (FY22, FY23 & FY24), and execute any amendments with CDS for ongoing maintenance of the community agency online applications and reporting systems for an annual service fee of \$32,160 for a total contract not to exceed amount of \$128,640.

Financial Implications: Various Funds - \$128,640

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Consent Calendar

- 9. Contract No. 32000094 Amendment: Youth Spirit Artworks for Transition Age Youth Case Management and Linkage Services and Tiny House Case Management**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with vendor Youth Spirit Artworks (YSA) to provide Transition Age Youth (TAY) case management and linkage services through June 30, 2021 in an amount not to exceed \$217,000. This will extend the existing contract by one year and add in \$117,000 for case management services at the Tiny Homes Village.
Financial Implications: See report
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
- 10. Contract: ENGEO for Testing and Inspection Services for Berkeley Tuolumne Camp Construction Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with ENGEO in an amount not to exceed \$500,000 to provide construction testing and inspection services (including Geotechnical inspections) for the Berkeley Tuolumne Camp Project for the period May 1, 2020 through July 1, 2022.
Financial Implications: Camps Fund - \$500,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 11. Contract: Andes Construction, Inc. for Sanitary Sewer Rehabilitation at West Frontage Road Crossing Interstate 80 Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Rehabilitation at West Frontage Road Crossing Interstate 80 Project; accepting the bid of the lowest responsive and responsible bidder, Andes Construction, Inc.; and authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$556,292, which includes a 10% contingency of \$50,572.
Financial Implications: Sanitary Sewer Fund - \$556,292
Contact: Phillip Harrington, Public Works, (510) 981-6300

Consent Calendar

- 12. Contract Amendments: On-Call Civil Engineering and Construction Management Services, LCC Engineering & Surveying, Inc. and Pavement Engineering Inc.**
From: City Manager
Recommendation: Adopt two Resolutions authorizing the City Manager to execute amendments to
1. Contract No. 31900068 with LCC Engineering & Surveying, Inc. for on-call civil engineering services, increasing the original contract amount by \$1,000,000 for a total not-to-exceed amount of \$1,500,000, and extending the term of the contract from June 30, 2021 to June 30, 2022, and
 2. Contract No. 31900047 with Pavement Engineering Inc. for on-call civil engineering services, increasing the original contract amount by \$1,000,000 for a total not-to-exceed amount of \$2,500,000 and extending the term of the contract from June 30, 2021 to June 30, 2022.
- Financial Implications:** See report
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 13. Approving Proposed Projects Anticipated to be Paid for by the State's Road Maintenance and Rehabilitation Account (RMRA) Funds for FY2021**
From: City Manager
Recommendation: Adopt a Resolution approving a proposed list of projects that will utilize funding from the State of California's Road Maintenance and Rehabilitation Account, and authorize the City Manager to submit the proposed list to the California Transportation Commission.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 14. Filling a Vacancy among the Elected Representatives for the Poor**
From: Human Welfare and Community Action Commission
Recommendation: Adopt a Resolution confirming the appointment of Mr. Carlos Hill (District 1), as an elected representative of the poor on the Human Welfare Community Action Commission (HWCAC), having been selected by the commission members at the HWCAC February 19, 2020 meeting, and that his term expires November 18, 2020.
Financial Implications: None
Contact: Mary-Claire Katz, Commission Secretary, (510) 981-5400

Action Calendar

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

The Presiding Officer will request that persons wishing to speak line use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Action Calendar

The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

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

Action Calendar – Public Hearings

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

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

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

- 15. General Plan Redesignation and Rezone of The Rose Garden Inn at 2740 Telegraph Avenue (APN 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00), and 2348 Ward Street (APN 054-1716-031-00) (Continued from April 14, 2020)**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion:

1. Adopt a Resolution amending the General Plan land use designations of portions of parcels that comprise The Rose Garden Inn from Low Medium Density Residential to Avenue Commercial;
2. Adopt first reading of an Ordinance amending the Zoning Map for portion of parcels that comprise the Rose Garden Inn from Restricted Two-Family Residential District (R-2) to General Commercial District (C-1); and
3. Certify that the reclassification of General Plan land use designations and rezoning are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Classes 1, 3, 5, and 31

Financial Implications: See report

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

Action Calendar – Public Hearings

16. Submission of the 2020-2025 Consolidated Plan, Including the PY20 Annual Action Plan as informed by the Regional Analysis of Impediments to Fair Housing Choice

From: City Manager

Recommendation: Conduct a public hearing on the 2020-2025 Consolidated Plan, including the Program Year (PY) 2020 Annual Action Plan (AAP), and upon conclusion, adopt a Resolution:

1. Approving proposed funding allocations under the PY20 Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG), and Home Investment Partnerships Program (HOME); and
2. Authorizing the execution of resultant agreements and amendments with community agencies for the above-mentioned funds; and
3. Allocating approximately 85% of the PY20 HOME funds to the Housing Trust Fund, up to 5% for Community Housing Development Organization (CHDO) operating funds, and 10% for program administration; and
4. Authorizing the City Manager to submit the 2020-2025 Consolidated Plan, including the PY20 Annual Action Plan as informed by the Regional Analysis of Impediments to Fair Housing Choice (AI), to the federal Department of Housing and Urban Development (HUD), and addressing any public comments.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Action Calendar – New Business

17. Discussion and Direction Regarding Potential Ballot Measures for the November 3, 2020 General Municipal Election

From: City Manager

Recommendation: Discuss possible ballot measures for November 2020, and provide direction to the City Manager about which issues to include in a community survey should the City Council wish to undertake one.

Financial Implications: See report

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

18. Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers

From: City Manager

Recommendation:

1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

Financial Implications: None

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

Action Calendar – New Business

19. Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in response to the Fossil Fuel Free Berkeley referral

From: Energy Commission

Recommendation: The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel free, and to respond to the Climate Emergency.

Financial Implications: See report.

Contact: Billi Romain, Commission Secretary, (510) 981-7400

Council Action Items

20. Placing a Measure on the November 3, 2020 Ballot to Introduce Term Limits for the Mayor and City Councilmembers

From: Councilmember Davila (Author)

Recommendation: Adopt a Resolution to draft an Amendment to Article V, Section 14 and 15 of the City Charter for the November 3, 2020 General Municipal Election, limiting the terms of service for the Mayor and City Councilmembers to no more than three consecutive four-year terms or twelve years, with a required two-year hiatus in order to serve additional terms.

Financial Implications: See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

Information Reports

21. FY 2020 Mid-Year Budget Update

From: City Manager

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

22. Eight Previous Referrals To The Planning Department Which Can Be Tracked As Fulfilled

From: City Manager

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

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply:

1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

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

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

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

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be posted on the City's website at <http://www.cityofberkeley.info>.

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

COMMUNICATION ACCESS INFORMATION:

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



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

I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on April 16, 2020.

Mark Numainville, City Clerk

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing through [Records Online](#).

Communications – April 28, 2020

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.

COVID-19 General

1. David Lerman (2)
2. Diana Diaz Morales
3. Jason Meggs
4. Margots999
5. Jurgen Aust
6. Thomas Lord

Rental Protection & Evictions

7. Saki Bailey, on behalf of Bay Area Community Land Trust
8. Lisa Camasi
9. Darinxoso Oyamasela

Encampments

10. Osha Neumann
11. Christopher Kohler
12. Margy Wilkinson (2)
13. Marcia Poole
14. Janice Schroeder
15. Rivka Polatnick
16. Erica Etelson
17. Starchild
18. David Schroeder
19. Christopher Kohler
20. Andrea Henson
21. Esther Dane
22. Diana
23. Steve Gilmartin

Berkeley's Mayor Webpage

24. David Lerman

1533 Beverly Place – Appeal of ZAB Decision

25. Rena Rickles, on behalf of client

Street Space + Beg Button for Walking and Biking

26. Liza Lutzker
27. Dee Williams-Ridley
28. Ben Gerhardstein
29. John Kenney
30. Farid Javandel
31. Charles Siegel (2)

Supplemental Communications and Reports

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

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

ORDINANCE NO. 7,694-N.S.

AMENDING THE ANNUAL APPROPRIATIONS ORDINANCE NO. 7,682–N.S. FOR FISCAL YEAR 2020

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

A. General Fund (Funds 001-099)	229,760,903
B. Special Funds (Funds 100-199)	127,835,233
C. Grant Funds (Funds 300-399)	50,847,480
D. Capital Projects Funds (Funds 500-550)	76,738,857
E. Debt Service Fund (Funds 551-599)	10,533,979
F. Enterprise Funds (Funds 600-669)	146,474,859
G. Internal Service Funds (Funds 146, 670-699)	47,878,520
H. Successor Agency (Funds 760-769)	56,960
I. Agency Funds (Funds 771-799)	5,688,931
J. Other Funds (Funds 800-899)	5,497,649
<u>K. Total</u>	
Total General Fund	229,760,903
Add: Total Other Than General Fund	471,552,468
Gross Revenue Appropriated	701,313,370
Less: Dual Appropriations	-37,596,671
Less: Revolving/Internal Service Funds	-47,764,520
Net Revenue Appropriated	615,952,179

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

- a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; Health State Aid Realignment; Paramedic Tax Fund; Capital Improvement Fund; Phone System Replacement; Equipment Replacement Fund; Public Liability Fund; Catastrophic Loss Fund; Police Employee Retiree Health Assistance Plan; Safety Members Pension Fund; Information Technology Cost Allocation Fund; and Sick Leave Entitlement Fund.

- b. To the General Fund from the Community Development Block Grant Fund; Street Lighting Assessment District Fund; Zero Waste Fund; Marina Operations and Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Unified Program (CUPA); and Health State Aid Realignment Fund.
- c. To the First Source Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- d. From UC Settlement Fund to General Fund and Clean Storm Water Fund.
- e. From Capital Improvement Fund to PERS Savings Fund; Berkeley Repertory Theater Fund; 2010 COP (Animal Shelter) Fund; Workers' Compensation Fund; and Information Technology Cost Allocation Fund.
- f. To the Public Art Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- g. To CFD#1 District Fire Protection Bond (Measure Q) from Special Tax Bonds CFD#1 ML-ROOS.
- h. To Private Sewer Lateral Fund from Sanitary Sewer Operation Fund.
- i. To Catastrophic Loss Fund from Permit Service Center Fund.
- j. To Catastrophic Loss Fund from Unified Program (CUPA) Fund.
- k. To the Building Purchases and Management Fund from General Fund; Health (General) Fund; Rental Housing Safety Program Fund; Measure B Local Streets & Road Fund; Employee Training Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Health State Aide Realignment Trust Fund.
- l. To Equipment Replacement Fund from General Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.
- m. To the Equipment Maintenance Fund from General Fund; Health (General) Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund;

Paramedic Tax Fund; Library - Discretionary Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; FEMA Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.

- n. To the Building Maintenance Fund from the General Fund; Health (General) Fund; Health (Short/Doyle) Fund; Measure B Local Street & Road Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Mental Health State Aid Realignment Fund.
- o. To the Central Services Fund from the General Fund; First Source Fund; Health (Short/Doyle) Fund; Library-Discretionary Fund; Playground Camp Fund; Rent Stabilization Board Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Mental Health State Aid Realignment Fund.
- p. To Information Technology Cost Allocation Plan Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Equipment Maintenance Fund; Building Maintenance Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; and Mental Health State Aid Realignment Fund.
- q. To the Workers' Compensation Self-Insurance Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road

Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers’ Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

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

Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

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

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on April 14, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.

Attachment for Annual Appropriations Ordinance - Fiscal Year 2020

REVOLVING FUNDS/INTERNAL SERVICE FUNDS

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

Revolving/Internal Service Funds

Employee Training Fund	856,852
Equipment Replacement Fund	6,988,814
Equipment Maintenance Fund	8,945,238
Building Maintenance Fund	4,674,225
Central Services Fund	396,985
Workers' Compensation Fund	6,534,674
Public Liability Fund	3,274,495
Information Technology Fund	16,093,237
Subtotal Revolving/Internal Service Funds	47,764,520

DUAL APPROPRIATIONS - WORKING BUDGET

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

Transfers to the General Fund

<u>Indirect Cost Reimbursement</u>	
CDBG Fund	154,260
Street Light Assessment District Fund	112,971
Zero Waste Fund	2,195,402
Marina Enterprise Fund	438,683
Sanitary Sewer Fund	1,122,644
Clean Storm Water Fund	214,695
Permit Service Center Fund	1,734,781
Unified Program (CUPA) Fund	90,763
Subtotal Transfers to General Fund:	6,064,199

Transfer to Safety Members Pension Fund from General Fund	551,804
Transfer to General Fund – Stabilization Reserves from General Fund	640,000
Transfer to General Fund – Catastrophic Reserves from General Fund	520,000
Transfer to Health State Aid Realignment from General Fund	1,953,018
Transfer to Paramedic Tax Fund from General Fund	670,158
Transfer to Capital Improvement Fund (CIP) from General Fund	10,004,736
Transfer to Phone System Replacement - VOIP from General Fund	198,000
Transfer to FUND\$ Replacement Fund from General Fund	1,929,000
Transfer to Equipment Replacement Fund from General Fund	1,336,699
Transfer to Public Liability Fund from General Fund	2,895,888
Transfer to Catastrophic Loss Fund from General Fund	1,351,564
Transfer to Police Employee Retiree Health Assistance Plan from General Fund	400,136
Transfer to Sick Leave Entitlement Fund from General Fund	201,501
Transfer to Workers' Compensation Fund from General Fund	959,470
Transfer to General Fund from UC Settlement Fund	881,120
Transfer to Clean Storm Water Fund from UC Settlement Fund	293,708
Transfer to General Fund from Health State Aid Realignment Fund	2,643,280
Transfer to PERS Savings Fund from Capital Improvement Fund	151,632
Transfer to Berkeley Repertory Theater Debt Service Fund from Capital Improvement	499,802
Transfer to 2010 COP (Animal Shelter) Fund from Capital Improvement Fund	402,613
Transfer to Workers' Compensation Fund from Capital Improvement Fund	406,952
Transfer to IT Cost Allocation Fund from Capital Improvement Fund	544,357
Transfer to Private Sewer Lateral Fund from Sewer Fund	90,501
Transfer to Catastrophic Loss Fund from Permit Service Center Fund	50,555
Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund	5,082
Transfer to General Fund from Parking Meter Fund	1,742,288
Transfer from Special Tax Bonds CFD#1 ML-ROOS to CFD#1 District Fire Protect Bond (Measure Q)	100,000
Transfer to First Source Fund from Parks Tax Fund	11,625
Transfer to First Source Fund from Capital Improvement Fund	29,943
Transfer to First Source Fund from Marina Fund	1,875
Transfer to Public Art Fund from Parks Tax Fund	17,437
Transfer to Public Art Fund from Capital Improvement Fund	44,915
Transfer to Public Art Fund from Marina Fund	2,813
Subtotal Transfers to Other Funds:	<u>31,532,472</u>
Sub-Total Dual Appropriations	<u>37,596,671</u>
Grand Total Dual Appropriations	85,361,191

ORDINANCE NO. 7,695–N.S.

LEASE AGREEMENT WITH 200 MARINA BLVD, LLC, THE OWNER OF THE DOUBLETREE HOTEL LOCATED AT THE BERKELEY MARINA

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

Section 1. The City Manager, or designee, is hereby authorized to execute a lease agreement and any amendments thereto with 200 Marina Blvd, LLC, the owner of the Doubletree Hotel located at the Berkeley Marina, for a term of approximately sixty (60) years. Such lease shall be on substantially the terms set forth in Exhibit A.

Section 2. The minimum rent will increase from \$306,000/year to \$841,591/year, and rent payments are more often driven by percentage rent, which will remain at 5% of room revenue and 2.5% of food and beverage revenue. Minimum rent will increase by CPI annually, and both minimum rent and percentage rent will be reset in 2040. The City will get free access to conference facilities for up to nine event days per year. Revenue from this lease will be deposited into the Marina Fund, budget code 825-5903-363.80-00.

In addition, the Doubletree will make a one-time payment to the City in the amount of \$3 million upon execution of the lease as part of the Capital Improvement Agreement, to allow the City to complete the planned improvements to Marina streets. Revenue from this agreement will be deposited into the Marina Fund, budget code 825-5903-347.60-99.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on April 14, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.

GROUND LEASE

by and between

**CITY OF BERKELEY
("Landlord")**

and

**200 MARINA BOULEVARD, BERKELEY, LLC
("Tenant")**

Dated _____, 20__

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<u>Exhibit H</u>	Existing Ground Leasehold Mortgage
<u>Exhibit I</u>	Maintenance Standards

**BASIC LEASE INFORMATION
(Ground Lease)**

1. "Landlord"

CITY OF BERKELEY, a public body corporate and politic

Notice Address:

City of Berkeley
2180 Milvia Street
Berkeley, California 94704
Attention: City Manager
Telephone: (510) 981-7000
Facsimile: (510) 981-7099

With a copy to:

City of Berkeley
2180 Milvia Street
Berkeley, California 94704
Attention: City Attorney
Telephone: (510) 981-6991
Facsimile: (510) 981-6960

2. "Tenant"

200 MARINA BOULEVARD, BERKELEY, LLC, a Delaware limited liability company

Notice Address:

c/o Junson Assets Management LLC
Units 5211-12, 52/F, The Center
99 Queen's Road Central, Hong Kong
Attention: Asset Management & Legal
Facsimile: +852 2815 2599
E-Mail: asset.list@junsoncapital.com;
legal.list@junsoncapital.com

And

c/o Junson Assets Management LLC
140 East 45th Street, 20th FL
New York, NY 10017
Attention: Asset Management & Legal

With a copy to:

Sherry Meyerhoff Hanson & Crance LLP
610 Newport Center Drive, Suite 1350
Newport Beach, California 92660
Attention: Andrew P. Hanson, Esq.
Telephone: (949) 719-2199
Facsimile: (949) 719-1212

**BASIC LEASE INFORMATION
(Ground Lease)**

3. **“Effective Date”** The later of (i) the date of last execution and (ii) the date that is 30 days after the Landlord’s City Council’s adoption of the Ordinance by which this Ground Lease is approved.
4. **“Inception Date”** August 7, 1969 (see Recital D).
5. **“Premises,” “Existing Improvements,” “Alterations” and “Improvements”** The **“Premises”** are the entire approximately 13.780 acre parcel of land commonly known and referred to as 200 Marina Boulevard on the Berkeley Marina, Berkeley, California (being a portion of APN 60-2545-1), as generally shown on the map attached hereto as Exhibit A (**“Site Map”**) and more particularly described in Exhibit B1. The **“Existing Improvements”** including without limitation the currently existing approximately 378 unit hotel, restaurant, parking area, floats and berths, landscaping, and auxiliary structure/charter yacht facility, are as generally described in Subsection 1.1B below. The **“Alterations”** are all other construction, reconstruction, alterations, additions, or improvements or remodeling, in, on, or about the Improvements, as described in Section 7.1 below. The **“Improvements”** are the Existing Improvements, as modified by the Alterations from time to time.
6. **“Permitted Use”** To construct, maintain and operate on the Premises a major first-class hotel and related facilities (**“Hotel”**), including a first-class restaurant and cocktail lounge (**“Restaurant”**), with an **“STR Chain Scale”** rating issued by Smith Travel Research (STR) of **“Upscale”** or better, in full compliance with the then-applicable Franchise Agreement (as defined in Section 3.5 below), all for the convenience and promotion of commerce, navigation and fishery in the **“Berkeley Marina”** (as defined in Berkeley Municipal Code Section 6.20.010.A) and for no other purpose. The Hotel, Restaurant, and Charter Yacht Facility (as defined in Subsection 1.1B.6 below), together with parking areas and ancillary facilities on the Premises, are collectively referred to as the **“Hotel Facilities.”** The Hotel is currently operated as the **“DoubleTree By Hilton Hotel Berkeley Marina.”**
7. **“Commencement Date”** Tenant and its predecessors have leased the Premises (the **“Original Ground Lease”**), and developed, constructed, operated and maintained various hotel, restaurant and other facilities thereon since August 7, 1969 (**“Inception Date”**). The Commencement Date of this Agreement will be the Effective Date.
8. **“Ground Lease Term”** Approximately 61 additional years, commencing on the Commencement Date and (if not earlier expired or terminated) ending December 31, 2080. The **“Expiration Date”** is the date the Ground Lease Term expires.

BASIC LEASE INFORMATION
(Ground Lease)

9. **“Ground Lease Year”** The 12-month period from January 1 to and including the next succeeding December 31; *provided*, that if the Commencement Date is not a January 1, **“Ground Lease Year 1”** shall be the period from the Commencement Date to and including the next succeeding December 31. The last Ground Lease Year shall be the period from the January 1 immediately preceding the Expiration Date to and including the Expiration Date.
10. **“Annual Rent”**
- A. Generally. Payable as provided in Section 2.3 below, the greater of:
1. **“Minimum Ground Rent”** in the amount of Seventy Thousand One Hundred Thirty Three and no/100th Dollars (\$70,133) per month (approximately \$841,591 per year); or
 2. **“Percentage Rent”** equal to the sum of 5% of **“Hotel Gross Receipts”** and 2.5% of **“Food and Beverage Gross Receipts,”** each as adjusted from time to time as provided herein and as defined in Section 2.4 below. Except as otherwise expressly provided in this Ground Lease, Percentage Rent shall be calculated (and if due paid) on a quarterly basis.
- B. Annual Rent for Calendar Year 2020. Regardless of whether the Commencement Date is January 1, 2020 or thereafter, Annual Rent for the period January 1, 2020 through December 31, 2020 shall be determined as if the Commencement Date were January 1, 2020.
- C. Adjustments. Minimum Ground Rent and Percentage Rent are subject to adjustment on the “CPI Adjustment Dates,” “Minimum Ground Rent Adjustment Dates” and “Percentage Rent Adjustment Dates” (each as defined below), as provided in Sections 2.6 and 2.7 below.
11. **“CPI Adjustment Dates”** January 1, 2021, and each January 1 thereafter during the Ground Lease Term. See Subsection 2.6A below.
12. **“Minimum Ground Rent Adjustment Dates”** January 1, 2040, and each 10 years thereafter during the Ground Lease Term. See Subsection 2.6B below.
13. **“Percentage Rent Adjustment Dates”** January 1, 2040, and each 10 years thereafter during the Ground Lease Term. See Section 2.7 below.
14. **“Hornblower Sublease”** That certain Agreement for Use of Dock and Other Facilities, dated May 28, 2008 between Boykin Berkeley, LLC and Hornblower Yachts, Inc. (**“Hornblower”**), as to which Landlord consented, subject to certain conditions, pursuant to that certain May 30, 2008 letter from Landlord to Boykin Berkeley, LLC and Hornblower, acknowledged and

BASIC LEASE INFORMATION
(Ground Lease)

agreed to by Boykin Berkeley, LLC and Hornblower (“**City Hornblower Consent**”).

15. “**Concessionaires**” See Subsections 1.1C and 2.4C and Section 13.3 below, and Exhibit E.
16. “**STR Chain Scale Rating**” of “**Upscale**” See Subsection 1.1E and ARTICLE 3 below, and Exhibit F.
17. “**Ground Lease Security**” None
18. “**Consumer Price Index**” or “**CPI**” The United States Department of Labor's Bureau of Labor Statistics Consumer Price Index, All Urban Consumers, All Items, San Francisco-Oakland-Hayward, California (1982-1984 equals 100), or the successor of such index, as reasonably determined by Landlord.
19. “**Maintenance Standards**” See Exhibit I.
20. “**Existing Ground Leasehold Mortgagee**” and **Related Matters** Cantor Commercial Real Estate Lending, L.P., a Delaware limited partnership, as lender under a note, deed of trust, assignment of leases and other obligations identified on Exhibit H attached hereto (“**Existing Ground Leasehold Mortgage**”), as to which Landlord consented pursuant to that certain Ground Lessor Consent and Estoppel Certificate from Landlord to Tenant, dated August 4, 2017 (“**Consent Agreement and Estoppel**”). See Subsection 1.1D below.

The Existing Ground Leasehold Mortgagee’s current address for notice under ARTICLE 15 below is as follows:

Cantor Commercial Real Estate Lending, L.P.
110 East 59th Street, 6th Floor
New York, New York 10022
Attention: Legal Department
Facsimile No.: (212) 610-3623
E-Mail: legal@ccre.com

With a copy to:

Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, California 90071
Attention: Mark Osher
Facsimile No.: (213) 229 - 6694
E-Mail: mosher@gibsondunn.com

And a copy to:

**BASIC LEASE INFORMATION
(Ground Lease)**

Berkeley Point Capital LLC
One Beacon Street, 14th Floor
Boston, Massachusetts 02108
Attention: Director Loan Servicing
Facsimile No.: (617) 722-5050
E-Mail: servicing.requests@berkpoint.com

**21. "Brand/Flag/Chain"
and Related Matters**

Tenant's current "**Brand/Flag/Chain**" is: DoubleTree by Hilton

Its current "**Franchisor**" is: Hilton Franchise Holding LLC, a
Delaware limited liability company

Its principal business address is:

7930 Jones Branch Drive, Suite 1100
McLean, Virginia 22102

Its address for notices is:

Hilton Worldwide Holdings, Inc.
Attention: General Counsel
7930 Jones Branch Drive, Suite 1100
McLean, Virginia 22102

See ARTICLE 3 below for definitions and related matters.

In the event of any conflict between the Basic Lease Information and terms of the Ground Lease,
the terms of the Ground Lease shall control.

LANDLORD'S INITIALS _____

TENANT'S INITIALS _____

GROUND LEASE

THIS GROUND LEASE (“**Ground Lease**”) is made and entered into this ___ day of _____, 20___, to be effective on the “**Effective Date**” (as defined in the Basic Lease Information), by and between the Landlord and Tenant identified in the Basic Lease Information, who agree as follows:

BACKGROUND AND RECITALS

- A. Landlord is the owner of certain tidelands in trust for the promotion of commerce, navigation and fishery as evidenced by that certain statutory grant from the State of California to the City of Berkeley, as set forth in Statutes 1913, Chapter 347, as amended (copies of which include, without limitation, the statutes attached hereto as Exhibit C, the “**State Tidelands Grant**”).
- B. The Premises (as that term is defined in the Basic Lease Information and more particularly described in Exhibit B1 attached hereto) comprise a portion of such tidelands, and must be used in a manner consistent with the State Tidelands Grant, public trust uses, and applicable law.
- C. Development and use of the Premises for the use or uses as hereinafter more particularly described is necessary for the convenience and promotion of commerce, navigation and fishery on said tidelands and is consistent with the development of a small craft harbor, pursuant to the provisions of Division 1, Chapter 2, Article 3 (Sections 70—72.4) of the Harbors and Navigation Code of the State of California.
- D. Tenant and its predecessors have leased the Premises, and developed, constructed, operated and maintained various hotel, restaurant and other facilities thereon since the Inception Date. Among other things:
 - 1. Landlord and William J. Boykin of Cleveland, Ohio (“**WJB**”) entered into that certain lease dated August 7, 1969 (“**Original Ground Lease**”), as amended by that certain (i) Amendment to Lease by and between Landlord and WJB dated September 25, 1969 (“**First Amendment**”); (ii) Amendment to Lease by and between Landlord and WJB dated April 9, 1970 (“**Second Amendment**”); (iii) Amendment to Lease by and between Landlord and WJB dated December 12, 1970 (“**Third Amendment**”); and (iv) Amendment to Lease by and between Landlord and WJB dated December 31, 1970 (“**Fourth Amendment**”) for the lease of certain property situated in the City of Berkeley, County of Alameda, State of California. The Premises leased per the Original Ground Lease (consisting of approximately 11.15 acres) are more particularly described in Exhibit B2 attached hereto. The Premises as expanded by the Second Amendment (consisting of approximately 13.780 acres), and which remain the Premises subject to this Ground Lease, are more particularly described in Exhibit B1 attached hereto.
 - 2. Pursuant to that certain Assignment of Lease dated December 15, 1970, by and between WJB and Boykin Berkeley, Inc., an Ohio corporation (“**Boykin Berkeley, Inc.**”), and that certain Consent of Landlord dated January 5, 1971, both of which were recorded on January 7, 1971 as instrument number 1786 at Reel 2764, Image 91 with the Alameda County Recorder’s Office, WJB assigned to Boykin

Berkeley Inc., and Boykin Berkeley, Inc. assumed from WJB, the Original Ground Lease, the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment (collectively, "**Assigned Lease**").

3. Pursuant to that certain Assignment of Lease dated January 27, 1972, by and between Boykin Berkeley, Inc. and Marina Associates, a limited partnership, George M. Steinbrenner, III, General Partner ("**Marina Associates**"), and that certain Consent of Landlord dated January 28, 1972, both of which were recorded on July 12, 1972 as instrument number 93665 at Reel 3178, Image 901 with the Alameda County Recorder's Office, Boykin Berkeley, Inc. assigned to Marina Associates, and Marina Associates assumed from Boykin Berkeley, Inc. the Assigned Lease. Concurrently, by that certain Grant Deed also recorded on July 12, 1972, as instrument number 93665 at Reel 3178, Image 905, Boykin Berkeley, Inc. assigned to Marina Associates all improvements constructed and being constructed on the Premises held pursuant to the Assigned Lease.
4. Pursuant to that certain unrecorded sublease dated January 27, 1972 ("**Sublease**"), by and between Marina Associates and Boykin Berkeley, Inc., a Short-Form Lease of which was recorded on July 12, 1972 as instrument number 72093667, at Reel 3178, Image 909, and that certain Consent of Landlord dated January 28, 1972, also recorded as instrument number 72093667, at Reel 3178, Image 909, Marina Associates sublet the Premises, with all easements pertinent thereto, all improvements thereon and appurtenances thereunder to Boykin Berkeley, Inc.
5. Pursuant to that certain Assignment of Lease dated January 27, 1981, by and between Marina Associates and U.S. Realty Investments, an unincorporated association in business trust form organized under the laws of the State of Ohio ("**U.S. Realty**"), and that certain Consent of Landlord dated January 28, 1981, both of which were recorded on February 2, 1981 as instrument number 81-016827 with the Alameda County Recorder's Office, Marina Associates assigned to U.S. Realty, and U.S. Realty assumed from Marina Associates, the Assigned Lease.
6. Pursuant to that certain Assignment of Lease dated March 31, 1982, by and between U.S. Realty and Boykin-Berkeley, Inc., an Ohio corporation ("**Boykin-Berkeley, Inc.**"), and that certain Consent of Landlord dated March 29, 1982, both of which were recorded on March 31, 1982 as instrument number 82-045415 with the Alameda County Recorder's Office, U.S. Realty assigned to Boykin-Berkeley, Inc., and Boykin-Berkeley, Inc. assumed from U.S. Realty, the Assigned Lease, subject to but not assuming certain deed of trust and indenture of lease encumbrances. Concurrently, by that certain Grant Deed dated and recorded on March 31, 1982 as instrument number 82-045416 with the Alameda County Recorder's Office, U.S. Realty assigned to Boykin-Berkeley, Inc. all improvements constructed and being constructed on the Premises.
7. Pursuant to that certain Assignment of Lease dated and recorded on March 31, 1982 as instrument number 82-045417 with the Alameda County Recorder's Office, U.S. Realty assigned to Boykin-Berkeley, Inc., and Boykin-Berkeley, Inc. assumed from U.S. Realty, all of U.S. Realty's right, title and interest in the Sublease.

8. Landlord and Boykin-Berkeley, Inc. entered into that certain Amendment to Lease dated August 28, 1983 ("**Fifth Amendment**") to construct additional facilities on the Premises ("**Expansion**"). The Fifth Amendment provided, among other things, for (i) the percentage rental to be adjusted beginning on August 7, 2004, and every ten (10) years thereafter, to the then fair market percentage rental, subject to certain limitations on the amount of the increase, and (ii) adjustment of the term of the leasing of the Premises by Landlord to Boykin-Berkeley, Inc.
9. Pursuant to that certain Assignment of Lease dated March 15, 1991, by and between Boykin Berkeley, Inc. and Boykin Berkeley One, an Ohio corporation, and that certain Landlord's Consent dated March 14, 1991, both of which were originally recorded on June 28, 1991 as instrument number 91167025 and subsequently corrected and recorded on August 9, 1991 as instrument number 91211149 with the Alameda County Recorder's Office, Boykin Berkeley, Inc. assigned to Boykin Berkeley One, and Boykin Berkeley One assumed from Boykin Berkeley, Inc., a four percent (4%) interest in the Assigned Lease, as further amended by the Fifth Amendment.
10. Pursuant to that certain Assignment of Lease dated March 15, 1991, by and between Boykin Berkeley, Inc. and Boykin Berkeley One, as assignors, and Berkeley Marina Associates Limited Partnership, a Delaware limited partnership ("**Berkeley Marina Associates**"), as assignee, and that certain Landlord's Consent dated March 14, 1991, both of which were recorded on June 28, 1991 as instrument number 91171301 and subsequently corrected and recorded on August 9, 1991 as instrument number 91211150 with the Alameda County Recorder's Office, Boykin Berkeley, Inc. together with Boykin Berkeley One assigned to Berkeley Marina Associates, and Berkeley Marina Associates assumed from Boykin Berkeley, Inc. and Boykin Berkeley One, all of Boykin Berkeley, Inc. and Boykin Berkeley One's respective interests in the Assigned Lease, as further amended by the Fifth Amendment.
11. Pursuant to that certain Assignment of Lease dated June 1991, by and between Boykin Berkeley, Inc. and Berkeley Marina Associates, recorded on August 9, 1991 as instrument number 91211151 with the Alameda County Recorder's Office, Boykin Berkeley, Inc. assigned to Berkeley Marina Associates, and Berkeley Marina Associates assumed from Boykin Berkeley, Inc., all of Boykin Berkeley, Inc.'s right, title and interest in and to the assets and property related to the Assigned Lease, as amended by the Fifth Amendment. Berkeley Marina Associates subsequently assigned all of its right, title and interest in and to the Assigned Lease, as amended by the Fifth Amendment, to Boykin-Berkeley, Inc. pursuant to an unrecorded assignment of lease.
12. Landlord and Boykin-Berkeley, Inc. entered into that certain Amendment to Lease dated March 26, 1992 ("**Sixth Amendment**"), granting Boykin-Berkeley, Inc. authority to construct an auxiliary structure on the Premises. The Original Ground Lease, First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, and Sixth Amendment are referred to collectively herein as the "**Base Lease.**"
13. Pursuant to that certain Assignment of Lease dated November 4, 1996, by and between Boykin Berkeley, Inc. and Boykin Hotel Properties, L.P. ("**Boykin Hotel**

Properties”), Boykin Berkeley, Inc. assigned to Boykin Hotel Properties, and Boykin Hotel Properties assumed from Boykin Berkeley, Inc., the Base Lease. Concurrently, by that certain Grant Deed dated November 4, 1996 and recorded on November 6, 1996 as instrument number 96282855 with the Alameda County Recorder’s Office, Boykin Berkeley, Inc. assigned to Boykin Hotel Properties all improvements constructed and being constructed on the Premises.

14. Pursuant to that certain Quitclaim Deed dated November 4, 1996 and recorded on November 6, 1996 as instrument number 96282854 with the Alameda County Recorder’s Office, Boykin Berkeley, Inc. and Berkeley Marina Associates remised, released and forever quitclaimed to Boykin Hotel Properties all their rights, title and interest in the Sublease in order to terminate the Sublease.
15. Pursuant to that certain Assignment of Lease dated July 11, 2000, by and between Boykin Hotel Properties and Tenant, recorded on July 18, 2000 as instrument number 2000211933 with the Alameda County Recorder’s Office, Boykin Hotel Properties assigned to Tenant, and Tenant assumed from Boykin Hotel Properties, all of Boykin Hotel Properties’ right, title and interest in the Base Lease.
16. On or about August 2004, Landlord and Boykin Berkeley, LLC reached an impasse regarding interpretation of the fair market percentage rental adjustment provisions set forth in the Fifth Amendment.
17. Landlord and Boykin Berkeley, LLC entered into a Settlement Agreement, dated January 18, 2008 (“**Settlement Agreement**”) which, among other things, resolved the then-dispute between Landlord and Boykin Berkeley, LLC regarding proper interpretation of the percentage rental adjustment clause set forth in the Fifth Amendment. Concurrently with and pursuant to the Settlement Agreement, Landlord and Boykin Berkeley, LLC entered into a new Ground Lease, dated January 18, 2008 (“**2008 Ground Lease**”) to replace the Base Lease, to effect the terms of the Settlement Agreement and to set forth the terms of the leasing of the Premises as then agreed upon by Landlord and Boykin Berkeley, LLC. Under the 2008 Ground Lease, the term was extended until December 31, 2058.
18. Concurrently with and pursuant to the 2008 Ground Lease, Landlord and Boykin Berkeley, LLC, as WJB’s successor-in-interest, replaced that certain Memorandum of Lease dated December 31, 1970 and recorded in the Official Records of Alameda County on January 7, 1971 as instrument number 1785, Reel 2764, Image 89 with that certain Memorandum of Lease dated January 10, 2008 and recorded on January 24, 2008 as instrument number 2008017660 with the Alameda County Recorder’s Office (“**2008 Memorandum**”).
19. Pursuant to the Hornblower Sublease (and subject to the City Hornblower Consent), Boykin Berkeley, LLC terminated a prior 1994 agreement which had permitted Hornblower to use a portion of the Hotel Facilities for docking, vessel maintenance, food preparation and office space, and entered into a new agreement to permit Hornblower to use and occupy four specific portions of the Existing Improvements referred to therein as the Berth Area, the Charter Yacht Facility, the Office Area (also known as the Tiburon Room) and the San Francisco Room, for a five-year term commencing **[May 30, 2008]** with one five-year option.

20. Pursuant to that certain Assignment and Assumption of Ground Lease effective April 18, 2011 and recorded on April 20, 2011 as instrument number 2011115637 with the Alameda County Recorder's Office, Boykin Berkeley, LLC assigned to Westpost Berkeley LLC ("**Westpost**"), and Westpost assumed from Boykin Berkeley, LLC, all of Boykin Berkeley, LLC's right, title and interest in the 2008 Ground Lease.
 21. Pursuant to that certain Assignment and Assumption of Ground Lease dated February 6, 2014 and recorded on February 10, 2014 as instrument number 2014046461 with the Alameda County Recorder's Office, and that certain Consent and Estoppel Certificate of City, dated February 4, 2014 and recorded on February 10, 2014 as instrument number 2014046460 with the Alameda County Recorder's Office ("**2008 Consent**"), Westpost assigned to Tenant, and Tenant assumed from Westpost, all of Westpost's right, title and interest in the 2008 Ground Lease and Premises. Concurrently, by that certain Grant Deed dated February 6, 2014 and recorded on February 10, 2014 as instrument number 2014046459 with the Alameda County Recorder's Office, Westpost transferred to Tenant all of Westpost's right, title and interest in the Improvements.
- E. Landlord and Tenant intend to enter into this Ground Lease to set forth the terms of the leasing of the Premises as currently agreed upon by Landlord and Tenant. Landlord and Tenant, as Boykin Berkeley, LLC's successor-in-interest, further desire to replace the 2008 Memorandum with that certain Memorandum of Lease dated concurrently herewith substantially in form attached hereto as Exhibit G.
- F. Landlord and Tenant specifically agree that a material consideration of this Ground Lease is Tenant's agreement to continually operate, maintain and improve the Premises and Improvements as first-class major Hotel Facilities, in full compliance with its then applicable Franchise Agreement, with an STR Chain Scale rating of Upscale or better, as provided below.

ARTICLE 1. PROPERTY, LEASE AND TERM

1.1 Overview. Tenant currently owns and operates on the Premises a first-class major DoubleTree by Hilton Hotel, rated Upscale on the STR Chain Scale, pursuant to the 2008 Ground Lease. Tenant and its predecessors have leased the Premises, and owned and operated various hotels and restaurants thereon (see above Recitals), since 1969. Although the stated expiration date under the 2008 Ground Lease is not until December 31, 2058, the parties wish to enter into a modified ground lease for the Premises and Improvements on the terms set forth herein. From and after the Commencement Date, neither party shall have any further rights or obligations under the 2008 Ground Lease other than those obligations which survive expiration or termination thereof and as expressly provide herein.

A. Premises. Landlord owns the Premises pursuant to the State Tideland Grant.

B. Improvements. Pursuant to the 2008 Ground Lease and other leases, Tenant or its predecessors constructed, and pursuant to the 2008 Lease Tenant owns, the Existing Improvements. Tenant will continue to own the Improvements and all other Improvements during the Ground Lease Term. The Existing Improvements include the following:

1. Hotel. A Hotel containing 378 hotel units ("**Hotel**").
 2. Restaurant. A main restaurant, including dining area, cocktail lounge, and banquet rooms (which include meeting rooms) (collectively, "**Restaurant**"). As of the Effective Date, the Restaurant and attendant lounge have a capacity of approximately 280 persons, and the Hotel itself contains eight state of the art conference rooms and one ballroom totaling at least 16,000 square feet.
 3. Combined Hotel - Restaurant. The Hotel and Restaurant constitute a consolidated Hotel Restaurant facility.
 4. Parking Areas. One paved parking area with suitable landscaping accommodating not less than 295 parking spaces which parking area shall be used for Hotel parking, together with one separate paved parking area containing not less than 190 parking spaces, which parking area shall be used for the Restaurant (collectively, the "**Parking Areas**").
 5. Floats and Berths. A marginal float not less than 622 feet in length along the waterfront to serve as a pedestrian way along the waterfront of the Premises. Tenant may use said marginal float for the purpose of berthing boats for water transient trade or may, in addition thereto, construct suitable floats and berths perpendicular to said marginal float for berthing boats for water transient trade.
 6. Auxiliary Structure/Charter Yacht Facility. Landlord acknowledges that Tenant has constructed the auxiliary structure pursuant to, and in full compliance with, the Sixth Amendment (the "**Charter Yacht Facility**").
- C. Occupancy. Tenant currently leases and, except for Hornblower and the Concessionaires (as defined in Subsection 2.4C below) identified on Exhibit E (if any), occupies the entire Premises and Existing Improvements under the 2008 Ground Lease (and, with respect to Hornblower, the Hornblower Sublease). Other than the Hornblower Sublease, there are no subtenancies.
- D. Existing Ground Leasehold Mortgagee and Existing Ground Leasehold Mortgagee. With Landlord's consent under the 2008 Ground Lease, Tenant is the borrower and Existing Ground Leasehold Mortgagee is the lender under the Existing Ground Leasehold Mortgage. (See Basic Lease Information clause 20 and Exhibit H)
- E. Hotel Facilities Quality and Brand/Chain/Scale Ratings. The current Premises Hotel Facilities are first-class, and the Hotel Facilities' current Brand/Flag/Chain, DoubleTree by Hilton Hotel, is rated Upscale on the STR Chain Scale. Tenant's continued operation and maintenance of first-class Hotel Facilities, with an STR Chain Scale rating of "Upscale" or better rating, are both crucial requirements of this Ground Lease. The current STR Chain Scales - North America and Caribbean is attached hereto as Exhibit F. See ARTICLE 3 below.
- F. Incorporation. The Basic Lease Information and Recitals (including defined terms) set forth above and the Exhibits attached hereto are incorporated into and made a part of this Ground Lease.

1.2 Ground Lease. For and in consideration of the payment of Rent (as defined in Section 2.1 below) and the performance of all the covenants and conditions of this Ground

Lease, Landlord hereby leases and demises to Tenant, and Tenant hereby leases and hires from Landlord, the Premises, for the Ground Lease Term and upon the covenants and conditions set forth herein.

1.3 Ground Lease Term. The “**Ground Lease Term**” of this Ground Lease is set forth in the Basic Lease Information.

**ARTICLE 2.
RENT AND SECURITY**

2.1 Rent. Rent shall be paid as set forth in this ARTICLE 2. This Ground Lease is a net lease, and Minimum Ground Rent, Percentage Rent, Annual Rent, Additional Rent (as defined below) and other payments due and payable hereunder to or on behalf of Landlord (collectively, “**Rent**”) shall be paid without notice or demand, and, except as specifically provided for in this Ground Lease, without offset, deduction or credit. All Rent shall be payable in lawful money of the United States to Landlord at the address stated herein or to such other persons or at such other places as Landlord may designate from time-to-time in writing.

2.2 Annual Rent. During the Ground Lease Term and commencing on the Commencement Date, Tenant shall pay to Landlord Annual Rent.

2.3 Payment of Annual Rent.

A. Tenant shall pay Minimum Ground Rent to Landlord in monthly installments in advance on or before the first day of each month during the Ground Lease Term. If the Commencement Date is not the first day of a month, Tenant shall pay the prorated portion of Minimum Ground Rent for the first partial month in advance on or before the Commencement Date. Minimum Ground Rent shall be prorated for any partial month.

B. Tenant shall pay Percentage Rent (if due) not later than the last day of the month following the end of each calendar quarter during the Ground Lease Term (i.e., not later than each April 30, July 31, October 31 and January 31) (or, if the Expiration Date is not the last day of a calendar quarter, not later than 30 days following the Expiration Date) on the basis of the Hotel Gross Receipts and Food and Beverage Gross Receipts for the preceding calendar quarter (or lesser period for the last partial quarter, if applicable). Tenant shall be entitled to a credit against the Percentage Rent in an amount equal to the total amount of Minimum Ground Rent paid during the corresponding quarter of the applicable Ground Lease Year.

C. Additionally, (i) if the Commencement Date is after January 1, 2020, Percentage Rent for each calendar quarter commencing on or after January 1, 2020 and ending before or including the Commencement Date, shall be determined as if the Commencement Date were January 1, 2020, and (ii) in addition to the credit (if any) described in the last sentence of Subsection 2.3B above, Tenant shall be entitled to a credit against the Percentage Rent for those quarter(s) in an amount equal to the total amount (if any) of Minimum Ground Rent (as defined in the 2008 Ground Lease) paid during the corresponding quarter of 2020.

2.4 Gross Receipts.

A. Definition of “Hotel Gross Receipts.” “**Hotel Gross Receipts**” means all gross revenue as defined in the Uniform System of Accounts for the Lodging Industry actually received by Tenant or any Tenant affiliate, except as otherwise provided in Subsections 2.4C and

2.4D below, from room and other rentals, including revenues from on-command premium movie rentals, internet service connection fees, telephone or facsimile transmission charges, health club fees (including non-guest membership fees), spa revenues, gift shop revenues, Concessionaires and subtenants sublease rent (other than those subtenants, including, as of the date hereof, Hornblower, whose sublease terms provide for City to receive a percentage of the gross sublease rent other than 5%); sale of goods, wares, merchandise, commodities, products and services, including without limitation electricity from Charging Stations (as defined in Subsection 5.7A below) if operated by Tenant (and not a Concessionaire); charges for attendance at any on-Premises event; and any and all other revenue of whatsoever kind or nature derived from or relating to the operation of the Hotel Facilities, valued in money, whether received in money or otherwise, without any deduction for the cost of the property sold, the cost of materials used, labor or service costs, interest paid, losses, cost of transportation, or any other expense, but excluding Food and Beverage Gross Receipts and excluding actual bad debt and credit card charge backs.

B. Definition of "Food and Beverage Gross Receipts." **"Food and Beverage Gross Receipts"** means all gross sales or revenue received by Tenant or any Tenant affiliate derived from food and beverage service as defined in the Uniform System of Accounts for the Lodging Industry relating to the operation of the Hotel Facilities, but excluding Hotel Gross Receipts.

C. Application to Hornblower, other City-Approved Subtenants, and Concessionaires. With respect to Hornblower and any other City-approved subtenant operating auxiliary facilities on the Premises that are unrelated to the hotel business being conducted on the Premises by Tenant whose sublease provides for City to receive a percentage of the gross sublease rent other than 5%, Tenant shall pay, and City shall receive, that portion of the sublease rent as provided for in the City-approved sublease and such payments shall not be included within the definition of Hotel Gross Receipts or Food and Beverage Gross Receipts. With respect to third-party concessionaires or service providers operating auxiliary facilities relating to the operation of the Hotel Facilities, or providing ancillary services relating to the operation of the Hotel Facilities, including without limitation (as applicable) barber and beauty shops, auto rentals, tour or entertainment event ticket sellers, and on-command or other television or movie rentals, audio visual rentals, health clubs, spas and gift shops, or parking lots, including the Charging Stations (but excluding operation of the Hotel Facility and Restaurant) (each, a **"Concessionaire"**), the terms Hotel Gross Receipts and Food and Beverage Gross Receipts shall mean the net amounts, whether received in money, in-kind consideration or otherwise, actually received by Tenant or its affiliates from such Concessionaire and not the gross revenues of such Concessionaire.

D. Exclusions. Each of the defined terms Hotel Gross Receipts and Food and Beverage Gross Receipts expressly excludes state, county and City sales taxes or City transient occupancy taxes; the value of meals furnished to employees of affiliates of Tenant in the course of their employment; employee tips or gratuities; any service charge turned over to employees in lieu of such employees receiving tips or gratuities; any proceeds of sales of worn out, obsolete or surplus trade equipment, furniture, and fixtures, and other personal property which is ordinarily used in the business but not held for sale, lease or use; any proceeds from financing or refinancing of the Tenant's property, including ground leasehold interest in the Premises; proceeds from any insurance policy other than business interruption insurance proceeds which shall be included in Hotel Gross Receipts to the extent such revenue is not excluded from Hotel Gross Receipts under this Section 2.4; proceeds from the sale, disposition financing or refinancing of any assets of Tenant; and any charges for valet services. No item, to the extent accounted for in Hotel Gross Receipts, shall be included in Food and Beverage Gross Receipts; and no item, to the extent accounted for in Food and Beverage Gross Receipts, shall be included in Hotel Gross Receipts.

2.5 Statement of Each Hotel Gross Receipts and Food and Beverage Gross Receipts; Records of Sales; Right to Audit; Financial Statements.

A. Hotel Gross Receipts and Food and Beverage Gross Receipts Statements.

1. For the purpose of determining Percentage Rent, Tenant shall furnish to Landlord, not later than the last day of the month after the end of each calendar quarter during the Ground Lease Term and each Ground Lease Year (i.e., not later than each April 30, July 31, October 31 and January 31), an unaudited itemized statement of each of Hotel Gross Receipts and Food and Beverage Gross Receipts for such calendar quarter and Ground Lease Year, as applicable, certified by an officer of Tenant and prepared in accordance with the latest edition of the Uniform System of Accounts for the Lodging Industry. In the event the Commencement Date is after January 1, 2020, the first itemized statements shall also include all Hotel Gross Receipts and Food and Beverage Gross Receipts [each as defined in this Ground Lease] for the period from January 1, 2020 to and including the day before the Commencement Date, and the itemized statements for Ground Lease Year 1 shall include all Hotel Gross Receipts and Food and Beverage Gross Receipts (each as defined in this Ground Lease) from January 1, 2020 through December 31, 2020.

2. Within 15 days after the end of each month, Tenant shall also furnish Landlord an unaudited and itemized monthly statement of business transacted during the preceding month showing each of Hotel Gross Receipts and Food and Beverage Gross Receipts. If the Commencement Date is not the first day of a month, the first monthly statement shall also include each of Hotel Gross Receipts and Food and Beverage Gross Receipts for the period from the first day of the month to and including the day before the Commencement Date. Such monthly statements shall not be used for the purpose of determining Percentage Rent.

3. Tenant covenants that it will include in each operating agreement or similar contract (each, a "**Concessionaire Agreement**") with any future Concessionaire, provisions imposing upon such Concessionaire the obligation to provide to Landlord, within 10 business days' following Landlord's request therefor, statements of the rents or other payments by each such Concessionaire to Tenant or its affiliates.

B. Records of Sales and Business Transactions. Tenant shall keep and maintain true and complete records and accounts for each calendar quarter during the Ground Lease Term and for each Ground Lease Year, and for a period of at least five years after the end of each Ground Lease Year, all sales slips, cash register tape readings or other electronic, digital, or hard copy recordation or documentation of cash register sales, sales books, rental books, bank books and statements, deposit slips, paper and electronic books of account, and any and all other documents, records, returns, papers and files of Tenant relating to each of the Hotel Gross Receipts and Food and Beverage Gross Receipts and sales, lease, rental or other business transacted during each calendar quarter during the Ground Lease Term and each Ground Lease Year (collectively, "**Records and Accounts**") and shall make the same available to Landlord or its authorized agent during such period at the Premises or at some other place reasonably acceptable and readily available to Landlord, for examination and auditing purposes, without causing unreasonable disturbance to the operations of the Hotel and its guests.

C. Right to Audit. Tenant shall give Landlord, including the City Auditor, or its or their authorized agents access at the Premises or at some other place reasonably acceptable and readily available to Landlord, including the City Auditor, upon reasonable (but no more than 30 days) prior written notice and during business hours, to such Records and Accounts, including

reasonable access to Tenant's employees, and any subtenant or Concessionaire's employees, for auditing purposes, and Landlord, including City Auditor, shall have the right to audit such Records and Accounts. Such audit right shall include the right to audit such Records and Accounts for calendar year 2019 in accordance with the terms of the 2008 Ground Lease. If Landlord acting through the City Auditor or otherwise should have an audit made for any period and either Hotel Gross Receipts, Food and Beverage Gross Receipts, or business transacted shown by Tenant's statement for such period is found to be understated in an amount greater than or equal to two percent of the amount reported by Tenant ("**Understatement**"), Tenant shall be provided an opportunity to discuss and respond to any findings before an audit report is formally filed. In the event that Landlord acting through the City Auditor or otherwise performs an audit and it is found that there is an Understatement, Tenant shall, within five business days, pay to Landlord the cost of such audit as well as the additional Percentage Rent or other sums payable by Tenant to Landlord, in addition to any delinquency and late charges provided for in this Ground Lease. If Landlord's audit shows no Understatement, the cost of the audit shall be borne by Landlord. Tenant has included in subleases with Hornblower, and covenants it will include in subleases with all future subtenants, provisions imposing upon such subtenant obligations to Landlord, substantially similar to those obligations of Tenant to Landlord as set forth in this Subsection 2.5C.

D. Other Financial Information. Tenant shall also provide to Landlord or City Auditor, as applicable, within 30 days after written request, such other financial information as may be reasonably required by Landlord or City Auditor.

2.6 Minimum Ground Rent Increases.

A. CPI Adjustments. Minimum Ground Rent shall be increased commencing on each January 1 occurring after the Commencement Date during the Ground Lease Term, with the exception of any Minimum Ground Rent Adjustment Dates (each a "**CPI Adjustment Date**") by an amount equal to the product of (i) the Minimum Ground Rent in effect for the 12 month period immediately preceding the applicable CPI Adjustment Date multiplied by (ii) the percentage increase in the Consumer Price Index measured from the measuring month 15 months preceding the CPI Adjustment Date to the measuring month three months preceding the CPI Adjustment Date and every 12 months thereafter (each a "**CPI Adjustment**").

B. Periodic Adjustments. In addition to annual CPI Adjustments, Minimum Ground Rent shall be reset on each Minimum Ground Rent Adjustment Date, to an amount equal to 60% of the average Annual Rent payable by Tenant for the three Ground Lease Years immediately preceding the Minimum Ground Rent Adjustment Date. However, in no event shall Minimum Ground Rent be reduced below the Minimum Ground Rent in effect immediately prior to the Minimum Ground Rent Adjustment Date.

2.7 Percentage Rent Adjustments.

A. General. On each Percentage Rent Adjustment Date during the Ground Lease Term, each specific percentage amount (each, a "**Percentage Rent Multiplier**") which is applied to Hotel Gross Receipts and Food and Beverage Gross Receipts (initially 5% and 2.5%, respectively) as part of the Percentage Rent determination shall be adjusted to the then-applicable "**Fair Market Percentage Rent Multiplier**," determined as provided in this Section 2.7; provided, however, in no event shall either Percentage Rent Multiplier be increased or reduced more than 10% above or below the Percentage Rent Multiplier in effect immediately prior to the applicable Percentage Rent Adjustment Date. By way of example, the Percentage Rent Multipliers in effect for the ten-year period beginning January 1, 2040 shall in no event be lower than 4.5% for Hotel

Gross Receipts or 2.25% for Food and Beverage Gross Receipts, nor higher than 5.5% for Hotel Gross Receipts or 2.75% for Food and Beverage Gross Receipts. The foregoing shall not prevent cumulative increases or decreases of either Percentage Rent Multiplier by more than 10% over multiple Percentage Rent Adjustment Dates.

B. Determination of Fair Market Percentage Rent Multipliers. The Fair Market Percentage Rent Multiplier for each of Hotel Gross Receipts and Food and Beverage Gross Receipts means the Percentage Rent Multiplier that would be applied to Hotel Gross Receipts and Food and Beverage Gross Receipts, respectively, which the land comprising the Premises would bring as of the date of Landlord's Rent Adjustment Notice (defined below), taking into account the permitted uses of the Premises and all other terms, conditions and covenants contained in this Ground Lease, if the Premises were offered for a long-term ground lease on an open and competitive market to a tenant in an arms-length transaction with neither party under abnormal pressure to consummate the transaction.

1. At least nine months prior to each Percentage Rent Adjustment Date, Landlord shall provide Tenant with written notice ("**Landlord's Rent Adjustment Notice**") of Landlord's determination of the Percentage Rent Multipliers for the upcoming 10-year period, which shall be based upon a recent market rent analysis of the Premises (determined in accordance with the standards set forth in Subsection 2.7B above) performed not more than ninety (90) days prior to the date of such Landlord's Rent Adjustment Notice. If Landlord fails to timely provide Tenant with Landlord's Rent Adjustment Notice, Tenant may provide Landlord with written notice specifying that Landlord's failure to provide Landlord's Rent Adjustment Notice within ninety (90) days from Tenant's notice shall be deemed Landlord's determination that the Percentage Rent Multipliers then in effect are equal to the Fair Market Percentage Rent Multipliers. If Landlord provides a Landlord's Rent Adjustment Notice and Tenant disagrees with Landlord's determination, Tenant, within 90-days after receipt of Landlord's Rent Adjustment Notice, may deliver to Landlord written notice of such disagreement, together with Tenant's determination of the Fair Market Percentage Rent Multipliers based upon a recent market rent analysis of the Premises (determined in accordance with the same standards set forth above), and complete copies of any market rent analysis which Tenant has utilized in its determination, together with such other information regarding such comparable properties as Tenant deems relevant or as may be reasonably requested by Landlord, to the extent available to Tenant ("**Disagreement Notice**"). If Tenant fails to deliver to Landlord its Disagreement Notice within such 90-day period, Landlord's determination of the Fair Market Percentage Rent Multipliers shall be conclusive. If Tenant timely delivers to Landlord a written Disagreement Notice together with Tenant's determination of the Fair Market Percentage Rent Multipliers, then Tenant and Landlord shall have 30 days from the date of Tenant's Disagreement Notice in which to agree upon the Fair Market Percentage Rent Multipliers ("**Negotiation Period**"). Landlord and Tenant shall negotiate in good faith during the Negotiation Period. If the parties agree on the Fair Market Percentage Rent Multipliers during the Negotiation Period, they shall promptly execute an amendment to this Ground Lease setting forth the Fair Market Percentage Rent Multipliers so jointly determined, to be effective upon the applicable Percentage Rent Adjustment Date.

2. If the parties do not agree on the Fair Market Percentage Rent Multipliers, the parties shall have ten (10) business days from the end of the Negotiation Period to apply to and receive from the American Arbitration Association a panel of three potential MAI certified real estate appraisers with at least 10 years' full-time hotel and restaurant appraisal experience in the San Francisco Bay Area and who have not previously been retained by either party or their respective affiliates, parents, or subsidiaries. If such a panel is unobtainable within the 10 business day time frame, either party can apply to the presiding judge of the superior court

of Alameda County, California, for a panel of appraisers who meet the qualifications stated in this Subsection 2.7B.2. Upon receipt of the panel of appraisers, the parties shall determine a single appraiser within five business days in the manner provided herein. Each party shall be entitled to object to any individual on the panel. Tenant shall have the right to make objection first and the parties shall take turns making objections until agreement is reached or only one appraiser remains who shall be appointed to determine the Fair Market Percentage Rent Multipliers hereunder.

3. The appraiser so appointed shall be required to determine, in accordance with the standards set forth in Subsection 2.7B above and within 30 days of the appraiser's appointment, which of the Landlord's or Tenant's written determination of Fair Market Percentage Rent Multipliers most closely approximates the then current Fair Market Percentage Rent Multipliers for the Premises. The determination of Fair Market Percentage Rent Multipliers chosen by the appraiser shall become the Fair Market Percentage Rent Multipliers in effect until the next Percentage Rent Adjustment Date. The decision rendered by the appraiser shall be final, and binding on both parties. Each of the parties shall bear one-half of the cost of appointing the appraiser and of paying the appraiser's fee. If the Fair Market Percentage Rent Multipliers have not been determined prior to the applicable Percentage Rent Adjustment Date, Tenant shall pay adjusted Percentage Rent based upon Landlord's determination of the Fair Market Percentage Rent Multipliers, subject to retroactive adjustment between the parties if the determination by the appraiser is different from Landlord's determination.

4. Nothing in this Subsection 2.7B shall prevent the parties from resolving any dispute regarding Fair Market Percentage Rent Multipliers by any other means they may mutually approve.

2.8 Additional Rent. In addition to and not by way of limitation of Landlord's rights under specific provisions of this Ground Lease, Landlord shall at all times have the right (at its sole election and without any obligation to do so) to advance on behalf of Tenant any amount that Tenant has failed to pay as required under this Ground Lease following notice and expiration of applicable cure periods, provided that (except in case of emergency calling for immediate payment) Landlord shall first have given Tenant no less than thirty (30) days' advance written notice of Landlord's intent to advance such amounts on behalf of Tenant. No advance by Landlord shall operate as a waiver of any Landlord right under this Ground Lease and Tenant shall remain fully responsible for the performance of its obligations under this Ground Lease. All amounts advanced by Landlord as provided in this Section 2.8 shall constitute "**Additional Rent**" under this Ground Lease, shall be due and payable by Tenant to Landlord within ten (10) business days of Tenant's receipt of an invoice from Landlord therefor.

2.9 Late Charge. The late payment of any Minimum Ground Rent or Percentage Rent will cause Landlord to incur additional costs, including administration and collection costs and processing and accounting expenses and increased debt service ("**Delinquency Costs**"). For the second and any subsequent time in any 12 month period that Landlord has not received an installment of Minimum Ground Rent or Percentage Rent within five days after its due date, Tenant shall pay a late charge of five percent of the delinquent amount immediately. The parties agree that this five percent late charge represents a reasonable estimate of the Delinquency Costs incurred by Landlord in the event of a late Minimum Ground Rent or Percentage Rent payment. Landlord's acceptance of late or partial Minimum Ground Rent, late or partial Percentage Rent, and late charges, does not equate with a waiver of Tenant's default with respect to the overdue amount, or prevent Landlord from exercising any rights and remedies available under this Ground Lease and/or by operation of Law.

2.10 Application of Payments. All payments received by Landlord from Tenant shall be applied to the oldest obligation owed by Tenant to Landlord. No designation by Tenant, either in a separate writing, on a check or money order, or otherwise shall modify this Section 2.10 or have any force or effect.

2.11 Security. In view of the long-term nature of this Ground Lease, no lease security deposit is required.

**ARTICLE 3.
MAINTAINING UPSCALE STR CHAIN SCALE RATING; FRANCHISE MATTERS**

3.1 General. As otherwise provided in this Ground Lease, Tenant's continued operation and maintenance of Hotel Facilities under a Brand/Flag/Chain with an STR Chain Scale rating of Upscale or better, and in full compliance with Tenant's then-Franchise Agreement, are material obligations of this Ground Lease. Certain specific matters relating to such obligations are set forth in this ARTICLE 3. Tenant's failure to comply with those obligations at all times may be a default justifying termination of this Ground Lease as further set forth in this ARTICLE 3 if such default is not cured within the applicable notice and cure periods provided for under this Ground Lease, subject to rights of Leasehold Mortgagees under ARTICLE 14 below.

3.2 STR Chain Scale Ratings. As indicated in the STR Chain Scales for North America and Caribbean attached as Exhibit F, Upscale is the third highest STR rating level. The higher ratings levels are "Luxury" and "Upper Upscale;" the lower ratings levels are "Upper Midscale," "Midscale" and "Economy."

A. As of the Commencement Date, examples of STR Upscale rated hotel chains include AC Hotels by Marriott, Crowne Plaza, Hyatt House and Wyndham; examples of STR Upper Upscale rated chains (which would be also acceptable under this Ground Lease as of the Commencement Date) include Embassy Suites, Hilton and Hyatt Regency; examples of lower STR rated hotel chains (which would not be acceptable under this Ground Lease as of the Commencement Date) include Doubletree Club, Holiday Inn and Red Lion Hotel (all Upper Midscale), Best Western, La Quinta Inns & Suites and Quality Inn (all Midscale), and America's Best Inn, Days Inn and Motel 6 (all Economy).

B. The parties specifically acknowledge and agree that as of the Commencement Date and based on the current STR Chain Scales, Tenant is authorized to operate on the Premises Hotel Facilities under its current Brand/Flag/Chain, "DoubleTree by Hilton Hotels." Without limiting the specific circumstances which would otherwise violate this ARTICLE 3, the parties specifically acknowledge and agree that (based on the current STR Chain Scales) Tenant is not authorized to operate on the Premises an Upper Midscale, Midscale or Economy hotel, or any hotel which does not have an STR Chain Scale rating.

C. As requirements related to the Upscale rating may change over the Ground Lease Term, Brands/Flags/Chains (including Doubletree by Hilton) may be created, disappear, merge, or move up or down the STR Chain Scale over time, and there are no assurances that the STR Chain Scale will exist (in any form) throughout the entire Ground Lease Term, the parties acknowledge the need to interpret the STR Chain Scale requirements of this Ground Lease in light of their intended purposes, which are to assist in assuring that the Premises and Improvements are used only for first-class major Hotel Facilities and otherwise in full compliance with the then-applicable Franchise Agreement and this Ground Lease.

3.3 Brand/Flag/Chain-Related Defaults and Covenants.

A. Brand/Flag/Chain Related Defaults. In addition to the other items described herein, the following Brand/Flag/Chain-related events or conditions are defaults under this Ground Lease:

1. In the event (1) the STR Chain Scale rating of Tenant's then-Brand/Flag/Chain is reduced to a level or segment below Upscale (e.g., to Upper Midscale, Midscale or Economy), or (2) Tenant's then-Brand/Flag/Chain becomes unrated on the STR Chain Scale (any such event, a "**Brand/Flag/Chain Event**"), and Tenant fails to be operating and maintaining the Hotel Facilities under a Brand/Flag/Chain with an STR Chain Scale rating of Upscale or better, in full compliance with a new Franchisor's Franchise Agreement, within 60 days after the regularly scheduled expiration date of Tenant's then-Franchise Agreement (without taking into account any options or other rights to extend).

2. In the event any Franchisor terminates Tenant's right to continue operating and maintaining the Hotel Facilities under Tenant's then-Brand/Flag/Chain due to any breach or default under the Franchise Agreement (whether or not any Brand/Flag/Chain Event has occurred or is continuing), and Tenant fails to be operating and maintaining the Hotel Facilities under a Brand/Flag/Chain with an STR Chain Scale rating of Upscale or better, in full compliance with a new Franchisor's Franchise Agreement, within 60 days after the termination effective date.

3. In the event Tenant's right to continue operating and maintaining the Hotel Facilities under Tenant's then-Brand/Flag/Chain terminates or expires for any reason *other than* breach or default under the Franchise Agreement (including without limitation by expiration of the Franchise Agreement term without a renewal), and Tenant fails to be operating and maintaining the Hotel Facilities under a Brand/Flag/Chain with an STR Chain Scale rating of Upscale or better, in full compliance with a new Franchisor's Franchise Agreement, within 60 days after the termination or expiration effective date; *provided* that such time period may, in Landlord's sole discretion, be extended until up to one hundred fifty (150) days after the termination or expiration effective date, upon Tenant's demonstration to Landlord's reasonable satisfaction that (a) no Brand/Flag/Chain Event has occurred or is continuing, or (b) Tenant is (i) otherwise operating and maintaining the Hotel Facilities on the Premises in full compliance with this Ground Lease and to standards customarily followed by major first-class Hotel Facilities whose Brand/Flag/Chain has an Upscale or better STR Chain Scale Rating, and (ii) actively negotiating a Franchise Agreement with a Brand/Flag/Chain with an Upscale or better STR Chain Scale Rating.

B. Brand/Flag/Chain Related Covenants. If a Brand/Flag/Chain Event occurs as described in Section 3.3A.1 above, then beginning on the date that the Brand/Flag/Chain Event occurs and continuing until the date on which Tenant enters into a new Franchise Agreement with a compliant Brand/Flag/Chain having an STR Chain Scale rating of Upscale or better ("**Brand/Flag Non-Compliance Period**"), Tenant covenants and agrees as follows:

1. In addition to complying with the Maintenance Standards (see Exhibit I), Tenant covenants and agrees during the Brand/Flag Non-Compliance Period to (i) periodically upgrade, modify, modernize and refresh the Improvements as well as the personal property and fixtures used in operating the Improvements; and (ii) periodically review and, as applicable, add, modify or supplement the amenities and services provided to guests on a frequency, and to a standard, not less than the custom and practice generally followed by

comparable major first-class hotels located within the Oakland/Berkeley/Hayward Area with an Upscale STR Chain Scale rating.

2. Tenant further covenants and agrees to terminate its then-existing Franchise Agreement with the non-compliant Brand/Flag/Chain as soon as permissible pursuant to the terms of such existing Franchise Agreement without incurring a termination penalty so that Tenant may enter into a new Franchise Agreement with a compliant Brand/Flag/Chain having an STR Chain Scale rating of Upscale or better at the earliest commercially feasible time. Without limiting the generality of the foregoing, Tenant agrees to exercise any and all available termination rights that Tenant may have under its then-existing Franchise Agreement, including by timely sending notice of default and demand to cure to the non-compliant Brand/Flag/Chain franchisor at any time such Brand/Flag/Chain is failing to meet one or more of its contractual obligations, agreements or covenants under the then existing Franchise Agreement. Tenant further agrees to refrain from exercising any option or right to extend the term of such then existing Franchise Agreement.

3.4 Identification of Brand/Flag/Chain and Franchisor; Franchisor Notices and Information.

A. Information Regarding Brand/Flag/Chain and Franchisor. Tenant's (i) current Brand/Flag/Chain for the Premises and Improvements and (ii) current Franchisor and current Franchisor's notice address, are as set forth in the Basic Lease Information clause 21. Tenant shall promptly notify Landlord in writing of any changes to such matters following Tenant's becoming aware of such changes.

B. Franchisor Notices and Information. Tenant shall use diligent good faith efforts to obtain from Franchisors in connection with all Franchise Agreements executed on or after the Commencement Date comfort letters on the Franchisor's standard form containing the Franchisor's agreement to provide Landlord, at the address(es) set forth in the Basic Lease Information (or other address(es) as Landlord may notify Franchisor in writing from time to time), concurrently with their being provided to Tenant and (if applicable) any Ground Leasehold Mortgagee, copies of (i) all notices of default, and (ii) all other notices (if any) which the Franchisor agrees to send to the then-Ground Leasehold Mortgagee from time to time (if any) (together, "**Franchisor Notices**"). Tenant shall, within 30 days after the Effective Date, use commercially reasonable efforts to cause the Current Franchisor to include those provisions in a comfort letter issued to Landlord.

3.5 Definitions. As used in this ARTICLE 3:

A. "**Brand/Flag/Chain**" means the brand, flag or chain name and system under which Tenant operates the Hotel Facilities.

B. "**Franchisor**" means a company which licenses or otherwise provides rights to operate a hotel under a Brand/Flag/Chain, and any successor.

C. "**Franchise Agreement**" includes all license and/or brand agreements between Tenant and any Franchisor (including Franchisor's affiliates if applicable), from time to time.

3.6 Changes in or Discontinuance of STR Chain Scale Ratings. If the STR Chain Scale ratings are discontinued, or if the ratings segments in the STR Chain Scale (or successor)

change or become substantially different than the current six levels identified in Section 3.2 above and Exhibit F, Landlord and Tenant shall mutually select a successor in each party's reasonable discretion. If the parties cannot agree on such successor within thirty (30) days following commencement of negotiations, then the matter shall be resolved by arbitration before a neutral third party expert. Within five (5) business days following expiration of such thirty (30) day period, the parties shall confer in person or by telephone to agree upon such mutually-acceptable neutral third party to resolve the dispute ("**Expert**"). If the parties are unable to agree upon an Expert, either party may submit the matter to the Chairman of the International Society of Hospitality Consultants or similar organization if such organization no longer exists, who shall designate as the Expert a person who (a) has at least ten (10) years experience in the hospitality industry, (b) is in good standing with the International Society of Hospitality Consultants, (c) has not had any direct relationship with either party in the preceding five (5) year period, (d) has demonstrated knowledge of the hotel market where the Hotel is located, and (e) has demonstrated knowledge of the operation and marketing of upscale full service hotels. During the pendency of the arbitration pursuant to this Section 3.6, the parties shall share equally the fees and expenses of the Expert. In rendering its decision, the Expert shall designate the party whose position is substantially upheld, which prevailing party shall recover from the other party its share of the fees and expenses paid to the Expert by such prevailing party.

Notwithstanding the foregoing, Landlord and Tenant hereby acknowledge and agree that Smith Travel Research (STR) is, as of the date hereof, under contract to be acquired by CoStar Group and that, if such acquisition is consummated, CoStar Group shall automatically be an approved successor to STR in determining chain scale ratings for the hotel industry.

ARTICLE 4. TAXES AND ASSESSMENTS

4.1 Personal Property Taxes. Tenant shall pay before delinquency all taxes, assessments, license fees and other charges ("**Taxes**") levied and assessed against Tenant's personal property installed or located in or on the Improvements or the Premises (including without limiting the Charging Stations), which become payable during the Ground Lease Term or relate to periods which include the Ground Lease Term. On demand by Landlord to be made no more than twice in any calendar year, Tenant shall within ten (10) days following receipt of such demand, furnish Landlord with satisfactory evidence of these payments. Notwithstanding the foregoing, Tenant shall have the right to contest the imposition or collection of any such Taxes which Tenant reasonably believes was improperly assessed or calculated.

4.2 Statement Regarding Possessory Interest Tax. The Original Ground Lease created a possessory property interest in Tenant as of the Inception Date. Tenant acknowledges and agrees that Tenant's leasehold and/or other real property interests may be subject to property taxation, and Tenant or the party in whom the possessory property interest is vested may be subject to the payment of property taxes levied on the interest. Such taxes are referred to herein as "**Possessory Interest Taxes,**" and shall be paid by Tenant as part of Real Property Taxes as provided in Section 4.3 below.

4.3 Real Property Taxes. Tenant shall pay all real property taxes and general and special taxes including Possessory Interest Taxes (collectively, "**Real Property Taxes**"), levied and assessed against the Premises or Improvements or any portion thereof. Tenant shall, semiannually, pay the Real Property Taxes not later than the Taxing Authority's (as defined below) delinquency date. If, at any time during the Ground Lease Term, any authority having the power to tax, including any federal, state or county government or any political subdivision

thereof (collectively, “**Taxing Authority**”), shall alter the methods and/or standards of taxation and assessment against the legal or equitable interests of Landlord in the Premises or Improvements or any other improvements located or constructed thereon, in whole or in part, so as to impose a monetary obligation on Landlord in lieu of or in addition to the taxes and assessments in existence as of the Effective Date, such taxes or assessments based thereon, including: (i) any tax, assessment, excise, surcharge, fee, levy, penalty, bond or similar imposition (collectively, “**Impositions**”), on Landlord’s right to rental or other income from the Premises or Improvements or as against Landlord’s leasing of the Premises, (ii) any Impositions in substitution or in lieu, partially or totally, of any Impositions assessed upon real property prior to any such alteration, (iii) any Impositions allocable to or measured by the area of the Improvements and/or Premises or the rental payable hereunder, including any Impositions levied by any Taxing Authority with respect to the receipt of such rental or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant or any Concessionaire or subtenant of the Premises or Improvements or any portion thereof, (iv) any Impositions upon this lease transaction or any document to which Tenant is a party which creates or transfers any interest or estate in or to the Improvements and/or Premises or any portion thereof, or (v) any special, unforeseen or extraordinary Impositions which, although not specifically described above, can fairly be characterized as a real property tax or a substitute for real property tax, shall be considered as Real Property Taxes for the purposes of this Ground Lease. Real Property Taxes shall exclude, however, all general income taxes, gift taxes, inheritance taxes and estate taxes, capital levy taxes, capital stock taxes, excess profits taxes or franchise taxes, if any, owed by Landlord.

4.4 Assessments. Tenant also shall be responsible for and shall pay prior to delinquency all assessments imposed against the Premises or Improvements by Landlord. Tenant acknowledges that Landlord has established certain assessment districts within the City of Berkeley and that all properties within the assessment districts are subject to annual assessments. Landlord shall provide, or cause the applicable Taxing Authority (including without limitation the Alameda County Assessor) to provide, Tenant with written notice of each such assessment not later than 60 days before such assessment is due and payable.

4.5 Tenant’s Real Property Taxes Liability Prorated. Tenant’s liability to pay Real Property Taxes and assessments shall be prorated on the basis of a 365-day year to account for any fractional portion of a fiscal tax year included in the Ground Lease Term at its inception and expiration or earlier termination in accordance with this Ground Lease.

ARTICLE 5.
USE, CHARACTER, OPERATION AND MAINTENANCE COVENANTS

5.1 General. Tenant covenants and agrees on behalf of itself and its successors and assigns that Tenant shall continuously use and operate the Premises and Improvements for the Permitted Use and for no other purpose.

5.2 Continuous Use Obligations. Tenant shall, during such hours and on all such days as comparable Hotel Restaurant facilities are customarily open for business, continuously use and operate the Improvements and Premises solely as major first-class Hotel Facilities, with an Upscale or better STR Chain Scale rating. Tenant shall at all times carry a full and complete stock of merchandise, food and beverages offered for sale with a quality and at competitive prices consistent with those of similar major first-class Hotel Facilities with an Upscale or better STR Chain Scale ratings in compliance with all Ground Lease requirements, and for no other

purpose. In connection with Tenant's use and operation of the Improvements, Tenant shall comply with all of the following:

A. Tenant shall maintain adequate personnel for the efficient service of customers.

B. Tenant shall employ its commercially reasonable judgment, efforts and abilities to operate the business in a manner calculated to produce the maximum profitable volume of sales, rents and transactions obtainable and to enhance the reputation and attractiveness of the Berkeley Marina.

C. Except for (i) emergencies or holidays on which most comparable hotels or restaurants the City of Berkeley are also closed, (ii) closures due to condemnation or (iii) closures for Alterations that are completed within one hundred twenty (120) days or such longer period as Landlord may agree in its sole discretion, Tenant shall cause both the Hotel and the Restaurant to be open for full business seven days per week, 365 days of the year.

D. The foregoing requirements are also subject to reasonable closures following a casualty; *provided*, however, that (i) repair or reconstruction work is begun no more than 210 days after the casualty or such longer period as Landlord may agree in its sole discretion, and (ii) once the work of repair or reconstruction is commenced, Tenant uses its commercially reasonable efforts to diligently and continuously pursue and complete such repair or reconstruction work. All Alterations or construction shall be performed only as set forth in ARTICLE 7 below, shall be commenced and diligently pursued to completion in a timeframe and manner that minimizes to the maximum extent reasonably possible any negative impact on Landlord's receipt of Percentage Rent.

E. The time periods identified in Subsection 5.2D above shall be subject to extension by reason of: (i) governmental preemption in connection with a national emergency; (ii) any rule, order or regulation of any government agency or any department or subdivision thereof, whether in connection with a drought, energy shortage or other like event or otherwise; (iii) casualty, war, public emergency, or other acts of God; (iv) any other matter included within the definition of "force majeure" set forth in Section 16.4 below; or (v) except as otherwise provided below, any other cause whatsoever beyond Tenant's reasonable control (collectively for purposes of this Subsection 5.2E only, "**force majeure**"). An extension of time for any such cause shall be for the period of the force majeure delay and shall commence to run from the time of the commencement of the cause, if written notice by the party claiming such extension is sent to the other party within 30 days of the commencement of the cause. Tenant expressly agrees that (w) adverse changes in economic conditions, either of Tenant specifically or the economy generally, (x) changes in hotel or restaurant market conditions or demand, or (y) Tenant's inability to obtain financing or other lack of funding for repairs or Alterations, shall not constitute grounds of force majeure delay pursuant to this Subsection 5.2E.

F. With the exception of using the Premises for the Permitted Use or uses incidental thereto, Tenant shall not do or permit to be done anything which in any way unreasonably interferes with the normal operation and use of any portion of the Berkeley Waterfront (as defined in Section 5.12 below) or the means of ingress and egress thereto ("**Substantial Interference**"). Tenant shall use every reasonable effort to eliminate Substantial Interference, including taking prompt legal action if appropriate. If Tenant fails to bring a halt to any Substantial Interference, Landlord shall have the right (i) to designate the required action for Tenant to take, or (ii) to commence itself any legal action to eliminate the Substantial Interference,

in either case at Tenant's sole cost and expense. Any agreement entered into by Tenant with regard to use of the Premises or Improvements shall contain a provision reserving to Tenant all of the necessary rights and remedies to permit Tenant to comply with its obligations under this subsection and authorizing Landlord to enforce it if Tenant fails to do so.

5.3 General Use Prohibitions. Tenant covenants and agrees that in connection with the use and operation of the Premises and Improvements, and any portion thereof (including without limitation parking areas and pedestrian and bicycle paths), Tenant will not:

A. Use or permit the use of any reasonably objectionable advertising medium including any loudspeakers, phonographs, public address systems, sound amplifiers, radio or broadcast within the Improvements in such manner that any sounds reproduced, transmitted or produced shall be directed primarily beyond the interior of the Improvements (provided, however, that nothing herein shall be deemed to prohibit the installation and use of a public address system for security purposes, or for the use of a reasonable level of music for outdoor dining areas, events or plaza areas), and will keep all mechanical apparatus free of unreasonable vibration and noise which may be transmitted beyond the interior of the Improvements;

B. Permit undue accumulations of garbage, trash, rubbish or any other refuse outside of the Hotel Facilities;

C. Create, cause, maintain or permit any nuisance (as the same may be defined by applicable Law) in, on or about the Premises or Improvements;

D. Commit or suffer to be committed any waste in, on or about the Premises or Improvements;

E. Use or allow the Premises or Improvements to be used for any unlawful purpose, or for any purpose which violates in any material respect the terms of any recorded instrument affecting the Premises;

F. Cause or permit the Premises or Improvements to become uninsured or cause the Premises or Improvements to become uninsurable or otherwise make it impossible to obtain any insurance required by this Ground Lease at commercially reasonable rates;

G. Intentionally cause or knowingly permit any material structural damage to or deterioration of the Premises or Improvements or intentionally cause or knowingly permit any material damage to any adjacent public or private property or improvements;

H. Permit any auction, fire, bankruptcy, distress, clearance, or going-out-of-business sale to be conducted thereon, or the posting of any sign or advertisement regarding any such activity; or

I. Fail to comply with any Law, ordinance or regulation applicable to the Premises or Improvements in accordance with the terms of this Ground Lease.

5.4 Reserved.

5.5 Maintenance Activities; Annual Reports.

A. In addition to compliance with ARTICLE 3 above, Tenant covenants and agrees that it shall maintain, or cause to be maintained, the Premises, the Improvements, and all improvements and landscaping within the Premises (including all buildings, sidewalks, pedestrian lighting, signage, landscaping, parking lots, bicycle and walking paths, architectural elements identifying the Improvements or Premises, and any and all other improvements on the Premises and associated open space and common areas) in first-class condition and repair, subject only to normal wear and tear, in full compliance with the Franchise Agreement, the Maintenance Standards (see Exhibit I), and as otherwise specified in this ARTICLE 5. Tenant's compliance with these maintenance obligations shall be judged by a comparative standard with the custom and practice generally followed by comparable major first-class/STR Chain Scale rated Upscale Hotel Restaurant facilities located within the Oakland/Berkeley/Hayward Area. To accomplish such activities, Tenant shall either staff or contract with and hire licensed and qualified personnel to perform such work, including the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Section 5.5. All maintenance and other work shall conform to all applicable Federal and State Occupation Safety and Health Act standards and regulations.

B. Within 30 days following Landlord's request from time to time, but not more frequently than once in any Ground Lease Year and only upon Landlord's reasonable determination that Tenant is not properly maintaining the Premises and Improvements in accordance with the terms of this Section 5.5, Tenant shall provide Landlord with a reasonably detailed report describing the previous year's maintenance and other activities under this Section 5.5, including such details as Landlord may reasonably request.

5.6 Maintenance Standards. Throughout the Term of this Ground Lease, Tenant shall comply with the Maintenance Standards set forth in Exhibit I attached hereto and incorporated herein.

5.7 Specific Energy Matters.

A. EV Charging Stations. Within two years of the Commencement Date, Tenant shall install (or cause to be installed) at least 10 EV (electric vehicle) Level 2 (or better in Tenant's sole discretion) charging station-ports on the existing Premises parking lot (together with all related equipment, hardware, software, signage and supporting equipment and structures, the "**Charging Stations**"). All Charging Station design, construction and installation activities shall be subject to all applicable provisions of this Ground Lease, including without limitation ARTICLE 7 below. Thereafter, Tenant shall operate and maintain the Charging Stations in a clean, safe, and orderly condition, in good working order and repair, and in compliance with all provisions of this Ground Lease, applicable Laws and good industry practices, to at least the same standards as are generally observed by reputable EV charging station operators in the Oakland/Berkeley/Hayward Area (but not less than reasonable standards, the "**Operations Standard**").

1. Tenant shall, from time to time, consider adding additional Charging Stations if and to the extent justified by demand trends.

2. Tenant shall make reasonable efforts under the circumstances to keep all parking spaces with Charging Stations available at all times for the charging of electric vehicles, including enforcement and removal of vehicles if necessary. Tenant shall make charging stations available to the public.

3. If the parking areas serving the Charging Stations experience damage or excessive wear and tear (compared to the remainder of the Premises parking areas), Tenant shall keep such parking areas in good order and repair, including repaving, reslurrying and restriping as necessary (which may be more frequently than required for other parking areas).

4. Tenant may charge EV customers reasonable prices for all electricity provided, and shall replace or upgrade the Charging Stations with higher quality Charging Stations at least as frequently as is consistent with the Operations Standard.

5. Tenant may have some or all of its obligations under this Subsection 5.7A performed by a Concessionaire, provided that Tenant shall require any such Concessionaire to comply with the terms of this Section 5.7 and all other Concessionaire obligations under this Ground Lease.

B. Renewable and Carbon-Free Electricity for the Premises. For all electric loads occurring at the Berkeley Marina, Tenant shall only purchase renewable energy from load serving entities which offer 100% renewable energy, so long as it is available for purchase from regular electricity delivery providers serving other Berkeley Marina commercial customers (such as PG&E and East Bay Community Energy (“**EBCE**”) as of the Effective Date). As of the Effective Date, the EBCE “Renewable 100” service level satisfies this requirement. Further information is available at <https://ebce.org/>. Notwithstanding the foregoing, Tenant (and others operating on or at the Premises) shall not be required to use or purchase electricity which costs more than 110% of the least expensive electricity which, from time to time, is available for purchase from regular electricity delivery providers serving other Berkeley Marina commercial customers.

5.8 Governmental Requirements. Tenant, at Tenant's expense, shall comply with all applicable Hazardous Materials Laws (as defined in Section 6.2 below), statutes, laws, codes, rules, orders, zoning, ordinances, directions, regulations, permits, or other requirements of federal, state, county, municipal, or other governmental authorities having jurisdiction, now in force or which may hereafter be in force, and with all requirements of any board or fire insurance underwriters or other similar bodies, now or hereafter adopted, enacted or made applicable, (individually “**Law**” and collectively “**Laws**”), which shall impose any duty upon Landlord or Tenant with respect to the use, occupancy, or alteration of the Premises or Improvements or any portion thereof, including those requiring alterations or additions to be made to, or safety appliances or devices to be maintained or installed in, on or about the Premises or Improvements or any portion thereof, and payment of any fees, charges or assessments arising out of or in any way related to the Premises or Improvements or any portion thereof as a source of adverse environmental impacts or effects; provided, however, that Tenant shall not be required to make any Alterations, additions or other improvements to bring the Premises or Improvements into compliance with such Laws if the Improvements were constructed in compliance with all applicable Laws at the time such Improvements were constructed and then current Laws do not require such Improvements to be brought into compliance with any Laws or modifications to existing Laws enacted after construction of such Improvements.

5.9 Reserved.

5.10 Landlord Access Rights. Landlord reserves to itself and the right (but not the obligation) to grant to others in the future nonexclusive utility easements under, through and across the Premises, in locations that will not unreasonably interfere with Tenant’s access to or use or further development of the Premises or Improvements, for the purposes of constructing, installing, maintaining, replacing or adding to (all such activities “**work**”) underground utility

facilities, including but not limited to water mains, sanitary sewer mains, storm drain mains, gas mains, telephone, cable and electrical distribution facilities, and fire alarm circuits. Landlord may (or permit others to) construct, install, maintain, replace or add to any utility system serving the Improvements or Premises as Landlord determines to be reasonably necessary or desirable in the course of any such work performed by or under the authorization of Landlord, provided that such actions will not unreasonably interfere with Tenant's access to or use of the Premises or Improvements. Any interference to Tenant's use of the Improvements or Premises shall be temporary, and all work on the Premises shall proceed expeditiously. Tenant shall be given reasonable notice before commencement of any work on the Premises. No such work performed in compliance with the terms of this Section 5.10 shall invalidate or affect this Ground Lease or give Tenant any claim against Landlord for abatement of Rent or loss of business as a result thereof. In the event work pursuant to this Subsection causes any damage to the Premises, or any portion thereof, or to the Improvements, or other facilities located upon the Premises, including without limitation pavement, curbs and sidewalks, the same shall be promptly repaired by Landlord at its expense, if not so repaired by the party performing the work. Landlord shall hold harmless and indemnify Tenant from all claims, causes of action, liabilities, losses, damages, suits, fines, costs or expenses (including reasonable attorneys' fees and expenses and consultant fees and expenses) arising out of the grant or use of such utility easements, except to the extent arising from or relating to Tenant's negligence or willful misconduct. In addition to the above utility related reserved rights, Landlord reserves to itself and the general public the right of vehicular and pedestrian ingress and egress to and from and access over and across the driveway and drive aisle area depicted in Exhibit D attached hereto and incorporated herein for the purposes of ensuring access between Marina Boulevard and the City owned parking area located directly adjacent to the Hotel parking lot.

5.11 Conference Facilities. Landlord shall have the right to use the "Conference Facilities" (as defined below) for purposes of hosting Landlord's in-house training programs, and/or accommodating other community events, as follows and in a manner consistent with the State Tidelands Grant, public trust uses, and applicable Laws:

A. Event Days. Tenant shall accommodate up to nine event days per Ground Lease Year, upon reasonable prior written notice by Landlord as set forth below.

B. Location. No more than four event days may be in the Hotel's approximately 4,700 square foot main ballroom ("**Main Ballroom**"). Tenant shall accommodate programs and events for up to a maximum of 60 people which are not held in the Main Ballroom in one or more of the Hotel's nine executive meeting rooms ("**Executive Meeting Room(s)**"). The Main Ballroom and the Executive Meeting Rooms are collectively referred to herein as the "**Conference Facilities.**"

C. Facility Reservation. Landlord shall provide Tenant with written request(s) to use Conference Facilities, which requests shall identify the component(s) of the Conference Facilities (e.g., the Main Ballroom and/or number of Executive Meeting Room(s)) needed and dates desired ("**Reservation Request(s)**"). Landlord shall provide all Reservation Requests not more than 45-days in advance of the requested date(s). Subject to availability, Tenant shall make the Conference Facilities available to Landlord as specified in the applicable Reservation Request. If the specified Conference Facilities are not available on the requested date(s), Tenant shall so notify Landlord in writing within five business days of the Reservation Request as well as propose and reserve for Landlord at least two alternative dates as close as possible to the requested date(s) ("**Response**"). Tenant may determine whether to honor any Reservation Request received more than 45-days in advance in its reasonable discretion.

D. No Cost to Landlord. Landlord shall accept or reject the proposed alternative date(s) within five (5) business days of Tenant's Response. Landlord's failure to respond within such 5-business day period shall be deemed rejection of Tenant's Response. Landlord's use of the Conference Facilities shall be at no cost or expense (including set up fees) to Landlord; provided, however, that Landlord will pay for any food and beverage service requested by Landlord. Tenant shall not be entitled to any abatement or reduction of Rent related to Landlord's use of the Conference Facilities.

5.12 Use of Berkeley Waterfront Property; Public Trust.

A. For purposes of this Ground Lease, "**Berkeley Waterfront**" means the Premises and all other lands subject to the State Tidelands Grant (also referred to as "**State Grant Lands**").

B. Tenant agrees that except as otherwise provided in this Ground Lease or in that certain Capital Contribution Agreement of even date herewith between Landlord and Tenant, it is not a covenant or condition of this Ground Lease or of any other agreement with Tenant that Landlord undertake or cause to be undertaken any development or redevelopment of the Premises or the Berkeley Waterfront, and Landlord shall incur no liability whatsoever to Tenant for failure to undertake such development or redevelopment.

C. Landlord at all times shall have the right and privilege of making such changes in and to the Berkeley Waterfront (other than the Premises) from time to time which in its sole opinion are deemed to be desirable or appropriate, including the location and relocation of stairways, sidewalks, pathways, driveways, streets, entrances, exits, automobile parking spaces, the direction and flow of traffic, designation of prohibited areas, landscaped areas, landscaping, toilets, utilities and all other facilities; provided, however, that the foregoing does not entitle Landlord to effect changes that would materially and adversely affect access to, use of, or lines of sight to the Premises, except temporarily during periods of construction. Landlord shall have the right to establish, promulgate, and enforce such reasonable rules and regulations concerning the Berkeley Waterfront, as it may deem necessary or advisable for the proper and efficient management, operation, maintenance and use thereof, and Tenant shall comply with the same so long as Landlord provides written notice to Tenant of any such new rules and regulations and such rules and regulations are uniformly applied to users and/or owners of similar commercial properties in the Berkeley Marina.

D. Landlord at all times shall have the sole and exclusive management and control of the Berkeley Waterfront other than the Premises, including, without limitation, the right to lease, license or permit the use of space within the Berkeley Waterfront to persons for the sale of merchandise and/or services and the right to permit advertising displays, educational displays, displays of art, and promotional activities and entertainment.

E. Nothing contained herein shall be deemed to create any liability to Landlord for any personal injury, or any damage to motor vehicles, vessels, or other property of Tenant or Tenant's principals, officers, employees or representatives (together, "**Tenant Parties**"), any invitee or licensee on or about the Premises (including without limitation Hotel or Restaurant guests), or others, except to the extent caused by the active negligence or willful misconduct of Landlord, its agents, servants, contractors or employees. Tenant is solely responsible for the security of the Premises and Improvements, and for the safety of those using the Premises and Improvements pursuant to this Ground Lease or any permits or licenses from the City. Tenant acknowledges that if Landlord provides security guards or police patrols for the Berkeley

Waterfront or any portion thereof, Landlord does not represent, guarantee or assume responsibility that Tenant or any person or entity will be secure from losses caused by the illegal acts of third parties and does not assume responsibility for any such illegal acts. Landlord shall not be obligated to provide any public liability or property damage insurance for the benefit of Tenant or any other person or entity, each such party being responsible for its own insurance.

5.13 Public Trust Tidelands Requirements.

A. Tenant acknowledges that the Premises are located on State tidelands held by the City of Berkeley in trust for the promotion of commerce, navigation, and fishery pursuant to the State Tidelands Grant, subject to the conditions, restrictions, limitations, rights, powers, duties, reversionary rights and other rights created or reserved in the State Tidelands Grant. Tenant agrees that, notwithstanding anything in this Ground Lease to the contrary, Tenant shall use the Improvements and Premises consistently with and in a manner that shall not result in a violation of the State Tidelands Grant or of provisions of the Berkeley City Charter, the California Constitution or other applicable Laws. Landlord will administer this Ground Lease in compliance with the State Tidelands Grant.

B. Tenant acknowledges that the State of California reserved from Landlord's rights in and to State Grant Lands all deposits of minerals, including oil and gas, and the right to prospect for, mine and remove said deposits from the State Grant Lands. In no event shall Landlord be liable to Tenant for any claims arising from any such prospecting, mining or removal, nor shall any such activities constitute an actual or constructive eviction of Tenant, or entitle Tenant to any abatement or diminution of Rent or otherwise relieve Tenant from any of its obligations under this Ground Lease.

5.14 Landlord's Status as a Landowner. Tenant understands and agrees that Landlord is entering into this Ground Lease in its capacity as a landowner with a proprietary interest in the Premises and Improvements and not as a regulatory agency of the City of Berkeley with certain police powers. Landlord's legal status shall in no way limit the obligation of Tenant to obtain any required approvals from Landlord's departments, boards or commissions that have jurisdiction over the Premises or Improvements. By Landlord's entering into this Ground Lease, neither Landlord nor any of Landlord's Council, boards, commissions, agencies, departments, or affiliates obligates itself to any other governmental agent, board, commission or agency, or to Tenant, or to any other individual or entity, with regard to any discretionary action or other governmental approval relating to development or operation of the Premises, Improvements or Berkeley Waterfront. Discretionary action includes but is not limited to rezonings, variances, environmental clearances, or any other governmental agency approvals that may be required or desirable for the improvement, alteration, or operation of the Premises, Improvements or Berkeley Waterfront. By entering into this Ground Lease, Landlord is in no way modifying or limiting the obligation of Tenant to cause the Premises and Improvements to be used and occupied in accordance with all Laws.

5.15 Regulatory Approvals Generally. Tenant acknowledges and agrees that this Ground Lease does not guarantee that Landlord, in its regulatory capacity, will grant any particular request for a license, permit or other regulatory approval. Tenant understands that Landlord may grant or deny such request in its sole discretion, and may impose such terms and conditions as it deems consistent with that discretion.

5.16 Covenants Regarding Improvements. Tenant acknowledges and agrees that the Improvements will be maintained as follows:Hotel. Tenant has and shall continue to provide

and install at the Hotel all furniture, fixtures and accessories necessary for the operation of a major first-class Hotel with an Upscale or better STR Chain Scale rating.

B. Restaurant. Tenant has and shall continue to provide and install in the Restaurant all furniture, fixtures, and accessories necessary for the operation of a first-class restaurant and cocktail lounge appropriate for a major first-class hotel and sufficient for the Hotel to maintain an Upscale or better STR Chain Scale rating.

C. Height Limitation Exception. The height of the Hotel shall not exceed four stories or 43-1/2 feet, whichever is lower. The height of the Restaurant shall not exceed three stories or 35 feet, whichever is lower. Notwithstanding the foregoing, a portion of the Restaurant may be constructed to a height not exceeding 60 feet, subject to the approval of Landlord. As of the Effective Date, the heights of the Hotel and the Restaurant are in compliance with the terms and conditions of the 2008 Ground Lease and the foregoing provisions of this Ground Lease.

D. Parking Areas. As of the Effective Date, the Parking Areas are in compliance with the terms and conditions of the 2008 Ground Lease and the foregoing provisions of this Ground Lease. See Subsection 5.7A above regarding certain required Parking Area improvements, including electric vehicle charging stations.

E. Floats and Berths. The marginal float and other suitable floats and berths have been constructed in the same manner as the public floats in the Berkeley Marina, and shall be maintained, updated and upgraded from time to time as reasonably appropriate or necessary. As of the Effective Date, a shoreline walkway and three berths at the Hotel for boat tie-ups are in place and the marginal float is in compliance with the terms and conditions of the 2008 Ground Lease and the foregoing provisions of this Ground Lease.

F. Landscaping. Such landscaping as may be reasonably required to provide an attractive development consistent with major first-class Hotel Facilities with an Upscale or better STR Chain Scale rating and the standards for the Berkeley Marina. As of the Effective Date, Tenant has landscaped the Premises and will continue to maintain, update and upgrade such landscaping from time to time as reasonably appropriate or necessary. As of the Effective Date, the landscaping is in compliance with the terms and conditions of the 2008 Ground Lease and the foregoing provisions of this Ground Lease.

G. Auxiliary Structure/Charter Yacht Facility. Landlord acknowledges that the Charter Yacht Facility is being used exclusively for food preparation, administrative and minor vessel maintenance activities by Tenant's charter yacht subtenant, Hornblower, and Tenant acknowledges that such use cannot be changed without Landlord's prior written consent, in its sole discretion. The Hornblower Sublease provides, and any further Tenant sublease of the Charter Yacht Facility to Hornblower or any successor charter yacht operator shall also provide, that Hornblower or its successor must use the Charter Yacht Facility exclusively for food preparation, administrative and minor vessel maintenance activities performed aboard the charter yacht vessels as of the Effective Date.

ARTICLE 6. CONDITION OF PROPERTY

6.1 Landlord's Disclaimers and Tenant's Acknowledgements. The Premises are being leased to Tenant in their current, existing, "AS-IS" condition. Except as expressly set forth in this Ground Lease, Landlord makes no representations or warranties as to any matters

concerning the Premises or Improvements, including without limitation: (i) matters relating to soils, subsoils, geology, the presence or absence of fill, groundwater, drainage, and flood zone designation; (ii) the existence, quality, nature, adequacy and physical condition of utilities serving the Premises or Improvements; (iii) the development potential of the Premises or Improvements, or their uses, habitability, merchantability, or fitness, suitability, value or adequacy for any particular purpose, (iv) the zoning or other legal status of the Premises or Improvements or any other public or private restrictions on their use; (v) any easements, covenants, conditions, rights, or restrictions, whether of record or otherwise, binding on the Premises or Improvements (including, without limitation, the State Tidelands Grant and the conditions, restrictions, limitations, rights, powers and other matters referenced in Section 5.13A above), (vi) the adequacy, condition, repair status, or remaining useful life of the Improvements' electrical, plumbing, HVAC, utility, mechanical or safety systems ("**Improvements Systems**"), (vii) the adequacy, condition, repair status, or remaining useful life of the Improvements' roof, walls, foundation or other structural components, any other structures within the Premises, or the Premises parking lot, (viii) the compliance of the Premises or Improvements with Hazardous Materials Laws, covenants, conditions or restrictions of any governmental or quasi-governmental entity or of any other person or entity, (ix) the presence or removal of Hazardous Materials (as defined in Section 6.2 below) or wastes on, under or about the Premises or Improvements; or (x) the compliance of the Premises or Improvements under any other Laws, including without limitation the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) ("**ADA**"), any amendment thereto or regulations promulgated thereunder, or any other federal, state or local disability or access laws (together, "**Disability Laws**"). It is specifically understood and agreed that, Landlord has no obligation and has made no promises to alter, remodel, improve, decorate or paint the Premises or Improvements, repave or perform any improvements on any parking lot within the Premises, construct or install any improvements or Alterations (as defined in Section 7.1 below), repair or replace any Improvements Systems, or otherwise alter or improve the Premises, Improvements, or any portion thereof. By entering onto the Premises or Improvements, Tenant represents and confirms that it is familiar with the existing legal and physical condition of the Premises and Improvements, fully approves the same, and acknowledges that except as expressly provided in this Ground Lease Landlord has made no representation or warranty regarding the condition thereof. Tenant acknowledges and agrees that Tenant is leasing the Premises and accepting the Premises and Improvements on the basis of investigation and prior occupancy by Tenant and its predecessors, including without limitations the entities identified in the Recitals above and will act only upon information obtained by it directly from such investigation and occupancy and from materials or records from independent third parties. Tenant assumes the risk that adverse legal, physical and environmental conditions may not have been revealed by its own investigation or occupancy, that below-ground improvements or facilities may still be located under the Premises, and that Hazardous Materials may subsequently be discovered upon, under or about the Premises. Tenant further acknowledges that neither Landlord, nor its officers, elected officials, employees, or representatives ("**Landlord Parties**") have made any representation or warranty of any kind in connection with any matter relating to the condition, value, fitness, or suitability of the Premises, Improvements or other improvements thereon, upon which Tenant has relied directly or indirectly for any purpose.

6.2 Hazardous Materials.General Compliance.

1. Tenant shall, at its sole cost and expense, comply with all laws, codes, rules, orders, ordinances, directives, regulations, permits, or other requirements of federal, state, county, municipal or governmental authorities having jurisdiction, now in force or which may hereafter be in force (collectively, "**Hazardous Materials Laws**") concerning the management,

use, generation, storage, transportation, presence, discharge or disposal of any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous or toxic materials, hazardous or toxic wastes, hazardous or toxic substances, carcinogenic materials or contaminants and all other materials governed, monitored, or regulated by any Federal, State or local law or regulation, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Substances Account Act, and/or the Resources Conservation and Recovery Act. “**Hazardous Materials**” include asbestos, asbestos-containing materials, hydrocarbons, polychlorinated biphenyl (“**PCB**”) or PCB-containing materials, petroleum, gasoline, petroleum products, crude oil, any fraction, product or by-product thereof, and “hazardous materials” as defined in California Health & Safety Code section 25260(d). Neither Tenant nor Tenant Parties shall use, handle, store, transport, treat, generate, release or dispose of any Hazardous Materials anywhere in, on, under or about the Premises or the Improvements, except for such hazardous materials as may be customarily used in hotel properties such as the Premises, provided they are properly stored in compliance with Laws. Tenant shall cause any and all Hazardous Materials brought onto, used, generated, handled, treated, stored, released or discharged on or under the Premises or the Improvements to be removed from the Premises and Improvements and transported for disposal in accordance with applicable Hazardous Materials Laws.

2. Upon reasonable advance notice and without unreasonably interfering with the operations or unreasonably disturbing the guests of the Hotel, Landlord shall have the right to enter the Premises from time to time to conduct tests (including minimally invasive tests if Landlord has a reasonable basis for determining that the Premises have been contaminated by Hazardous Materials), inspections and surveys concerning Hazardous Materials and to monitor Tenant's compliance with its obligations concerning Hazardous Materials and Hazard Materials Laws. Tenant shall promptly notify Landlord in writing of: (i) any release or discharge of any Hazardous Material; (ii) any voluntary clean-up or removal action instituted or proposed by Tenant in connection with any such release or discharge of Hazardous Material, (iii) the initiation of any enforcement, clean-up, removal or other governmental or regulatory action, or (iv) any claim made by any person against Landlord, Tenant, the Premises, or the Improvements or any portion thereof relating to Hazardous Materials or Hazardous Materials Laws. If a Hazardous Materials release that cannot be controlled occurs on the Premises, Tenant shall immediately notify the City of Berkeley Police Department and the City of Berkeley's Emergency and Toxics Management Office. Tenant shall also supply to Landlord as promptly as possible, and in any event within five business days after Tenant receives or sends same, copies of all claims, reports, complaints, notices, warnings or asserted violations from all federal, state, county, municipal or governmental authorities having jurisdiction relating in any way to the Premises or Improvements or Tenant's use thereof and concerning Hazardous Materials or Hazardous Materials Laws. In the event Tenant institutes a cleanup or removal action, Tenant shall provide to Landlord in a timely manner copies of all workplans and subsequent reports submitted to the governmental agency with jurisdiction over such action.

B. Tenant's Indemnification. Except to the extent caused by Landlord or a Landlord Party's active negligence or willful misconduct, Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, causes of action, liabilities, losses, damages, injunctions, suits, fines, penalties, costs or expenses (including reasonable attorneys' fees and expenses and consultant fees and expenses) caused or alleged to have been caused by the presence of Hazardous Materials in, on, under, about, or emanating from the Premises or the Hotel Improvements, including, without limitation, any bodily injury, death, property damage, natural resource damage, decrease in value of the Premises or the Improvements, caused or alleged to have been caused by Tenant or Tenant Parties' use, storage, handling, treatment, generation,

presence, discharge or release of Hazardous Materials in violation of Tenant's obligations under this Ground Lease, the Base Lease, or the 2008 Ground Lease, whether such claims, causes of action or liabilities are first asserted during the Ground Lease Term or thereafter, and including without limitation, claims made against Landlord with respect to bodily injury, death or property damage sustained by third parties caused or alleged to have been caused by Tenant or Tenant Parties' use, storage, handling, treatment, generation, presence, discharge or release of Hazardous Materials.

ARTICLE 7. CONSTRUCTION AND LIENS

7.1 Alterations on Premises. Any construction, reconstruction, alterations, additions, or improvements or remodeling, in, on, or about the Improvements or the Premises undertaken by or on behalf of Tenant from and after the Commencement Date (including without limitation the Charging Stations, "**Alterations**") shall be governed by this Ground Lease. All Alterations, including exterior elevations and color thereof, and all such other improvements, shall be architecturally and aesthetically compatible and harmonious with the Improvements, Premises, Berkeley Marina and any other buildings and improvements thereon to create a uniform general plan for the entire Berkeley Marina, as revised from time to time. Any Alterations shall be in compliance with applicable Laws and permits, shall at all times be of first-class construction and architectural design, and shall be in accordance with all plans and specifications therefor submitted to and approved by Landlord as set forth below. No material changes to such approved plans and specifications shall be made without Landlord's prior written approval. All Alterations shall be diligently prosecuted, completed, and accomplished without cost or expense to Landlord, by licensed designers and contractors, and in a first-class and workmanlike manner.

A. Alterations, Other than Minor Alterations. Except with Landlord's prior written consent, which may be granted or denied in Landlord's reasonable discretion, Tenant shall not make or cause to be made any Alterations except for Minor Alterations as set forth below. If Tenant at any time following the Commencement Date desires to undertake any Alterations (other than Minor Alterations), Tenant shall, prior to the commencement of such work, prepare or cause to be prepared, at its sole expense, and shall submit to Landlord for its review, cost estimates, plans and specifications for such work, showing, without limitation, scaled elevations, scaled floor plans, design concepts, dimensions, material selection, colors, signing (if any) and such additional information as is reasonably requested by Landlord to make an informed decision on such submission. The plans and specifications shall comply with this Ground Lease and shall be in compliance with applicable Laws. Landlord shall approve or disapprove such submitted plans within 30 days of receipt of complete plans and specifications meeting the requirements of this subsection. If Landlord fails to approve or disapprove such plans and specifications within such 30-day period, Tenant may send a second notice clearly indicating that Landlord's failure to approve or disapprove such plans and specifications within 10 business days following Landlord's receipt of the second notice shall be deemed Landlord's approval of the plans and specifications.

B. Minor Alterations. Tenant shall have the right without Landlord's consent (but subject to all other provisions of this Ground Lease and upon 30 days prior written notice to Landlord), to undertake alterations or remodeling of the Improvements that do not materially and substantially affect the exterior appearance of the Improvements, do not materially and substantially affect the exterior structure of the Improvements and do not alter the preexisting location of the Improvements on the Premises ("**Minor Alterations**"). Notwithstanding the foregoing, and regardless of the cost thereof, Landlord's prior consent is required for any Alteration involving exterior utility work.

7.2 Construction Standards. Unless expressly provided otherwise in this ARTICLE 7, the following standards shall apply to the design and construction of all Alterations under this Ground Lease.

A. Insurance. Tenant's designers, contractors and subcontractors shall maintain in force worker's compensation and such other employee, liability and property insurance as is customary for similar construction projects, and Tenant's designers and other consultants shall also maintain in force professional liability insurance as is customary for similar construction projects. Other than worker's compensation and professional liability insurance, Landlord and Landlord Parties shall be named as additional insureds on all such insurance and Tenant shall provide certificates of insurance confirming such additional insured status prior to commencement of any Alterations work other than Minor Alterations.

B. Utility Work. Any work performed by or on behalf of Tenant or any occupant or subtenant to connect to, repair, relocate, maintain or install any storm drain, sanitary sewer, water line, gas line, cable line, telephone conduit or any other public utility service shall be performed so as to minimize interference with the provision of such services to other occupants and users of the Berkeley Marina.

C. Contracts, Plans and Specifications. With the exception of Minor Alterations and other Alterations costing \$1,000,000 or less, all contracts with any architect, other design professional or any general contractor for Alterations work shall provide for the assignment thereof to Landlord if this Ground Lease is terminated due to Tenant's default, and Landlord shall be furnished with any such agreement, together with the further agreement of the parties thereto, that if this Ground Lease is terminated due to Tenant's default, Landlord may use any plans and specifications to which Tenant is then entitled pursuant to any such contract without payment of any further sums to any party thereto.

D. Permits. To the extent that any Alterations require a building permit or other permits from the City of Berkeley, Bay Conservation and Development Commission ("**BCDC**") and/or any other governmental agency, Tenant shall not perform any Alterations until Tenant has obtained all requisite permits.

E. Construction Safeguards. Tenant shall erect and properly maintain at all times, as required by the conditions and the progress of work performed by Tenant, all necessary safeguards for the protection of workers and the public.

F. Prevailing Wage Laws. Tenant shall comply with all prevailing wage requirements of California Labor Code Sections 1720 et seq. to the extent such requirements are applicable to Alterations. Tenant agrees that to the extent it is required to comply with the prevailing wage requirements, Tenant shall assure that all workers are paid the general prevailing rate of per diem wages and the general per diem prevailing rate for holiday and overtime work as defined by applicable Laws (including without limitation Labor Code Section 1773.1) in effect from time to time. Copies of the applicable prevailing rate of per diem wages are on file at Landlord's principal office and will be made available to any interested party on request. Tenant agrees to post a copy of the prevailing rate of per diem wages at the Premises. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate if applicable to the Alterations shall be paid to each worker by Tenant. In the event Tenant fails to meet its obligations under this Section 7.2F, Landlord's remedy shall be to enforce its indemnification rights under Section 10.2 below and/or seek specific performance.

G. Landlord's Rights. Nothing herein shall limit any Landlord right under this Ground Lease, including without limitation those under Sections 5.10 and 5.13 above.

H. Completion. Upon completion of any Alterations for which as-built plans are prepared, Tenant shall deliver to Landlord two sets of such final as-built plans and specifications, and copies of all permits, for the applicable work.

I. Tenant Costs. Except as otherwise expressly provided in this Ground lease, all Alterations shall be without cost or expense to Landlord.

7.3 Protection of Landlord. Nothing in this Ground Lease shall be construed as constituting the consent of Landlord, expressed or implied, to the performance of any labor or the furnishing of any materials in connection with any Alterations by any contractor, subcontractor, laborer or materialman, nor as giving Tenant or any other person any right, power or authority to act as agent of, or to contract for or permit the rendering of, any services, or the furnishing of any materials, in such manner as would give rise to the filing of mechanics' liens or other claims against Landlord's interests in the Premises or Improvements. While as a public entity Landlord's interest in the Premises or Improvements is not subject to lien, Landlord shall have the right at all reasonable times to post, and keep posted, on the Improvements and Landlord's interests in the Premises any notices which Landlord may reasonably deem necessary for the protection of Landlord and of the Premises and Improvements from mechanics' liens or other claims. Tenant shall give Landlord 10 days' prior written notice of the commencement of any Alterations (other than Minor Alterations) to be done on or about the Improvements or Premises to enable Landlord to post such notices. In addition, for any Alterations costing in excess of \$3,000,000, Landlord may in its discretion require Tenant to furnish to Landlord at Tenant's expense reasonable improvement security, including performance and labor and materials bonds, each in the amount of not less than 100% of the construction costs of the Alterations, before commencing such Alterations. Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons doing any Alterations or furnishing any materials or supplies to Tenant or any of its contractors or subcontractors in connection therewith.

7.4 Liens and Stop Notices. Tenant shall keep Landlord's interest in the Premises and Improvements free and clear of all stop notices, mechanics' liens and other liens on account of any Alterations done for Tenant or persons claiming under it. Tenant shall indemnify and save Landlord harmless against liability, loss, damages, costs, attorneys' fees, and all other expenses on account of claims of lien of laborers or materialmen or others for Alterations performed or materials or supplies furnished to Tenant or persons claiming under it. If a claim of a lien or stop notice is given or recorded affecting Landlord's interest in the Premises or Improvements, Tenant shall within 30 days of notice of such recording or service:

- A. Pay and discharge the same;
- B. Effect the release thereof by recording and delivering to Landlord a lien release bond in customary form and amount which results in the removal of such lien from the Improvements and the Premises; or
- C. Otherwise obtain or effect the release thereof.

7.5 Notice. Should any claims of lien be filed against Landlord's interest in the Premises or Improvements thereon, or any action be commenced affecting the title to such

property, the party receiving notice of such lien or action shall forthwith give the other party written notice thereof.

**ARTICLE 8.
OWNERSHIP OF IMPROVEMENTS AND
PERSONAL PROPERTY**

8.1 Ownership of Improvements During Ground Lease Term. During the Ground Lease Term, the Improvements and Alterations shall be and remain the property of Tenant; provided that Tenant's rights and powers with respect to the Improvements and any Alterations shall be and shall remain subject to the terms and limitations of this Ground Lease. Tenant covenants for itself and all persons claiming under or through it that the Improvements constitute real property.

8.2 Ownership of Improvements at Expiration or Termination. Upon the expiration or other termination of this Ground Lease, all improvements on the Premises, including the Improvements and any Alterations shall, without compensation to Tenant, become Landlord's property free and clear of all claims to or against them by Tenant or any third person, and Tenant shall defend, indemnify and hold Landlord harmless against any and all claims, liability and losses arising from such claims or from Landlord's exercise of the right conferred by this Section 8.2.

8.3 Removal and Ownership of Personal Property at Termination or Expiration. At the expiration or sooner termination of the Ground Lease Term, Landlord may, at Landlord's election, require Tenant to remove from the Premises, at Tenant's sole cost and expense, all personal property (including fixtures). Tenant shall be liable to Landlord for costs incurred by Landlord in effecting the removal of such personal property (including fixtures) which Tenant has failed to remove after demand pursuant to this Section 8.3.

A. Tenant may, from time to time during the Ground Lease Term, remove any personal property (other than fixtures) that may be removed without damage to the structural integrity of the Premises or Improvements. Tenant shall repair all damage caused by any such removal.

B. Any personal property owned by Tenant and not removed by Tenant prior to the expiration or earlier termination of the Ground Lease Term shall be deemed to be abandoned by Tenant and shall, without compensation to Tenant, become the Landlord's property, free and clear of all claims to or against them by Tenant or any other person, but subject to the rights of third party lenders and equipment lessors as to which Landlord has notice.

**ARTICLE 9.
UTILITIES**

9.1 General. Tenant shall be solely responsible for contracting for, and shall promptly pay all charges for telephone, computers and cable lines, wiring, materials, security, heat, air conditioning, water, gas, sewer, electricity, refuse, sewage, garbage, pest control services, and any other utility service supplied to the Improvements, the Premises or any portion thereof, or any other improvements located thereon ("**Utilities**"). Tenant shall indemnify, defend and hold Landlord harmless from and against any and all demands, liabilities, claims, actions, damages, costs and expenses, including reasonable attorneys and consultants' fees and costs, arising out of or connected with the provision and payment of the Utilities.

9.2 Site. Water, power, gas, telephone and sanitary sewer facilities are located on and near the Premises in the areas shown on that certain drawing entitled "Map of Berkeley Marina, Plan No. 4047" on file in the office of the City Manager of Landlord. Tenant shall arrange for and make all necessary connections thereto at Tenant's sole cost and expense and in the manner approved by said City Manager. Tenant shall not construct any building or other structure upon such areas and said areas shall be used only for vehicular traffic, parking or such other uses as may be authorized by said City Manager in writing. Landlord acknowledges that no buildings or other structures have been built in such areas.

9.3 Tenant Waivers. Except as expressly set forth in this Ground Lease, Landlord shall not be liable for, and Tenant shall not be entitled to, any abatement or reduction of Rent, by reason of any interruption in or lack of availability of any Utility service. To the extent Landlord is a provider of any Utility, Tenant hereby waives the provisions of California Civil Code section 1932(1) or any other applicable existing or future Law permitting the termination of this Ground Lease due to the interruption or failure of any services to be provided under this Ground Lease.

**ARTICLE 10.
INSURANCE AND INDEMNITY**

10.1 General Insurance Requirements.

A. During the entire Ground Lease Term, Tenant shall provide the following forms and amounts of insurance with respect to the Improvements and the Premises. Such insurance shall be primary to and not contributing with any other insurance, self-insurance, or joint self-insurance maintained by the Landlord, shall name the Landlord as an additional insured, and shall include, but not be limited to:

1. Fire and Extended Coverage Insurance in All-Risk form, with vandalism and malicious mischief endorsements, covering the Improvements and the Premises against loss or damage in an amount equal to not less than 100% of the replacement cost of the Improvements, including all Alterations and fixtures, with such commercially reasonable deductible as may be approved by Landlord in its reasonable discretion. Such insurance shall include coverage for cost of demolition and increased cost of construction by reason of changes in applicable ordinances and laws and shall not contain a co-insurance clause.

2. Business Interruption Insurance on an "all risk" basis which will provide recovery for a minimum of 18 months of Tenant's continuing Rent obligations (including without limitation Percentage Rent which likely would have been payable in the absence of the interruption).

3. Broad Form Commercial General Liability Insurance protecting Tenant against claims for bodily injury, personal injury and property damage based upon, or arising out of, the ownership, use, occupancy or maintenance, directly or indirectly, of the Premises or Improvements and all areas appurtenant thereto. Such insurance shall be written on an "occurrence" policy form providing single limit coverage in an initial amount of not less than \$2,000,000 per occurrence and umbrella/excess liability insurance in not less than an initial amount of \$5,000,000. Tenant shall add Landlord and the Landlord Parties as additional insureds by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Landlords of Premises" endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Ground Lease as an "insured contract" for the performance of Tenant's indemnity obligations under this Ground Lease. The limits of this insurance shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. Tenant shall provide a "per location" endorsement on its liability policy or policies that provides that the general aggregate and other limits apply separately and specifically to the Premises and Improvements.

4. Auto Liability Insurance endorsed for all owned and non-owned vehicles in the initial amount of \$2,000,000, combined single limit.

5. Worker's Compensation Insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California.

B. Review. The liability insurance requirements may be reviewed by Landlord every five years, for the purpose of increasing (in consultation with its insurance advisors) the minimum limits of such insurance from time to time to limits which shall be reasonable and customary for similar facilities of like size and operation in accordance with generally accepted insurance industry standards, but in no event will Tenant be required to increase the amount of cumulative or single occurrence coverage by more than 50% for any five-year period.

C. General. Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. The commercial general liability and automobile liability policies hereunder shall name Landlord and Landlord Parties as additional insureds. Tenant shall furnish Landlord with a certificate of insurance evidencing the required insurance coverage and a duly executed endorsement evidencing such additional insured status. The certificate shall contain a statement of obligation on the part of the carrier to notify Landlord of any material change, cancellation or termination of the coverage at least 30 days in advance of the effective date of any such material change, cancellation or termination. Upon Landlord's request, Tenant shall provide certified copies of all insurance policies, including declarations pages. Coverage provided hereunder by Tenant shall be primary insurance and shall not be contributing with any insurance, self-insurance or joint self-insurance maintained by Landlord or City, and the policy shall so provide. The insurance policies shall contain a waiver of subrogation for the benefit of the Landlord and other additional insureds. The required certificate and endorsement shall be furnished by Tenant to Landlord prior to the Commencement Date, and prior to each anniversary thereof. If Tenant fails to purchase, renew or maintain any insurance policies required herein, Landlord shall have the right to so purchase any such insurance and the amount of any such advance by Landlord shall constitute Additional Rent under this Ground Lease.

10.2 Indemnity. To the greatest extent permitted by Law (including without limitation Civil Code Section 2782 if and to the extent applicable), Tenant shall protect, indemnify, defend and hold Landlord and Landlord Parties harmless from and against any and all demands, liability, claims, actions and damages to any person or property, costs and expenses, including reasonable attorneys' fees, arising out of or connected with: (i) the performance or nonperformance by Tenant of its obligations under this Ground Lease; (ii) the use or occupancy of the Improvements, the Premises, any further improvements thereon including any Alterations, or any portion thereof, by Tenant, Tenant Parties, any invitee or licensee on or about the Premises (including without limitation any Hotel or Restaurant guests), or otherwise, other than those attributable to the active negligence or willful misconduct of Landlord or Landlord Parties; and (iii) the presence, release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Premises, which occurs at any time from and after the Inception Date. The indemnity obligation in clause (iii) above includes without limitation any demands, liability, claims or actions for tangible or intangible property damage; compensation for lost wages, business income, profits or other economic loss; penalties, fines, remediation costs, investigation costs, and any amount assessed by any other governmental agency; damage to the natural resource or the environment; nuisance; trespass; and/or contamination, leak, spill, release or other adverse effect on the environment. Tenant's indemnity obligations under this Section shall survive the expiration or termination of this Ground Lease; provided, however, Tenant shall have no further indemnity obligations to Landlord under this Section 10.2 with respect to any claim(s) which have not been tendered to Tenant within two (2) years following the date of such expiration or termination.

ARTICLE 11. DAMAGE OR DESTRUCTION

11.1 Restoration.

A. Insured Damage. No loss or damage by fire or any other cause resulting in either partial or total destruction of the Improvements or any other improvements now or hereafter located on the Premises, including any fixtures, personal property, equipment or machinery used or intended to be used in connection with the Premises or Improvements, shall (except as otherwise provided in Subsections 11.1B or 11.2 below) operate to terminate this Ground Lease or to relieve or discharge Tenant from the payment of any Rent, or other amounts payable hereunder, as and when they become due and payable, or from the performance and observance of any of the agreements, covenants and conditions herein contained to be performed and observed by Tenant. Tenant covenants to repair, reconstruct, and/or replace or cause to be repaired, reconstructed and/or replaced the Improvements and any other improvements now or hereafter located on the Premises, including any fixtures, personal property, equipment or machinery used or intended to be used in connection with the Premises or Improvements, so damaged or destroyed. Subject to the rights of any Ground Leasehold Mortgagee, Tenant also covenants that all insurance proceeds will be deposited with a builder's control company, title company, or bank selected by the mutual agreement of the parties ("**Insurance Trustee**") and applied to the repair, reconstruction and/or replacement described herein. Tenant's failure to make such full repair, restoration and replacement under any conditions in which it was elected or required so to do shall constitute a default by Tenant under this Ground Lease.

B. Improvements Uninsured Damage. Notwithstanding the provisions of Subsection 11.1A above, if, during the Ground Lease Term, (i) (a) the Improvements are totally destroyed or rendered unusable or if the remaining portion of the Improvements are rendered

unsuitable (as defined herein) for Tenant's continued use, from a risk not covered 90% by the insurance required to be carried by Tenant under this Ground Lease or actually carried under this Ground Lease, and (b) the cost of restoration exceeds 50% of the then replacement value of the Improvements as reasonably determined by Tenant and approved by Landlord, or (ii) (a) the Improvements are totally destroyed or rendered unusable or if the remaining portion of the Improvements are rendered unsuitable (as defined herein) for Tenant's continued use and (b) if, following restoration of the Premises, Tenant's business in the Improvements could not be operated at an economically feasible level because of changes to Laws governing the restoration, construction and/or operation of the Hotel, Tenant may elect to terminate this Ground Lease by giving notice to Landlord within 30 days after Tenant's determination of the restoration cost, replacement value and/or changes to Laws governing the restoration, construction and/or operation of the Hotel. The Improvements shall be deemed unsuitable for Tenant's continued use if, following a reasonable amount of reconstruction, Tenant's business in the Improvements could not be operated at an economically feasible level. If Tenant elects to terminate this Ground Lease pursuant to clause (i) above, Landlord in Landlord's sole and absolute discretion may, within 90 days after receiving Tenant's notice to terminate, elect to pay the difference between the budgeted cost of the restoration as reflected in estimates prepared by licensed general contractors reasonably acceptable to Landlord (with such amount to be adjusted based on the actual costs of construction as restoration progresses) and all available proceeds, including replacement cost and code upgrade coverage, under the insurance policies required to be carried by Tenant under this Ground Lease or actually carried under this Ground Lease, in which case Tenant shall restore the Improvements. Promptly following Landlord's election to contribute, Landlord shall deposit the amount of its contribution with the Insurance Trustee. If Tenant elects to terminate this Ground Lease and Landlord in its sole and absolute discretion does not elect to contribute toward the cost of restoration as provided in this Subsection 11.1B, this Ground Lease shall terminate as of the 91st day following Tenant's notice.

C. Establishment of Insurance Trust and Disbursement Procedures. Except as may otherwise be required by any Ground Leasehold Mortgagee, Tenant shall make the loss adjustment with the insurance company insuring the loss and on receipt of the proceeds shall immediately pay them to the Insurance Trustee. To the extent Landlord in its sole and absolute discretion elects to contribute to the restoration costs as provided in Subsection 11.1B above, Landlord shall deposit with the Insurance Trustee its contribution toward the cost of restoration. All sums deposited with the Insurance Trustee shall be held for the following purposes and the Insurance Trustee shall have the following powers and duties:

1. The sums shall be paid in installments by the Insurance Trustee to the contractor retained by Tenant as construction progresses, for payment of the cost of restoration. Any final retention provided for in the contract with such contractor will be paid to the contractor on completion of restoration, payment of all costs, expiration of all applicable lien periods, and proof that the restored Improvements and the Premises are free of all mechanics' liens and lienable claims.

2. Payments shall be made on presentation of certificates or vouchers from the architect or engineer retained by Tenant showing the amount due. If the Insurance Trustee, in its reasonable discretion, determines that the certificates or vouchers are being improperly approved by the architect or engineer retained by Tenant, the Insurance Trustee shall have the right to appoint an architect or an engineer to supervise construction and to make payments on certificates or vouchers approved by the architect or engineer retained by the Insurance Trustee. The reasonable expenses and charges of the architect or engineer retained by the Insurance Trustee shall be paid by the Insurance Trustee out of the trust fund.

3. If the sums held by the Insurance Trustee are not sufficient to pay the actual cost of restoration, Tenant shall deposit the amount of the deficiency with the Insurance Trustee within ten business days after request by the Insurance Trustee indicating the amount of the deficiency.

4. Any undisbursed funds after compliance with the provisions of this Subsection 11.1C shall be delivered to Landlord to the extent of Landlord's contribution to the fund, and the balance, if any, shall be paid to Tenant.

5. All actual costs and charges of the Insurance Trustee shall be paid by Tenant.

6. If the Insurance Trustee resigns or for any reason is unwilling to act or continue to act, the parties shall substitute a new trustee in the place of the designated Insurance Trustee.

7. Both parties shall promptly execute all documents and perform all acts reasonably required by the Insurance Trustee to perform its obligations under this Subsection 11.1C.

11.2 Right to Terminate Upon Destruction Near the End of the Ground Lease Term. If, during the last six (6) years of the Ground Lease Term, the Improvements are totally or partially destroyed, and if the cost of restoration exceeds 20% of the replacement cost of the Improvements immediately before the damage or destruction, Tenant may elect to terminate this Ground Lease, provided that Tenant complies with all of the following conditions:

A. Tenant gives Landlord written notice of the damage or destruction within 30-days after the event causing such damage or destruction;

B. Tenant is not in default under the Improvements Documents (as defined in Section 16.23 below) beyond all applicable notice and cure periods and has cured any prior default(s) in connection with its termination of the Ground Lease;

C. Tenant transfers to Landlord all insurance proceeds resulting from the casualty, net of any cost incurred by Tenant in collecting such insurance proceeds and/or in complying with the provisions of Subsection 11.2E below and net of the portion of such proceeds that are payable to any Ground Leasehold Mortgagee pursuant to the Ground Leasehold Mortgage; and

D. Tenant delivers possession of the Premises, the Improvements and all other improvements located on the Premises to Landlord and quitclaims to Landlord all of Tenant's right, title and interest therein.

E. If Tenant so elects to terminate this Ground Lease under this Section, then Tenant shall, at its expense, promptly remove all debris and put the Improvements, the Premises and all improvements thereon in a safe condition. Following Tenant's satisfactory performance of the foregoing requirements, this Ground Lease shall terminate and the parties shall have no further obligations to each other excepting those previously accrued but theretofore unsatisfied and those obligations which by their terms survive expiration or termination of this Ground Lease.

11.3 Waiver. The provisions of this ARTICLE 11 shall govern the rights of the parties in the event of any full or partial destruction of the Improvements and any improvements thereon. Tenant hereby waives the provisions of Civil Code Section 1932(2) and Civil Code Section 1933(4) and any similar successor statute or Law with respect to any destruction of the Improvements.

11.4 Determination of Extent of Destruction, Interference with Use. For purposes of this ARTICLE 11, the extent of destruction of the Improvements shall be determined by dividing the estimated cost of replacement or restoration as evidenced by estimates prepared by licensed general contractors reasonably acceptable to Landlord by the full replacement cost of the Improvements as reasonably determined by the parties.

11.5 Procedures for Repair and Restoration. In the event of any material damage or destruction, Tenant shall promptly give Landlord written notice of such damage or destruction and the date on which such damage or destruction occurred. If applicable, Tenant shall promptly make proof of loss and shall proceed promptly to collect, or cause to be collected, all valid claims which Tenant may have against insurers or others based upon any such damage or destruction. Except as otherwise provided above, amounts received on account of any losses pursuant to insurance policies shall be used and expended for the purpose of fully repairing or reconstructing the portions of the Improvements which have been destroyed or damaged. Tenant shall commence and complete or cause to be commenced and completed, in a good and workmanlike manner and in accordance with ARTICLE 7 above, the reconstruction or repair of any part of the Improvements damaged or destroyed, after Landlord has approved Tenant's plans, drawings, specifications, construction schedule and permits for such reconstruction or repair. Landlord's approval of such plans, drawings, specifications, schedule and issuance of such permits shall not be unreasonably withheld, conditioned or delayed. Landlord shall approve or disapprove all plans and specifications within 30 days of receipt of complete plans and specifications. If Landlord fails to approve or disapprove such plans and specifications within such 30-day period, Tenant may send a second notice clearly indicating that Landlord's failure to approve or disapprove such plans and specifications within 10 business days following Landlord's receipt of the second notice shall be deemed Landlord's approval of the plans and specifications. Nothing herein shall be deemed to impose any time requirements on the City in connection with City's performance of its regulatory functions, for example City Building Department plan check and review of Tenant's construction drawings and issuance of building permits.

ARTICLE 12. CONDEMNATION

12.1 Definitions.

A. **"Condemnation"** means: (1) the exercise of any governmental power in eminent domain, whether by legal proceedings or otherwise, by a Condemnor, and (2) a voluntary sale or transfer to any Condemnor, either under threat of condemnation or while legal proceedings for condemnation are pending.

B. **"Date of Taking"** means the date the Condemnor has the right to possession of the property being condemned.

C. **"Award"** means all compensation, sums or anything of value awarded, paid or received on a total or partial condemnation.

D. **“Condemnor”** means any public or quasi-public authority, or private corporation or individual, having the power of condemnation.

12.2 Parties’ Rights and Obligations to be Governed by Ground Lease. If during the Ground Lease Term there is any Condemnation of all or any part of the Premises, the Improvements or any other improvements on the Premises or any interest in this Ground Lease by Condemnation, the rights and obligations of the parties shall be determined pursuant to the provisions of this ARTICLE 12.

12.3 Total Taking. If the Premises or Improvements is totally taken by Condemnation, this Ground Lease shall terminate on the Date of Taking.

12.4 Effect of Partial Condemnation. If a portion of the Improvements or Premises or any other improvements thereon are taken by Condemnation, this Ground Lease shall remain in effect, except that Tenant may elect to terminate this Ground Lease if the remaining portion of the Premises or Improvements is rendered unsuitable (as defined herein) for Tenant’s continued use. The remaining portion of the Improvements or the Premises shall be deemed unsuitable for Tenant’s continued use if, following a reasonable amount of reconstruction, Tenant’s business in the Improvements could not be operated at an economically feasible level. Tenant must exercise its right to terminate by giving Landlord written notice of its election within 90 days after the nature and extent of the taking have been finally determined. Such notice shall also specify the date of termination, which shall not be prior to the Date of Taking. Failure to properly exercise the election provided for in this Section 12.4 will result in this Ground Lease continuing in full force and effect.

12.5 Restoration of Improvements. If in Tenant’s judgment it is reasonably possible and economically feasible to do so, Tenant shall be entitled to use that portion of the Condemnation award allocable to the Improvements (but not any portion allocable to the Premises) as is necessary to restore or to add on to the Improvements so that the area and approximate layout of the Improvements will be substantially the same after the Date of Taking as it was before the Date of Taking. If it is not reasonably possible and economically feasible to so restore the area and layout of the Improvements, the remaining provisions of this ARTICLE 12 shall govern the rights of the parties. If Tenant fails to promptly commence any reasonably required repair, restoration or reconstruction of the Improvements and diligently prosecute such repair, restoration or reconstruction to completion, and such failure is not remedied within 60 days of written notice from the Landlord to Tenant, subject to potential further extension for force majeure delays, this Ground Lease may be terminated by the Landlord.

12.6 Waiver of CCP Section 1265.130. Each party waives the provisions of the Code of Civil Procedure Section 1265.130 allowing either party to petition the Superior Court of the County of Alameda, State of California to terminate this Ground Lease in the event of a partial taking of the Premises.

12.7 Award. If all or any portion of the Premises is taken in connection with a condemnation, the entire portion of the award allocable to the Premises (but excluding the Improvements) shall belong to Landlord. Subject to the provisions of Section 12.5 above, and subject to the rights of any Ground Lease Mortgagee, if all or any portion of the Improvements on the Premises is taken in connection with a condemnation, the award for the Improvements shall be allocated as follows: (i) Landlord shall be entitled to receive the present value of its residual interest in the Improvements as of the expiration of the Term and (ii) Tenant, or any subtenant, as applicable, shall be entitled to receive only: (a) the value of any leasehold

improvements, merchandise, personal property, and furniture, fixtures and equipment owned by Tenant or its subtenant that are taken in connection with such condemnation; (b) the value of Tenant's interest in the Improvements for the remainder of the Term of this Ground Lease; and (c) loss of Tenant's or its subtenant's business goodwill, if agreed to be paid by the condemning authority or awarded by a court. Neither Tenant nor any subtenant shall have any right to receive any amount on account of any loss of any other interest in this Ground Lease, including without limitation any so-called "leasehold bonus value" or other amount due to differences between the Rent payable hereunder and the then current fair market rental value of Tenant's interest in this Ground Lease. Nothing in this Section 12.7 shall be deemed a waiver or surrender by Tenant or any subtenant of any right to receive relocation assistance under Government Code Section 7260, et seq., or compensation for moving of personal property under Code of Civil Procedure Section 1263.260.

**ARTICLE 13.
ASSIGNMENT AND SUBLETTING**

13.1 Assignment; Release from Liability.

A. Except as otherwise expressly provided in this Article 13, Tenant shall not assign, sublet or otherwise transfer, whether voluntarily or involuntarily or by operation of Law, this Ground Lease, the Improvements or any part thereof (collectively an "**assignment**") without Landlord's written consent, which shall not unreasonably be withheld, conditioned or delayed. The sale or transfer of substantially all of the business assets and business of Tenant or the merger, consolidation or other business combination of Tenant with any other entity or the assignment or transfer of any controlling or managing ownership or beneficial interest in Tenant shall constitute an "assignment" hereunder; provided, however, that any transfer of direct or indirect ownership interests in Tenant shall not constitute an "assignment" hereunder so long as such transfer does not result in a change of control of Tenant. Tenant agrees that it shall not be unreasonable for Landlord to condition its approval upon, among other things, (i) the proposed assignee having a financial net worth, according to a current financial statement prepared by a certified public accountant, which is sufficient to meet the obligations of Tenant under this Ground Lease; (ii) the proposed assignee having a reputation for and experience and qualifications in operating and maintaining major first-class Hotel Facilities comparable to the Improvements and with STR Chain Scale Ratings of Upscale or better; and (iii) the proposed assignee having a good business reputation. In evaluating the acceptability of the net worth of a proposed assignee, Landlord may require that the assignee's net worth be sufficient to carry out the performance of Tenant's obligation under this Ground Lease. Subject to the foregoing, Landlord agrees that it will not withhold its consent to Tenant's assignment of its interest in this Ground Lease if Tenant demonstrates to Landlord's reasonable satisfaction that such assignee has a net worth equal to or exceeding that of Tenant as of the Effective Date or the assignment date (whichever is greater), has a reputation for and at least five years' experience and qualifications in operating and maintaining at least three similar Hotel Restaurant facilities with an STR Chain Scale rating of Upscale or better, and has a good business reputation in the Hotel Restaurant industry. Tenant shall promptly provide Landlord with any information reasonably requested by Landlord relating to the identity of any proposed assignee, the nature of such assignee's business and the proposed assignee's financial responsibility.

B. Notwithstanding Subsection 13.1A above, Landlord's consent is not required for any assignment to an Affiliate of Tenant (as defined below) or any Mortgagee, as long as the following conditions are met: (i) Landlord receives written notice of the assignment (as well as any documents or information reasonably requested by Landlord regarding the

assignment or assignee); (ii) the assignee assumes in writing all of Tenant's obligations under this Ground Lease; and (iii) the assignee's net worth, as of the assignment date, is not less than that of the then-tenant as of the assignment date. For purposes of this Section 13.1, "**Affiliate**" means an entity which controls, is controlled by or under common control with Tenant as of either (i) the Effective Date or (ii) the date of the most recent assignment permitted under this Ground Lease. For purposes of this definition, "control" means the direct or indirect ownership of more than 50% of the voting securities of an entity or possession of the right to direct the entity's day-to-day affairs.

C. No partial assignments of this Ground Lease shall be permitted. Assignments of this Ground Lease shall only be made pursuant to a written assignment and assumption agreement in a form reasonably acceptable to Landlord. Landlord's consent to any one assignment shall not constitute consent to any other assignment, and shall not constitute a waiver of the right to give or withhold consent in accordance with this Section 13.1.

D. Following an assignment that is permitted under this Ground Lease, the assignor Tenant shall be released from, and the assignee Tenant shall be responsible for, all obligations and other liabilities of Tenant under this Ground Lease accruing from and after the effective date of such assignment.

E. In the event Tenant shall assign this Ground Lease or request the consent of Landlord to any assignment, or if Tenant shall request the consent of Landlord for any other act Tenant proposes to do, then Tenant shall pay Landlord's reasonable attorneys' fees and third-party costs incurred in connection with each such request in an amount not to exceed \$5,000, which amount shall be increased by annual CPI Adjustments.

13.2 Subleases. Tenant shall have the right to sublease up to ten percent (10%) of the of the square footage of the Improvements and up to ten percent (10%) of the square footage of the Premises that is outside the footprint of the Hotel and Restaurant building envelope without Landlord's prior written consent, but subject to the following conditions:

A. Such sublease shall not be valid and such sublessee shall not take possession until an executed counterpart of the sublease has been delivered to Landlord.

B. Any subtenant shall have agreed in writing to comply with all applicable terms and conditions of this Ground Lease with respect to the space or area that is the subject of the sublease.

C. No subletting shall release Tenant of Tenant's obligations under this Ground Lease or alter the liability of Tenant to pay the rent and to perform all other obligations to be performed by Tenant hereunder. In the event of default by subtenant in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such subtenant.

Any sublease which together with all other then-existing subleases would exceed the percentage thresholds set forth above shall be subject to Landlord's prior written approval not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, (i) any sublease of the Charter Yacht Facility, including any renewal or extension of the HornBlower Sublease, shall be subject to Landlord's prior written approval not to be unreasonably withheld, conditioned or delayed, and (ii) Tenant shall not be permitted to sublease any Hotel rooms; provided that, the foregoing restriction shall not apply to the ordinary course operation of the Hotel.

13.3 Concessionaires. Notwithstanding Subsections 13.1A and 13.1B above, Tenant may enter into agreements with Concessionaires to perform functions included within the definition of "Concessionaire" in Subsection 2.4C above without Landlord's consent, subject to the following conditions:

A. Tenant shall require all Concessionaires to comply with applicable obligations under this Ground Lease, including without limitation those contained in Sections 2.4 and 2.5 above, and ARTICLE 16 below;

B. Tenant shall be fully liable and responsible for performance of all Concessionaire obligations under this Ground Lease; and

C. Within 10 business days of Landlord's written request, Tenant shall provide Landlord with a list of all current Concessionaires.

ARTICLE 14. TENANT DEFAULTS AND LANDLORD REMEDIES

14.1 Defaults by Tenant. Tenant shall be in default under this Ground Lease upon occurrence of any of the following:

A. Tenant shall at any time be in default in the payment of Rent or any other monetary sum called for by this Ground Lease for more than ten (10) days following written notice from Landlord to Tenant; or

B. Tenant shall at any time be in default in the keeping and performing of any of its other covenants or agreements herein contained, and should such other default continue for thirty (30) days after written notice thereof from Landlord to Tenant specifying the particulars of such default, or if such other default is of a nature that curing such default will take more than thirty (30) days Tenant has failed to commence such cure within such 30-day period and to thereafter diligently and continuously pursue completion of such cure; or

C. Tenant assigns, sells, transfers, conveys, encumbers, hypothecates or leases the whole or any part of the Improvements, the Premises, or any other improvement constructed thereon in violation of the Improvements Documents; or

D. Tenant is in default under any of the other Improvements Documents beyond expiration of any applicable cure period.

14.2 Remedies. Subject to the rights of any Ground Leasehold Mortgagees permitted under ARTICLE 15 below, upon the occurrence of any such default, in addition to any and all other rights or remedies of Landlord hereunder, or by Law or in equity provided, Landlord shall have the sole option to exercise the following rights and remedies:

A. Terminate this Ground Lease by giving Tenant notice of termination. On the giving of such notice, all of Tenant's rights in the Premises, Improvements and any other improvements located thereon, shall terminate. Immediately following notice of termination, Tenant shall surrender and vacate the Premises, including the Improvements and any other improvements located thereon, leaving them in broom-clean condition; and, Landlord may reenter and take possession of the Premises and Improvements and eject all parties in possession or eject some and not others, or eject none. Termination under this subsection shall not relieve Tenant

from the payment of any sum then due to Landlord or from any claim for damages previously accrued or then accruing against Tenant.

B. Without terminating this Ground Lease, Landlord may at any time and from time to time relet the Premises, including the Improvements, or any part or parts thereof for the account and in the name of Tenant or otherwise. Landlord may at Landlord's election eject all persons or eject some and not others, or eject none. Any reletting may be for the remainder of the Ground Lease Term or for a longer or shorter period. Landlord may execute any leases made under this provision either in Landlord's name or in Tenant's name, and shall be entitled to all rents from the use, operation, and occupancy of the Premises, Improvements and any other improvements thereon. Tenant hereby appoints Landlord its attorney-in-fact for purpose of such leasing. Tenant shall nevertheless pay to Landlord on the due dates specified in this Ground Lease the equivalent of all sums required of Tenant under this Ground Lease, less the revenue received by Landlord from any reletting or attornment, plus Landlord's expenses, including (by way of example), but not limited to, remodeling expenses, Landlord's brokerage and advertising costs and reasonable attorneys' fees and costs. No act by or on behalf of Landlord under this subsection shall constitute a termination of this Ground Lease unless Landlord gives Tenant written notice of termination.

C. Even though Landlord may have relet all or any portion of the Premises, including the Improvements and any other improvements thereon, Landlord may thereafter elect to terminate this Ground Lease and all of Tenant's rights in or to the foregoing.

14.3 Damages. Should Landlord elect to terminate this Ground Lease, Landlord shall be entitled to recover from Tenant, as damages:

A. The worth at the time of the award of the unpaid Rent that had been earned at the time of termination of this Ground Lease;

B. The worth at the time of the award of the amount by which the unpaid Rent that would have been earned after the date of termination of this Ground Lease until the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided;

C. The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Ground Lease Term after the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; and

D. Any other amount (and court costs) necessary to compensate Landlord for all detriment proximately caused by Tenant's default, including costs of alterations and improvements in connection with reletting.

E. Computing Worth at the Time of Award. The "worth at the time of the award," as used in Subsections 14.3A and 14.3B above, is to be computed by allowing interest at the lesser of (i) ten percent (10%) per annum or (ii) the maximum rate permitted by Section 1(2) of Article XV of the California Constitution. The "worth at the time of the award," as referred to in Subsection 14.3C above, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent.

14.4 Landlord's Right to Cure Tenant's Default. Landlord, at any time after Tenant commits a default which Tenant has failed to cure within the time established therefor, may cure

the default at Tenant's cost. If Landlord at any time, by reason of Tenant's default, pays any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if paid at a later date, shall bear interest at the lesser of (i) ten percent (10%) per annum or (ii) the maximum rate permitted under Section 1(2) of Article XV of the California Constitution from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant. The sum, together with interest thereon, shall be Additional Rent.

**ARTICLE 15.
MORTGAGEE PROTECTION PROVISIONS**

15.1 Ground Leasehold Mortgage Authorized. In addition to the mortgagee under the Existing Ground Leasehold Mortgage, as provided and defined in this ARTICLE 15, Tenant may mortgage or otherwise encumber Tenant's interest in this Ground Lease to an "Institutional Investor" (as defined below) under one or more Ground Leasehold Mortgage(s) and assign this Ground Lease as security for such mortgage(s). The Ground Leasehold Mortgage(s) shall affect only Tenant's interest in this Ground Lease and shall be subject to all of the terms and provisions of this Ground Lease. Landlord's fee interest in the Premises and residual interest in the Improvements shall not be encumbered or subordinated by Landlord or Tenant.

15.2 Notice to Landlord. If Tenant shall mortgage Tenant's interest in this Ground Lease to an Institutional Investor, and if Tenant or the holder of such Ground Leasehold Mortgage shall provide Landlord with notice of such Ground Leasehold Mortgage, together with a true copy of such Ground Leasehold Mortgage and the name and address of the holder, Landlord and Tenant agree that, following receipt of such notice by Landlord, the provisions of this ARTICLE 15 shall apply with respect to such Ground Leasehold Mortgage. In the event of any assignment of a Ground Leasehold Mortgage, or in the event of a change of address of the holder thereunder or of an assignee of such holder, notice of the new name and address shall be provided to Landlord. Tenant shall thereafter also provide Landlord from time to time with a copy of each amendment or other modification or supplement to the Ground Leasehold Mortgage. All recorded documents shall be certified as true and correct copies of official records by the Alameda County Recorder and all nonrecorded documents shall be accompanied by a certification by Tenant or the holder that such documents are true, complete, and correct copies of the originals.

15.3 Definitions. As used in this ARTICLE 15:

A. **"Institutional Investor"** means any lender which has assets in excess of \$100 Million at the time the Ground Leasehold Mortgage or similar loan is made and is regularly engaged in the business of making secured real estate loans.

B. **"Ground Leasehold Mortgage"** includes a mortgage, deed of trust or other security instrument authorized in favor of (except as provided in this Section 15.3) either (i) an Institutional Investor by which Tenant's interest in this Ground Lease is mortgaged, conveyed, assigned or otherwise transferred to secure a debt or other obligation, or (ii) the Existing Ground Leasehold Mortgagee.

C. **"Ground Leasehold Mortgagee"** or **"Mortgagee"** shall refer to a holder of a Ground Leasehold Mortgage either (i) under with respect to which the notice provided for by Section 15.2 above has been given and received and as to which the provisions of this ARTICLE 15 are applicable or (ii) under the Existing Ground Leasehold Mortgage.

15.4 Consent of Ground Leasehold Mortgagee Required. Except for expiration of this Ground Lease following the running of the entire Ground Lease Term indicated in Basic Lease provisions clause 8, no amendment, modification, cancellation or termination of this Ground Lease shall be effective as to any Ground Leasehold Mortgagee unless consented to in writing by such Ground Leasehold Mortgagee. Tenant, by execution of this Ground Lease, warrants to Landlord that all required Existing Ground Lease Mortgagee consents have been obtained with respect to this Ground Lease.

15.5 Notice to Ground Leasehold Mortgagee. With respect to any Ground Leasehold Mortgagee, whenever Landlord shall deliver any notice to Tenant with respect to any default by Tenant hereunder, Landlord shall at the same time deliver a copy of such notice to each Ground Leasehold Mortgagee authorized by this Ground Lease. No notice of default shall be effective as to the Ground Leasehold Mortgagee unless such notice is given. Each Ground Leasehold Mortgagee shall (insofar as the rights of Landlord are concerned) have the right, at its option, within 60 days after the receipt of the copy of the notice, to cure or remedy or commence to cure or remedy any such default. In the event possession of the Improvements or the Premises, or any portion thereof, is required to effectuate such cure or remedy, the Ground Leasehold Mortgagee shall be deemed to have timely cured or remedied if it commences the proceedings necessary to obtain possession thereof within 60 days after receipt of the copy of the notice, diligently and continuously pursues such proceedings to completion, and, after obtaining possession, diligently and continuously completes such cure or remedy. The provisions of Section 15.7 below shall apply if, during such 60-day termination notice period, the Ground Leasehold Mortgagee shall:

A. Notify Landlord of such Ground Leasehold Mortgagee's desire to nullify such notice, and

B. Pay or cause to be paid all Rent, Additional Rent and other payments then due and in arrears as specified in the termination notice to such Ground Leasehold Mortgagee and which may become due during such 60-day period, and

C. Comply, or in good faith, with diligence and continuity, commence to comply, with all nonmonetary requirements of this Ground Lease then in default and reasonably susceptible of being complied with by such Ground Leasehold Mortgagee; provided, however, that in the event such Ground Leasehold Mortgagee shall commence foreclosure proceedings within such 60-day period, such Ground Leasehold Mortgagee shall not be required during such 60-day period to cure or commence to cure any such non-monetary default.

D. Any notice to be given by Landlord to the Existing Ground Leasehold Mortgagee pursuant to any provision of this ARTICLE 15 shall be deemed properly addressed if sent to the Existing Ground Leasehold Mortgagee at the address(es) set forth in Basic Lease Information clause 20. Any notice to be given by Landlord to a Ground Leasehold Mortgagee pursuant to any provision of this ARTICLE 15 shall be deemed properly addressed if sent to the Ground Leasehold Mortgagee who served the notice referred to in Section 15.2 above at the address stated in such notice unless notice of a change of mortgage ownership has been given to Landlord pursuant to Section 15.2 above.

15.6 Ground Leasehold Mortgagee Foreclosure. If Landlord shall elect to terminate this Ground Lease by reason of any default of Tenant and the Ground Leasehold Mortgagee shall have proceeded in the manner provided for by Section 15.5 above, the specified date for termination of this Ground Lease as fixed by Landlord in its termination notice shall be extended

for a period of six months, provided that such Ground Leasehold Mortgagee shall, during such six-month period:

A. Pay, or cause to be paid, Rent (including the Minimum Ground Rent, Percentage Rent, Additional Rent and any other monetary obligations of Tenant under this Ground Lease) as the same become due, and continue its good faith efforts to perform all of Tenant's other obligations under this Ground Lease; and

B. If not enjoined or stayed, take steps to acquire or sell Tenant's interest in this Ground Lease by foreclosure of the Ground Leasehold Mortgage or other appropriate means and prosecute the same to completion with diligence.

If, at the end of such six-month period, such Ground Leasehold Mortgagee is diligently complying with this Section 15.6, this Ground Lease shall not then terminate, and the time for completion by such Ground Leasehold Mortgagee of its proceedings shall continue so long as such Ground Leasehold Mortgagee is enjoined or stayed and thereafter provided such Ground Leasehold Mortgagee continues to meet its obligations under Subsection 15.6A above, and proceeds to complete steps to acquire or sell Tenant's interest in this Ground Lease by foreclosure of the Ground Leasehold Mortgage or by other appropriate means with reasonable diligence and continuity. Nothing in this Section 15.6, however, shall be construed to extend this Ground Lease beyond the Ground Lease Term, or to require a Ground Leasehold Mortgagee to continue such foreclosure proceedings after the default has been timely cured. If the default shall be timely cured and the Ground Leasehold Mortgagee shall discontinue such foreclosure proceedings, this Ground Lease shall continue in full force and effect as if Tenant had not defaulted under this Ground Lease.

15.7 Purchaser at Foreclosure. If the Ground Leasehold Mortgagee is complying with Section 15.6 above, upon the acquisition of the entirety of Tenant's interest in this Ground Lease by such Ground Leasehold Mortgagee or its designee (such designee subject to Landlord's approval per the standards set forth in Section 13.1 above) or any other Institutional Investor purchaser at a foreclosure sale or otherwise (and the discharge or extinguishment of any lien, charge or encumbrance against Tenant's interest in this Ground Lease which is junior in priority to the lien of the Ground Leasehold Mortgage held by such Ground Leasehold Mortgagee and which the Tenant is obligated to satisfy and discharge by reason of the terms of this Ground Lease), this Ground Lease shall continue in full force and effect as if Tenant had not defaulted under this Ground Lease. Any such purchaser, including the Ground Leasehold Mortgagee or the transferee under any instrument of assignment or transfer in lieu of the foreclosure of the Ground Leasehold Mortgage, shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Tenant to be performed hereunder from and after the date of such purchase and assignment.

15.8 New Lease. In the event of the termination of this Ground Lease (including without limitation due to the rejection of this Ground Lease in a bankruptcy proceeding in which Tenant is the debtor) before the expiration of the Ground Lease Term, except (i) as the result of damage or destruction as provided in ARTICLE 11 above or (ii) by a taking as provided in ARTICLE 12 above, Landlord shall deliver to Ground Leasehold Mortgagee written notice that this Ground Lease has been terminated, together with a statement of any and all sums which would at that time be due under this Ground Lease but for such termination, and of all other defaults, if any, under this Ground Lease then known to Landlord. The Ground Leasehold Mortgagee shall thereupon have the option to obtain a new lease (a "**New Lease**") in accordance with and upon the following terms and conditions:

A. Upon the written request of the Leasehold Mortgagee, within 60 days after Landlord's notice that this Ground Lease has been terminated, Landlord shall enter into a New Lease of the Premises with the most senior Ground Leasehold Mortgagee giving notice within such period or its designee (such designee subject to Landlord's approval per the standards set forth in Section 13.1 above) (as applicable, "**New Tenant**"); and

B. The New Lease shall be entered into at the reasonable cost of the New Tenant, shall be effective as of the date of termination of this Ground Lease, and shall be for the remainder of the Ground Lease Term and at the Rent and upon all the agreements, terms, covenants and conditions hereof, and in substantially the same form as this Ground Lease. Any New Lease shall require the New Tenant to cure or remedy any unfulfilled obligation of Tenant under this Ground Lease which is reasonably susceptible of being cured. Upon the execution of such New Lease, the New Tenant shall pay any and all sums which would at the time of the execution thereof be due under this Ground Lease but for such termination, and shall pay all expenses, including reasonable attorneys and consultants' fees and costs incurred by Landlord in connection with such defaults and termination, the recovery of possession of the Premises, and the preparation, execution and delivery of the New Lease.

15.9 Ground Leasehold Mortgagee's Right to Sell. If Ground Leasehold Mortgagee or New Tenant (as applicable, "**Successor Tenant**") acquires title to Tenant's interest in this Ground Lease (or New Lease) pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings described in this ARTICLE 15, , such Successor Tenant, upon acquiring Tenant's interest in this Ground Lease (or New Lease), may sell and assign the combined entirety of Tenant's interest in this Ground Lease (or New Lease), only to such persons and organizations as are approved by Landlord per the standards set forth in Section 13.1 above. If Successor Tenant's proposed transferee is approved by Landlord, and such transferee delivers to Landlord its written agreement to be bound by all of the provisions of this Ground Lease (or New lease), then Successor Tenant shall be relieved of all obligations under this Ground Lease (or New Lease) arising or accruing from and after the date of such sale and assignment.

15.10 Holder Not Obligated to Construct Improvements. The holder of any Ground Leasehold Mortgage authorized by this Ground Lease shall not be obligated by the provisions of this Ground Lease to construct or complete any Improvements or to guarantee such construction or completion; provided that any Ground Leasehold Mortgagee (or designee or any other person) which acquires Tenant's interest in this Ground Lease (or any New Lease) shall have the same obligations relating thereto as the prior Tenant. Nothing in this Ground Lease shall be deemed to or be construed to permit or authorize any such Ground Leasehold Mortgagee to devote the Improvements or the Premises to any uses or to construct any improvements thereon or therein other than those uses and improvements expressly provided for and authorized by this Ground Lease.

15.11 Right of Landlord to Cure Ground Leasehold Mortgage Default. If a Ground Leasehold Mortgage default or breach by Tenant occurs and the Ground Leasehold Mortgagee has not exercised its option to cure the default, Landlord, at its sole option and without any obligation to do so, may cure the default following prior notice thereof to Tenant. In such event, Tenant shall be liable for, and Landlord shall be entitled to reimbursement from Tenant of, all costs and expenses incurred by Landlord associated with and attributable to the curing of the Ground Leasehold Mortgage default or breach. Landlord shall also be entitled to record a lien against Tenant's interest in this Ground Lease to the extent of such incurred costs and disbursements. Any such lien shall be subject and subordinate to all prior Ground Leasehold Mortgages and encumbrances.

**ARTICLE 16.
MISCELLANEOUS**

16.1 Holding Over. If Tenant shall hold over in the Improvements or on the Premises after the expiration of the Ground Lease Term with the consent of Landlord, such holding over shall be construed to be only a tenancy from month to month, subject to all the covenants, conditions and obligations contained in this Ground Lease. Tenant hereby agrees to pay to Landlord as monthly rental 1/12th of the amount which is 125% of the highest amount of total Annual Rent paid by Tenant to Landlord during the Ground Lease Term.

16.2 Attorneys' Fees. In the event that any action is brought by either party hereto against the other for the enforcement or declaration of any right or remedy in or under this Ground Lease or for the breach of any covenant or condition of this Ground Lease, the prevailing party shall be entitled to recover, and the other party agrees to pay, all fees and costs to be fixed by the court therein including, but not limited to, reasonable attorneys' fees.

16.3 Quiet Possession. Landlord agrees that so long as Tenant is not in default under this Ground Lease and is paying the Rent and performing in all material respects all of the covenants and conditions of this Ground Lease, Tenant shall quietly have, hold and enjoy the Premises throughout the Ground Lease Term without interruption or disturbance from Landlord or any other persons claiming by, through or under Landlord.

16.4 Force Majeure. Except as to Tenant's payment of Rent, subject to the limitations set forth below, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Ground Lease shall be extended, where delays are due to: war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; unusually severe weather; acts or omissions of the other party; or acts or failures to act of the City or any other public or governmental agency or entity (other than the acts or failures to act of Landlord which shall not excuse performance by Landlord). An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within 30 days of the commencement of the cause. Times of performance under this Ground Lease may also be extended in writing by the mutual agreement of Landlord and Tenant. Tenant expressly agrees that adverse changes in economic conditions, either of Tenant specifically or the economy generally, changes in market conditions or demand, and/or Tenant's inability to obtain financing or other lack of funding, or to complete any Improvements or Alterations, shall not constitute grounds of force majeure delay pursuant to this Section 16.4. Tenant expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the Commencement Date.

16.5 City Manager Authority Limitations; Waiver of Terms and Conditions.

A. Any amendment to this Ground Lease which affects or relates to (i) the Ground Lease Term; (ii) the Permitted Use; (iii) minimum Hotel Facilities quality standards; (iv) Rent amounts, Percentage Rent percentages or other monetary payments by Tenant, including Tenant payments pursuant to the Capital Contribution Agreement; (v) Tenant's commitments regarding provision of EV Charging Stations and purchase of renewable energy as provided in Section 5.7, (vi) Landlord's rights to use Conference Facilities as provided in Section 5.11, or (vii) any other material provision of this Ground Lease shall require approval by the Landlord's City

Council. Subject to the foregoing, the City Manager may issue without Council approval any consent or approval which Landlord is entitled to provide under this Ground Lease, including without limitation to Alterations under ARTICLE 7 above, assignments under ARTICLE 13 above, and Ground Lease Mortgagee designees under ARTICLE 15 above.

B. No waiver of any Tenant breach of any of the terms, covenants, agreements, restrictions or conditions of this Ground Lease or the other Improvements Documents shall be construed to be a waiver of any succeeding breach of the same or other terms, covenants, agreements, restrictions and conditions hereof or thereof. Landlord's consent or approval to or of any act by Tenant requiring further consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to or of any subsequent similar act. Landlord's exercise of any right, power, or remedy shall in no event constitute a cure or a waiver of any default under this Ground Lease or the other Improvements Documents, nor shall it invalidate any act done pursuant to notice of default, or prejudice Landlord in the exercise of any right, power, or remedy hereunder or under the other Improvements Documents, unless in the exercise of any such right, power, or remedy all Tenant obligations to Landlord are paid and discharged in full.

16.6 Notices. Any notice to be given or other document to be delivered by either party to the other hereunder shall be in writing and shall be deemed to have been duly given and received (i) upon personal delivery, (ii) as of the third business day after mailing by United States registered or certified mail, return receipt requested, postage prepaid, addressed as set forth below, or (iii) the immediately succeeding business day after deposit with Federal Express or other equivalent overnight delivery system, addressed to the party for whom intended, as indicated in the Basic Lease Information. Any party hereto may from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified.

16.7 Surrender. Upon the expiration or sooner termination of the Ground Lease Term, and notwithstanding anything herein contained to the contrary (other than Section 8.3 above regarding personal property, if and to the extent Landlord exercises its rights thereunder), Tenant shall surrender to Landlord the Improvements, the Premises and any improvements thereon, broom clean and in good condition and repair, reasonable wear and tear excepted.

16.8 Binding. Subject to the restrictions set forth herein regarding assignment of , Tenant's interest in this Ground Lease, each of the terms, covenants and conditions of this Ground Lease shall extend to and be binding on and shall inure to the benefit of not only Landlord and Tenant, but to each of their respective heirs, administrators, executors, successors and assigns. Whenever in this Ground Lease reference is made to either Landlord or Tenant, the reference shall be deemed to include, wherever applicable, the heirs, administrators, executors, successors and assigns of such parties, the same as if in every case expressed.

16.9 Landlord's Right to Enter Premises and Improvements. During the last two years of the Ground Lease Term or at any time during the Ground Lease Term when Tenant is in default, Landlord and its authorized representatives shall have the right to enter the Premises and Improvements to show the Improvements and the Premises to prospective brokers, agents, buyers, tenants or persons interested in a purchase or lease of the Improvements and Premises; provided that, (i) Landlord gives Tenant written notice of such entering at least 48 hours in advance, (ii) Landlord shall not, and shall not permit any prospective brokers, agents, buyers, tenants or other persons to, interfere with Tenant's operation or use of the Premises, and (iii) Landlord shall indemnify Tenant for any bodily injury, death or property damage arising from or in connection with Landlord's entry on the Premises and Improvements.

16.10 Disclaimer of Partnership. The relationship of the parties hereto is that of Landlord and Tenant, and it is expressly understood and agreed that Landlord does not in any way or for any purpose become a partner of Tenant or a joint venturer with Tenant in any Improvements or in the conduct of Tenant's business or otherwise.

16.11 Memorandum. Landlord and Tenant shall execute a Memorandum of this Ground Lease or any amendment or modification thereof for recordation in the official records of the County of Alameda, California, in substantially the form attached hereto as Exhibit G.

16.12 Quitclaim. At the expiration or earlier termination of the Ground Lease Term, Tenant shall execute, acknowledge and deliver to Landlord within 15 days after Landlord's written demand to Tenant, a quitclaim deed or other document reasonably required by Landlord or any reputable title company to remove the cloud of this Ground Lease from title to the Premises and confirm Landlord's title to the Improvements.

16.13 Interpretation. The titles to the sections of this Ground Lease are not a part of this Ground Lease and shall have no effect upon the construction or interpretation of any part of this Ground Lease. As used in this Ground Lease, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Ground Lease shall be interpreted as though prepared jointly by both parties.

16.14 Severability. If any term, provision, condition or covenant of this Ground Lease or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Ground Lease, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by Law.

16.15 Computation of Time. The time in which any act is to be done under this Ground Lease is computed by excluding the first day, and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" means all holidays as specified in Sections 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

16.16 Legal Advice. Each party represents and warrants to the other the following: they have carefully read this Ground Lease, and in signing this Ground Lease, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Ground Lease, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Ground Lease; and, they have freely signed this Ground Lease without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Ground Lease, and without duress or coercion, whether economic or otherwise.

16.17 Time of Essence. Time is expressly made of the essence with respect to the performance by Landlord and Tenant of each and every obligation and condition of this Ground Lease.

16.18 Nonliability of Landlord and Tenant Officials and Employees. No officer, elected official, employee or representative of Landlord shall be personally liable to Tenant, or

any successor in interest, in the event of any default or breach by Landlord or for any amount which may become due to Tenant or its successors, or on any obligations under the terms of this Ground Lease. Tenant hereby waives and releases any claim it may have against the members, officials or employees of Landlord with respect to any default or breach by Landlord or for any amount which may become due to Tenant or its successors, or on any obligations under the terms of this Ground Lease. No individual partners, members, directors, officers, shareholders, employees or representatives of Tenant shall be personally liable to Landlord, or any successor in interest, in the event of any default or breach by Tenant or for any amount which may become due to Landlord or its successors, or on any obligations under the terms of this Ground Lease. Landlord hereby waives and releases any claim it may have against the individual partners, members, directors, officers, shareholders, employees or representatives of Tenant with respect to any default or breach by Tenant or for any amount which may become due to Landlord or its successors, or on any obligations under the terms of this Ground Lease.

16.19 Assignment by Landlord. Subject to compliance with applicable Law (including without limitation the State Tidelands Grant) and following written notice to Tenant of at least thirty (30) days, Landlord may assign or transfer any of its interests hereunder at any time without Tenant's consent; provided that Landlord's assignee expressly assumes this Ground Lease and Landlord's obligations hereunder.

16.20 Applicable Law. The laws of the State of California, including all statutes of limitations but without regard to conflict of laws principles shall govern the interpretation and enforcement of this Ground Lease.

16.21 Agent for Service of Process. Tenant expressly agrees and understands that if it is not a resident of this State, or is an association or partnership without a member or partner resident of this State, or is a foreign corporation or company, then Tenant shall file with Landlord a designation of a natural person residing in the County of Alameda, State of California, giving his or her name, residence, and business address as Tenant's agent for the purpose of service of process in any court action between Tenant and Landlord arising out of or based upon this Ground Lease, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon such Tenant. Tenant further expressly agrees, covenants and stipulates that if for any reason service of such process upon such agent is not possible, or Tenant fails to maintain such an agent, then in such event Tenant may be personally served with such process out of the State of California, and that such service shall constitute valid service upon such Tenant; and it is further expressly agreed that Tenant is amenable to the process so served, submits to the jurisdiction of the court so acquired, and waives any and all objection and protest thereto.

16.22 Covenants and Conditions. Each obligation of the parties hereunder, including, without limitation, Tenant's obligation for the payment of Rent, shall be construed to be both a covenant and a condition of this Ground Lease.

16.23 Integration. This Ground Lease, together with all exhibits and attachments hereto, the recorded Memorandum referenced in Section 16.11 above, the Consent Agreement and Estoppel, the City Hornblower Consent and that certain Capital Contribution Agreement of even date herewith between Landlord and Tenant (collectively, "**Improvements Documents**"), constitute the entire agreement between the parties and there are no conditions, representations or agreements regarding the matters covered by this Ground Lease which are not expressed herein or in the Improvements Documents.

16.24 Estoppel Certificates. From time to time, but in no event more than two (2) times in any twelve (12) month period, each party shall execute and deliver to the other party promptly upon request a certificate certifying (i) that this Ground Lease is unmodified and in full force and effect or, if there has been any modification, that this Ground Lease is in full force and effect as modified, and stating the date and nature of each such modification; (ii) the date to which Rent and other sums payable hereunder have been paid; (iii) that no notice has been received by the certifying party of any default which has not been cured, except as to defaults specified in such certificate; (iv) that to the certifying party's actual knowledge, the requesting party is not in default under this Lease and the certifying party has no claims, charges, offsets or defenses against the requesting party, or specifying the nature of any such default or claim, charges, offsets or defense; and (v) such other matters as may be reasonably requested by the requesting party. Any such certificate may be relied upon by any prospective purchaser, vendee or other party. If Tenant or Landlord fails to execute and deliver any such certificate within thirty (30) days after the requesting party's written request, and fails to cure such default within an additional five (5) business days after further notice from the requesting party indicating that failure to respond with such 5-business day period shall be conclusive as to such matters, such failure, at the requesting party's election, shall be conclusive against the other party that this Lease is in full force and effect, without modification (except as may be represented by the requesting party), that there are no uncured defaults in the requesting party's performance, and that not more than one month's rent has been paid in advance. In the event Tenant requests Landlord to execute a certificate pursuant to this Section 16.24, then Tenant shall pay Landlord's reasonable attorneys' fees and consultant costs incurred in connection with each such request in an amount not to exceed \$1,500, which amount shall be increased by annual CPI Adjustments.

16.25 Amendments to this Ground Lease. Landlord and Tenant agree to mutually consider reasonable requests for amendments to this Ground Lease that may be made by either of them, lending institutions or bond counsel or financial consultants to Landlord or Tenant, provided such requests are consistent with this Ground Lease and would not materially alter the basic business terms included herein. Tenant shall pay Landlord's reasonable attorneys' fees and third-party costs incurred in connection with any amendment requested by or on behalf of Tenant. No amendment shall be effective unless in writing and signed by the parties hereto.

16.26 Brokerage Commissions. Landlord and Tenant each represents that it has not been represented by any broker in connection with this Ground Lease, and that no real estate broker's commission, finder's fee or other compensation (individually and collectively, "**Brokerage Commission**") is due or payable. Landlord and Tenant each agrees to indemnify and hold the other harmless from any claims or liability, including reasonable attorneys' fees, in connection with a claim by any person for a Brokerage Commission based upon any statement, representation or agreement of the other party.

16.27 City Non-Discrimination Ordinance. Tenant hereby agrees to comply with the provisions of Berkeley Municipal Code ("**B.M.C.**") Chapter 13.26, as amended from time to time. In the performance of its obligations under this Ground Lease, Tenant agrees as follows:

A. Tenant shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

B. Tenant shall permit Landlord access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the reasonable opinion of Landlord, are necessary to monitor compliance

with this non-discrimination provision. In addition, Tenant shall fill-out, in a timely fashion, forms supplied by Landlord as reasonably required to monitor this non-discrimination provision.

16.28 Non-Discrimination against Persons with Disabilities.

A. If Tenant provides any aid, service or benefit to others on the Landlord's behalf, Tenant shall, in the provision of such aid, service or benefit, observe and comply with all applicable provisions of Title II of the Americans with Disabilities Act of 1990 and any amendments thereto. Tenant shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination against individuals with disabilities or ensuring that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the Landlord, if applicable.

B. If Tenant is or becomes a "public accommodation" as defined in Title III of the Americans with Disabilities Act of 1990, Tenant shall observe and comply with all applicable provisions of the Act and any amendments thereto, and all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations offered by the Tenant. All of Tenant's activities must be in accordance with these laws, ordinances, codes, and regulations, and Tenant shall be solely responsible for complying therewith.

16.29 Conflict of Interest Prohibited.

A. In accordance with California Government Code Section 1090, Berkeley City Charter Section 36 and B.M.C. Chapter 3.64, neither Tenant nor any employee, officer, director, partner or member of Tenant, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a committee or commission member of Landlord, who has directly or indirectly influenced the making of this Ground Lease

B. In accordance with California Government Code Section 1090 and the Political Reform Act, (Government Code Section 87100 et seq.,) no person who is a director, officer, partner, trustee, employee or consultant of Tenant, or immediate family member of any of the preceding, shall make or participate in a decision made by Landlord or any of its boards, commissions or committees, if it is reasonable foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Tenant, except to the extent permitted by 2 California Code of Regulations, Section 18700(c)(2).

C. Interpretation of this paragraph shall be governed by the definitions and provisions use in the Political Reform Act, Government Code section 87100 et seq., its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, as amended from time to time.

16.30 Nuclear Free Berkeley. Tenant agrees to comply with B.M.C. Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

16.31 Required Accessibility Disclosure.

A. Landlord hereby advises Tenant that the Premises and Improvements have not undergone an inspection by a certified access specialist, and except to the extent expressly set forth in this Ground Lease, Landlord shall have no liability or responsibility to make any repairs

or modifications to the Premises or the Project in order to comply with accessibility standards. The following disclosure is hereby made pursuant to applicable California law:

B. “A Certified Access Specialist (CASP) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or landlord may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.” [Cal. Civ. Code Section 1938(e)]. Any CASp inspection shall be conducted in compliance with reasonable rules in effect at the Premises with regard to such inspections and shall be subject to Landlord’s prior written consent.

16.32 Oppressive States.

A. In accordance with Resolution No. 59,853-N.S., Tenant certifies that it has no contractual relations with, and agrees during the Ground Lease Term to forego contractual relations to provide personal services to, the following entities:

1. The governing regime in any Oppressive State.
2. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
3. Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of this Ground Lease) for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

B. For purposes of this Ground Lease, the Tibet Autonomous Region and the provinces of Amdo, Kham, and U-Tsang shall be deemed oppressive states.

C. Tenant’s failure to comply with this Section shall constitute a default of this Ground Lease and Landlord may terminate this Ground Lease pursuant to ARTICLE 14 above. In the event that Landlord terminates this Ground Lease due to a default under this provision, Landlord may deem Tenant a non-responsible bidder for five years from the date this Ground Lease is terminated.

16.33 Berkeley Living Wage Ordinance (LWO).

A. Tenant agrees to comply with Berkeley Municipal Code Chapter 13.27, the Berkeley Living Wage Ordinance (“**LWO**”) unless otherwise agreed to in a collective bargaining agreement. If Tenant employs six or more part-time or full-time employees, and generates \$350,000 or more in annual gross receipts, Tenant will be required to provide all eligible employees with City mandated minimum compensation during the Ground Lease Term, as defined in the LWO, and well as comply with the terms enumerated herein.

B. Tenant shall be required to maintain all reasonable records and documents that would establish whether Tenant is subject to Berkeley's LWO. If Tenant is subject to the LWO, as defined therein, Tenant shall be further required to maintain monthly records of those employees located on the leased Premises. These records shall include the total number of hours worked, the number of hours spent providing service on the leased Premises, the hourly rate paid, and the amount paid by Tenant for health benefits, if any, for each of its employees providing services under the lease. The records described in this Section shall be made available upon the Landlord's request. The failure to produce these records upon demand shall be considered a default, subject to the provisions contained in ARTICLE 14 above.

C. If Tenant is subject to the LWO, Tenant shall include the requirements of the ordinance, as defined in B.M.C. Chapter 13.27, in any and all subleases in which Tenant enters with regard to the subject Premises. Subtenants shall be required to comply with this ordinance with regard to any employees who spend 25% or more of their compensated time on the leased Premises.

D. If Tenant fails to comply with the requirements of the LWO and this Ground Lease, the Landlord shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

E. Tenant's failure to comply with this Section following notice and expiration of applicable cure periods shall constitute a default of the Ground Lease, upon which City may terminate this Ground Lease pursuant to ARTICLE 14 above.

F. In addition, at City's sole discretion, Tenant may be responsible for liquidated damages in the amount of \$50 per employee per day for each and every instance of a confirmed underpayment to an employee under the LWO. The foregoing shall not apply to alleged underpayments based on the Tenant's reasonable and good faith application of an expired or in effect collective bargaining agreement. It is mutually understood and agreed that Tenant's failure to pay any of its eligible employees at least the applicable living wage rate (subject to an applicable collective bargaining agreement) will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty of forfeiture for Tenant's breach.

16.34 Berkeley Equal Benefits Ordinance (EBO).

A. Tenant hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Tenant is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Tenant will be required to provide all eligible employees with City mandated equal benefits during the Ground Lease Term, as defined in B.M.C. Chapter 13.29, as well as comply with the terms enumerated herein.

B. If Tenant is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Tenant agrees to supply the City with any records the City deems necessary to determine compliance with this provision. Failure to do so shall be considered a default, subject to the provisions of ARTICLE 14 above.

C. If Tenant fails to comply with the requirements of this Section, City shall have the rights and remedies described in this Section, in addition to any rights and remedies

provided by law or equity. Tenant's failure to comply with this Section shall constitute default of the Ground Lease, upon which City may terminate this Ground Lease pursuant to ARTICLE 14 above.

D. In addition, at City's sole discretion, Tenant may be responsible for liquidated damages in the amount of \$50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Tenant's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Tenant's breach.

16.35 Berkeley Marina Zone Worker Retention Ordinance. As a "Marina Zone Business" (as defined in the Berkeley Marina Zone Worker Retention Ordinance, B.M.C. Chapter 13.25 "Marina Zone Ordinance"), Tenant shall comply with such Ordinance. Without limiting the foregoing, during the Ground Lease Term, Tenant shall cause any "New Operator" (as defined in the Marina Zone Ordinance) to comply with such Ordinance

16.36 City Auditor Rights. In addition to Landlord's and City Auditor's financial audit rights set forth in Section 2.5C above, the City Auditor's Office, or its designee, may conduct an audit of Tenant's compliance records maintained in connection with the operations and services performed under this Ground Lease, including compliance with Sections 16.27 through 16.35 above. In the event of such audit, Tenant agrees to cooperate with the City Auditor's Office and make such compliance records available to the City Auditor's Office, or to its designee, as reasonably required by the City Auditor's Office. Landlord shall provide Tenant an opportunity to discuss, respond to and contest, as applicable, any findings before a final audit report is filed.

16.38 Pests and Pesticide Management. All use of pesticides on or about the Premises shall be in compliance with the City of Berkeley's Pest/Pesticide Management Policy as it exists at the time of such use.

16.39 City Business License, Payment of Taxes, Tax I.D. Number. Tenant has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Tenant is exempt from the provisions of B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Tenant shall pay all state and federal income taxes and any other taxes due. Tenant certifies under penalty of perjury that the taxpayer identification number written below is correct.

16.40 Survival. The provisions of Sections 4.3 (Real Property Taxes), 4.4 Assessments, 5.5 (General Maintenance Standards), 5.8 (Governmental Requirements), 6.2 (Hazardous Materials), 7.1 (Alterations on Premises), 7.4 (Liens and Stop Notices), 10.2 (Indemnity), 16.7 (Surrender) and any other obligation of Tenant that, by its terms or nature, is to be performed after or is to survive expiration or termination of this Ground Lease, shall survive such expiration or termination.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Ground Lease to be executed on their behalf by their respective officers thereunto duly authorized as of the dates set forth below.

[Signature Page Follows]

TENANT:

200 MARINA BOULEVARD, BERKELEY, LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Its: _____

By: _____

Print Name: _____

Its: _____

Date: _____

LANDLORD:

CITY OF BERKELEY, a public body corporate
and politic

By: _____

Dee Williams-Ridley
City Manager

Date: _____

Approved as to form:

Farimah Brown, City Attorney

Registered by:

_____, City Auditor

Attest:

_____, City Clerk

TENANT INFORMATION

Tax Identification No. _____

Incorporated: Yes ____ No ____

Certified Woman Business Enterprise: Yes ____ No ____

Certified Minority Business Enterprise: Yes ____ No ____

Certified Disadvantaged Business Enterprise: Yes ____ No ____

City Business License No. _____, or
Exempt pursuant to B.M.C. Section ____

EXHIBIT A
SITE MAP

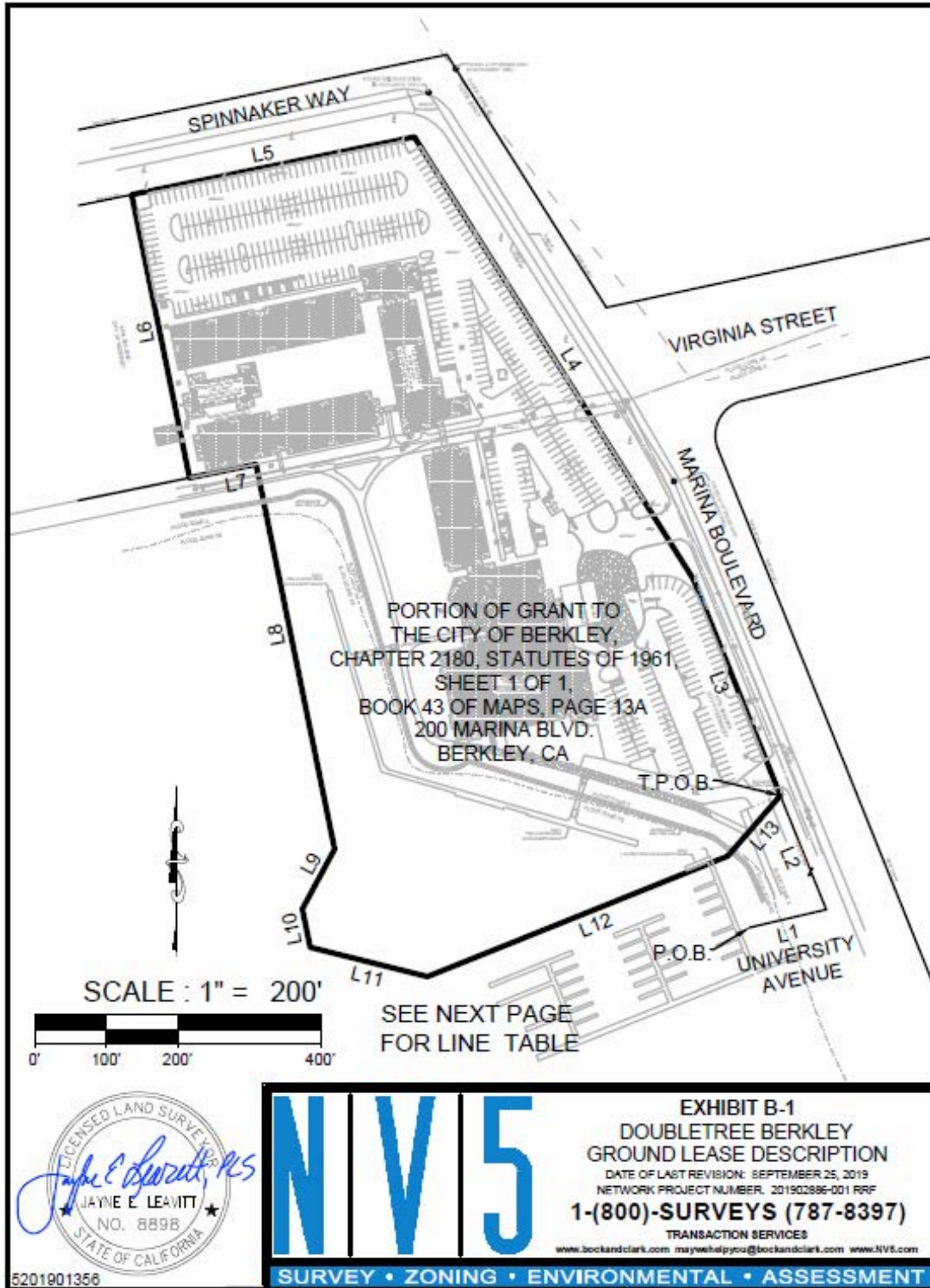


EXHIBIT B1

LEGAL DESCRIPTION OF PREMISES

That parcel of land in the City of Berkeley, County of Alameda, State of California, described as follows:

A PORTION OF THE GRANT TO THE CITY OF BERKELEY AS SAID GRANT IS SHOWN ON "MAP OF THE GRANT TO THE CITY OF BERKELEY, CHAPTER 2180, STATUTES OF 1961, VICINITY OF BERKELEY, ALAMEDA COUNTY, CALIFORNIA", SHEET 1 OF 1, APRIL 1962, AND RECORDED JULY 24, 1963, IN BOOK 43 OF MAPS, PAGE 13A, ALAMEDA COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF UNIVERSITY AVENUE, AS DESCRIBED IN THE DEED TO THE TOWN OF BERKELEY DATED SEPTEMBER 25, 1907, AND RECORDED SEPTEMBER 28, 1907, IN BOOK 1405 OF DEEDS, PAGE 165, ALAMEDA COUNTY RECORDS, WITH THE WESTERLY LINE OF LOT 5 IN SECTION 9 TOWNSHIP 1 SOUTH, RANGE 4 WEST M.D.B. & M. AS SAID LOT IS SHOWN ON "MAP NO. 4 OF SALT MARSH AND TIDE LANDS SITUATED IN THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA", CERTIFIED

COPIES OF WHICH ARE ON FILE WITH THE STATE LANDS DEPARTMENT OF THE STATE OF CALIFORNIA; THENCE NORTH 76° 47' 36" EAST, 110.00 FEET; THENCE NORTH 21° 53' 29" WEST, 1014.349 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 21° 53' 29" WEST, 327.13 FEET; THENCE NORTH 32° 12' 53" WEST, 731.938 FEET; THENCE SOUTH 78° 28' 12" WEST, 403.731 FEET; THENCE SOUTH 11° 31' 48" EAST, 405.00 FEET; THENCE NORTH 78° 28' 12" EAST, 95.007 FEET; THENCE SOUTH 11° 31' 48" EAST, 550.364 FEET; THENCE SOUTH 28° 22' 11" WEST, 95.301 FEET; THENCE SOUTH 11° 31' 48" EAST, 55.00 FEET; THENCE SOUTH 76° 01' 15" EAST, 169.303 FEET; THENCE NORTH 68° 06' 31" EAST, 452.668 FEET; THENCE NORTH 40° 58' 15" EAST, 112.37 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING ALL DEPOSITS OF MINERALS, INCLUDING OIL AND GAS, IN SAID LANDS AND TO THE STATE OF CALIFORNIA, OR PERSONS, AUTHORIZED BY THE STATE OF CALIFORNIA, THE RIGHT TO PROSPECT FOR, MINE, AND REMOVE SUCH DEPOSITS FROM SAID LANDS AS EXCEPTED AND RESERVED IN GRANTS OF SAID LANDS TO THE CITY OF BERKELEY BY STATUTES 1961, CHAPTER 2180 AND BY STATUTES 1962, FIRST EXTRA SESSION, CHAPTER 55.

EXCEPTING ALL BUILDINGS AND IMPROVEMENTS SITUATED THEREON.

CONTAINING AN AREA OF 600,263 SQUARE FEET (13.780 ACRES), MORE OR LESS.

EXHIBIT B2

LEGAL DESCRIPTION OF INITIAL PREMISES

That parcel of land in the City of Berkeley, County of Alameda, State of California, described as follows:

A portion of the Grant to the City of Berkeley as said Grant is shown on "Map of the Grant to the City of Berkeley," Chapter 2180, Statutes of 1961, Vicinity of Berkeley, Alameda County, California, Sheet 1 of 1, April 1962, and recorded July 24, 1963, in Book 43 of Maps, page 13A, Alameda County Records, being more particularly described as follows:

Beginning at the point of intersection of the northerly line of University Avenue, as described in the deed to the Town of Berkeley dated September 25, 1907 and recorded September 28, 1907, in Book 1405 of Deeds, page 165, Alameda County Records, with the westerly line of Lot 5 in Section 9 Township 1 South, Range 4 West M.D.B.&M. as said lot is shown on "Map No. 4 of Salt Marsh and Tide Lands situated in the County of Alameda, State of California," certified copies of which are on file with the State Lands Department of the State of California; thence N 76°47'36" E 110.000 feet; thence N 21°53'29" W 1341.479 feet to the true point of beginning; thence N 32°12'53" W 731.938 feet; thence S 78°28'12" W 403.731 feet; thence S 11°31'48" E 405.000 feet; thence N 78°28'12" E 120.007 feet; thence S 11°31'48" E 497.972 feet; thence S 76°01'15" E 399.390 feet; thence N 78°28'12" E 151.498 feet; thence N 21°53'29" W 396.672 feet; thence N 78°28'12" E 101.657 feet to the true point of beginning, containing 11.15 acres more or less.

[Tenant to confirm]

EXHIBIT C

STATE TIDELANDS GRANT

FORTIETH SESSION.

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showing the whole number of votes cast and the number cast in favor of exclusion and the number cast against exclusion; and if it shall appear from such canvass that a majority of votes cast is in favor of exclusion, the clerk or other officer performing the duties of the clerk of such legislative body shall make and certify, under the seal of such municipal corporation, and transmit to the secretary of state and to the board of supervisors of the county in which said city or town is located, a copy of said report so entered upon its minutes, together with a statement showing the date of said election and the time and result of said canvass, which document shall be filed by the secretary of state and the clerk of said board of supervisors. From and after the date of filing of said document in the office of the secretary of state, the exclusion of such territory so proposed to be excluded shall be deemed and shall be complete and thenceforth such excluded territory shall cease to be a part of such municipal corporation, for all intents and purposes; *provided*, that nothing contained in this act shall be held to relieve in any manner whatsoever any part of said territory from any liability for any debt contracted by such municipal corporation prior to such exclusion; and *provided, further*, that such municipal corporation is hereby authorized to levy and collect from any territory so excluded from time to time such sums of money as shall be found due from it on account of its just proportion of liability for any payment on the principal or interest of such debts.

Exclusion deemed complete.

SEC. 2. Nothing in this act shall alter or affect the boundaries of any senatorial or assembly district.

Legislative districts not affected.

SEC. 3. All proper expenses of proceedings for exclusion of uninhabited territory under this act, whether such exclusion shall be made and completed or not, shall be paid by the municipal corporation so excluding or attempting to exclude such territory.

Expenses.

CHAPTER 347.

An act granting to the city of Berkeley the salt marsh, tide and submerged lands of the State of California, including the right to wharf out therefrom to the city of Berkeley, and regulating the management, use and control thereof.

[Approved June 11, 1913. In effect August 10, 1913.]

The people of the State of California do enact as follows:

SECTION 1. There is hereby granted to the city of Berkeley, a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California, held by said state by virtue of its sovereignty, in and to all the salt marsh, tide and submerged lands, whether filled or unfilled, within the present boundaries of said city, and situated below the line of mean high tide of the Pacific

Tide lands granted to Berkeley.

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STATUTES OF CALIFORNIA.

ocean, or of any harbor, estuary, bay or inlet within said boundaries, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions following, to wit: That said lands shall be used by said city and its successors, solely for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual firm or corporation for any purpose whatever; *provided*, that said city, or its successors, may grant franchises thereon, for limited periods, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, for purposes consistent with the trusts upon which said lands are held by the State of California and with the requirements of commerce or navigation at said harbor, for a term not exceeding twenty-five years, and on such other terms and conditions as said city may determine, including a right to renew such lease or leases for a further term not exceeding twenty-five years or to terminate the same on such terms, reservations and conditions as may be stipulated in such lease or leases, and said lease or leases may be for any and all purposes which shall not interfere with navigation or commerce, with the reversion to the said city on the termination of such lease or leases of any and all improvements thereon, and on such other terms and conditions as the said city may determine, but for no purpose which will interfere with navigation or commerce; subject also to a reservation in all such leases or such wharfing out privileges of a street, or of such other reservation as the said city may determine for sewer outlets, and for gas and oil mains, and for hydrants, and for electric cables and wires, and for such other conduits for municipal purposes, and for such public and municipal purposes and uses as may be deemed necessary by the said city; *provided*, *however*, that each person, firm or corporation or their heirs, successors or assigns now in possession of land or lands abutting on said lands, within the boundaries of the city of Berkeley, shall have a right to obtain a lease for a term of twenty-five years from said city of said land and wharfing out privileges therefrom with a right of renewal for a further term of twenty-five years pursuant to the provisions of this act and on such terms and conditions as said city may determine and specify, subject to the right of said city to terminate said lease at the end of the first twenty-five years or refuse to renew the same, or to terminate the lease so renewed during the term of such renewed lease on such just and reasonable terms for compensation for improvements at the then value of said improvements as said city may determine and specify. Upon obtaining such lease and wharfing out privileges such

Conditions
of grant.Franchises
for
wharves,
etc.Persons in
possession
to have
first right.

person, firm or corporation, their heirs or assigns, shall quit-claim to said city any right they or any of them may claim or have to the said lands hereby granted. This grant shall carry the right to such city of the rents, issues and profits in any manner hereafter arising from the lands or wharfing out privileges hereby granted. The State of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the State of California. No discrimination in rates, tolls or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors in the management, conduct or operation of any of the utilities, structures or appliances mentioned in this section. There is hereby reserved in the people of the State of California the right to fish in the waters on which said lands may front with the right of convenient access to said waters over said lands for said purpose.

Right to use wharves reserved to state.

No discrimination in rates.

Right to fish reserved.

Sec. 2. The foregoing conveyance is made upon the condition that the city of Berkeley shall, within five years from the approval of this act, exclusive of such time as said city may be restrained from so doing by injunction issued out of any court of this state or of the United States, and exclusive of such further delay as may be caused by unavoidable misfortune or great public or municipal calamity, issue its bonds for harbor improvement purposes in an amount of money of not less than five hundred thousand dollars, and shall, within five years after the approval of this act, exclusive of the time in this section hereinbefore mentioned, commence the work of such harbor improvement, and the said work and improvement shall be prosecuted with such diligence that not less than five hundred thousand dollars shall be expended thereon within five years from the approval of this act exclusive of the time in this section hereinbefore mentioned. If said bonds be not issued or said work be not prosecuted and completed as and in the manner herein provided, then the lands by this act conveyed to the city of Berkeley shall revert to the State of California.

Must expend five hundred thousand dollars within five years.

Lands may revert to state.

CHAPTER 348.

An act granting to the city of Alameda the salt marsh, tide and submerged lands of the State of California, including the right to wharf out therefrom to the city of Alameda, and regulating the management, use and control thereof.

[Approved June 11, 1913. In effect August 10, 1913.]

The people of the State of California do enact as follows:

SECTION 1. There is hereby granted to the city of Alameda, a municipal corporation of the State of California, and

Tide lands granted to Alameda.

CHAPTER 55

An act to amend Section 1 of Chapter 347 of the Statutes of 1913, relating to a conveyance of tide and submerged lands to the City of Berkeley.

[Approved by Governor April 23, 1962. Filed with Secretary of State April 24, 1962.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of Chapter 347 of the Statutes of 1913 is amended to read:

Section 1. There is hereby granted to the City of Berkeley a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California, held by said State by virtue of its sovereignty in and to all salt marsh, tide and submerged lands, whether filled or unfilled, which are included within the present boundaries of the City of Berkeley, to be forever held by said city and by its successors in trust for the use and purposes, and upon the express conditions following, to wit:

(a) That said lands shall be used by said city and its successors for purposes in which there is a general statewide interest as follows:

(1) For the establishment, improvement and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of commerce and navigation.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair and maintenance of commercial and industrial buildings, plants and facilities, as may be specified by the city council, after public hearing.

(3) For the establishment, improvement and conduct of an airport and heliport or aviation facilities, including but not limited to approach, takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.

(4) For the construction, reconstruction, repair and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary or convenient for the promotion and accommodation of any of the uses set forth in this Section 1.

(5) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including but not limited to public golf courses, and for all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(6) For the establishment, improvement and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities, and for the construction, reconstruction, repair, maintenance and operation of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any of such uses, including but not limited to snack bars, cafes, restaurants, motels, launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas.

(b) Said city, or its successors shall not, at any time, grant, convey, give or alienate said lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that said city, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which said lands are held by the State of California, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from such leases, franchises and privileges. Such lease or leases, franchises and privileges may be for any and all purposes which shall not interfere with commerce and navigation. Nothing contained in this paragraph

(b) shall be deemed to affect the validity or term of any franchise granted by said city under the Franchise Act of 1937 or said city's charter, and any such franchise shall be effective with respect to said lands.

(c) Said lands shall be improved without expense to the State; provided, however, that nothing contained in this act shall preclude expenditures for the development of said lands for any public purpose not inconsistent with commerce, navigation and fishery, by the State, or any board, agency or commission thereof, when authorized or approved by the city, nor by the city of any funds received for such purpose from the State or any board, agency or commission thereof.

(d) In the management, conduct, operation and control of said lands or any improvements, betterments, or structures thereon, the city or its successors shall make no discrimination

in rates, tolls or charges for any use or service in connection therewith.

(e) The State of California shall have the right to use without charge any transportation, landing or storage improvements, betterments or structures constructed upon said lands for any vessel or other watercraft, aircraft, or railroad owned or operated by the State of California.

(f) There is hereby reserved to the people of the State of California the right to fish in the waters on said lands with the right of convenient access to said water over said lands for said purpose.

(g) There is hereby excepted and reserved in the State of California all deposits of minerals, including oil and gas, in said lands, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said lands.

(h) Said lands are granted subject to the express reservation and condition that the State may at any time in the future use said lands or any portion thereof for highway purposes without compensation to the city, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements, betterments or structures have been placed upon the property taken by the State for said purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements, betterments or structures taken or the damages to such interest.

(i) The State Lands Commission shall, at the cost of the city, survey and monument the granted lands and record a description and plat thereof in the office of the County Recorder of Alameda County.

(j) If the lands, or any part thereof, granted to the city by this act are not used for the additional purposes authorized by the amendments of this section made at the 1961 Regular Session and 1962 First Extraordinary Session of the Legislature within 10 years from the effective date of the respective amendments, or if such use is discontinued thereafter, the authorization to use said lands for such additional purposes shall automatically terminate and lapse.

CHAPTER 2180

An act to amend Section 1 of Chapter 347 of the Statutes of 1913, relating to a conveyance of tide and submerged lands to the City of Berkeley.

In effect
September
15 1961

[Approved by Governor July 20, 1961. Filed with
Secretary of State July 21, 1961.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of Chapter 347 of the Statutes of 1913 is amended to read:

Section 1. There is hereby granted to the City of Berkeley, a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California, held by said State by virtue of its sovereignty in and to all salt marsh, tide and submerged lands, whether filled or unfilled, which are included within the present boundaries of the City of Berkeley, to be forever held by said city and by its successors in trust for the use and purposes, and upon the express conditions following, to wit:

(a) That said lands shall be used by said city and its successors for purposes in which there is a general statewide interest as follows:

(1) For the establishment, improvement and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of commerce and navigation.

(2) For the establishment, improvement and conduct of an airport and heliport or aviation facilities, including but not limited to approach, takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.

(3) For the construction, reconstruction, repair and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary or convenient for the promotion and accommodation of any of the uses set forth in this Section 1.

(4) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including but not limited to public golf courses, and for all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(5) For the establishment, improvement and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities, and for the construction, reconstruction, repair, maintenance and operation of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any of such uses, including but not limited to snack bars, cafes, restaurants, motels, launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas.

(b) Said city, or its successors shall not, at any time, grant, convey, give or alienate said lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that said city, or its successors, may grant franchises thereon for limited periods, not exceeding 50 years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, not exceeding 50 years, for purposes consistent with the trusts upon which said lands are held by the State of California, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from such leases, franchises and privileges. Such lease or leases, franchises and privileges may be for any and all purposes which shall not interfere with commerce and navigation. Nothing contained in this paragraph (b) shall be deemed to affect the validity or term of any franchise granted by said city under the Franchise Act of 1937 or said city's charter, and any such franchise shall be effective with respect to said lands.

(c) Said lands shall be improved without expense to the State; provided, however, that nothing contained in this act shall preclude expenditures for the development of said lands

for any public purpose not inconsistent with commerce, navigation and fishery, by the State, or any board, agency or commission thereof, when authorized or approved by the city, nor by the city of any funds received for such purpose from the State or any board, agency or commission thereof.

(d) In the management, conduct, operation and control of said lands or any improvements, betterments, or structures thereon, the city or its successors shall make no discrimination in rates, tolls or charges for any use or service in connection therewith.

(e) The State of California shall have the right to use without charge any transportation, landing or storage improvements, betterments or structures constructed upon said lands for any vessel or other watercraft, aircraft, or railroad owned or operated by the State of California.

(f) There is hereby reserved to the people of the State of California the right to fish in the waters on said lands with the right of convenient access to said water over said lands for said purpose.

(g) There is hereby excepted and reserved in the State of California all deposits of minerals, including oil and gas, in said lands, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said lands.

(h) Said lands are granted subject to the express reservation and condition that the State may at any time in the future use said lands or any portion thereof for highway purposes without compensation to the city, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements, betterments or structures have been placed upon the property taken by the State for said purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements, betterments or structures taken or the damages to such interest.

(i) The State Lands Commission shall, at the cost of the city, survey and monument the granted lands and record a description and plat thereof in the office of the County Recorder of Alameda County.

(j) If the lands, or any part thereof, granted to the city by this act are not used for the additional purposes authorized by the amendment of this section made at the 1961 Regular Session of the Legislature within 10 years from the effective date of said amendment, or if such use is discontinued thereafter, the authorization to use said lands for such additional purposes shall automatically terminate and lapse.

EXHIBIT D

CITY RESERVED RIGHTS – DRIVEWAY DRIVE AISLE AREA

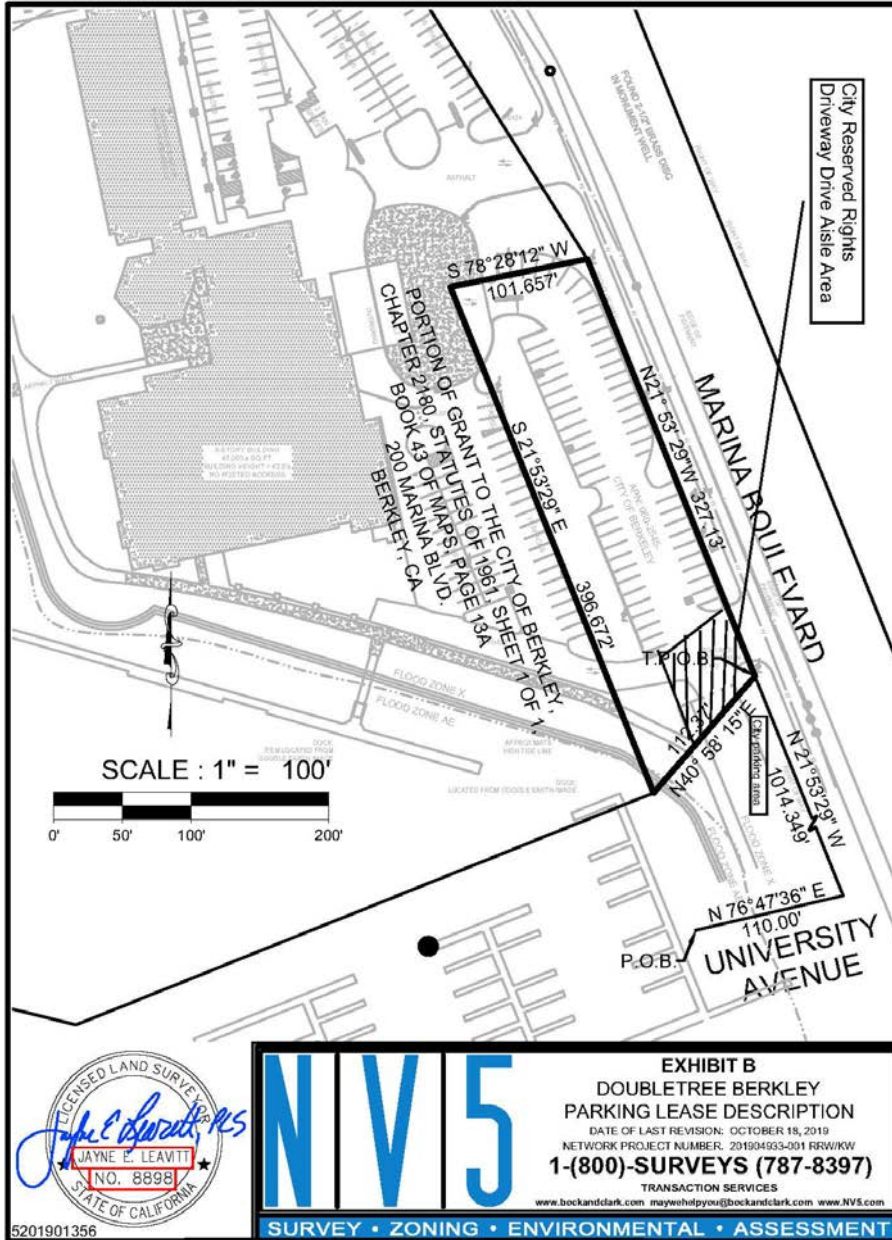


EXHIBIT E
CURRENT CONCESSIONAIRES

[Tenant to provide, if any]

EXHIBIT F

STR CHAIN SCALE -- NORTH AMERICA AND CARIBBEAN



STR Chain Scales - North America and Caribbean

Luxury	Park Hyatt	Hard Rock	Wyndham Grand	Hyatt Place
21c Museum Hotel	Prestige Hotels & Resorts	Hilton		Iberostar Hotels & Resorts
AKA	Regent	Hilton Grand Vacations	Upscale	Innside by Melia
Aman	Ritz-Carlton	Hotel Indigo	AC Hotels by Marriott	Jolly
Andaz	RockResorts	Hotel Nikko	Allegro	Larkspur Landing
Banyan Tree	Rosewood	Hyatt	aloft Hotel	Legacy Vacation Club
Belmond Hotels	Royalton	Hyatt Centric	Alt Hotel	Mantra
Capella	Secrets Resorts & Spas	Hyatt Regency	Apa Hotel	Melia
COMO	Shangri-La	Instinct Hotels	Ascend Collection	Miyako
Conrad	Sixty Hotels	Joie De Vivre	Aston Hotel	NH
Destination Hotels	Sofitel	Kimpton	Atton	Nova Hotels
Dorchester Collection	St Regis	Le Meridien	Be Live	Novotel
Doyle Collection	Taj	Live Aqua	Best Western Premier	NYLO Hotel
Dreams Resorts & Spas	The Peninsula	Magnolia	BW Premier Collection	Occidental
Edition	The Unbound Collection	Marriott	Cambria hotel & suites	Palladium Hotel
Elegant	Thompson Hotels	Marriott Conference Center	Canad Inn	Prince Hotel
Fairmont	Trump Hotel Collection	Memories	Citadines	Radisson
Firmdale	Valencia Group	Millennium	citizenM	Residence Inn
Four Seasons	Viceroy	New Otani	Club Med	RIU Hotel
Grand Bahia Principe	W Hotel	NH Collection	Coast Hotels Canada	Room Mate
Grand Hyatt	Waldorf Astoria	Omni	Coast Hotels USA	Sandals
Hyatt Zilara	Zoetry Wellness & Spa Resorts	Outrigger Resorts	Courtyard	Sandman Signature
Hyatt Ziva		Pan Pacific	Crowne Plaza	Sawridge
Iberostar Grand Collection	Upper Upscale	Pestana	Dazzler	Shell Vacations Club
InterContinental	Ace Hotel	Pullman	Decameron	Sonesta Hotel
JW Marriott	Affinia Hotel	Quinta Real	Disney Hotels	Springhill Suites
Kempinski	Alila	Radisson Blu	DoubleTree	Staybridge Suites
Langham	Autograph Collection	Radisson RED	duSTD2	Stoney Creek
Loews	Bridgestreet	Red Carnation	Eaton	SuperClubs
Lotte Hotel	Accommodations	Renaissance	element	Tapestry Collection
Luxury Bahia Principe	Camino Real	Royal Hideaway	Eurostars Hotel	Travel Inn
Luxury Collection	Canopy by Hilton	Sheraton Hotel	EVEN Hotels	Vacation Condos by
Mandarin Oriental	Club Quarters	Silver Cloud	Fiesta Americana	Outrigger
ME	Curio Collection	St. Giles Hotel	Four Points by Sheraton	Westmark
Mokara	Delta Hotel	Starhotels	Graduate Hotel	Wyndham
Montage	Dolce Hotels & Resorts	Sunscape Resorts & Spas	Grand America	Wyndham Vacation Resort
Nobu Hotels	Dream Hotels	Swissotel	Great Wolf Lodge	
NOW Resorts & Spas	Embassy Suites	Time Hotels	H10	
One & Only	Fireside Inn & Suites	Tribute Portfolio	Hampshire	Upper Midscale
Palace Resort	Gaylord	Warwick Hotel	Hilton Garden Inn	Aqua Hotels & Resorts
Paradisus		Westin	Homewood Suites	Ayres
			Hotel RL	Barcelo
			Hyatt House	

Brands/Chains are slotted by Chain Scale based on the previous year's annual system wide (global) Average Daily Rate and other factors. Rate ranges defining each Chain Scale are determined by STR. If you have questions about the Chain Scales, please email support@str.com (North America) or hotelinfo@str.com (Outside North America). Copyright 2018. STR, Inc. and STR Global, Ltd. trading as STR. Publishing or reproducing this information is strictly prohibited. Last updated 10 February 2018.



STR Chain Scales - North America and Caribbean

Upper Midscale cont.	Quality	Loyalty Inn	Great Western
Best Western Plus	Real Inn	Maeva	GreenTree Inn
Boarders Inn & Suites	Red Lion Hotel	MainStay Suites	Home Inn
Boulders Inn & Suites	Rodd Hotel	Oak Tree Inn	Home-Towne Suites
Canalta Hotels	Shilo Inn	Palace Inn	Hoteles Serena
Centerstone Hotels	Sonesta ES Suites	Quality Inn	Howard Johnson
Chase Suites	TownePlace Suites	Ramada	InTown Suites
City Express	Trademark Hotel	Real de Minas	Jameson Inn
City Express Plus	Collection	Red Lion Inn & Suites	Key West Inn
Clarion	Tryp by Wyndham	Rode Inn	Knights Inn
Cobblestone	Van der Valk	Sandman	Lite Hotels
Comfort Inn	Wyndham Garden Hotel	Settle Inn	Master Hosts Inns
Comfort Suites	Yotel	Sleep Inn	Masters Inn
Country Inn & Suites		Sol	Microtel Inn & Suites
DoubleTree Club	Midscale	SureStay Plus	by Wyndham
Drury Inn	3 Palms	SureStay Signature	Motel 6
Drury Inn & Suites	A Victory	Collection	National 9
Drury Plaza Hotel	AmericInn	Tru by Hilton	One Hoteles
Drury Suites	Aristos Hotel	Uptown Suites	Passport Inn
Exe Hotel	Baymont	Vagabond Inn	Pear Tree Inn
Fairfield Inn	Best Western	Vista	Red Carpet Inn
GrandStay Hotels	BlueBay	Wingate by Wyndham	Red Roof Inn
Hampton	Cabot Lodge		Rodeway Inn
Hampton	Canadas Best Value Inn	Economy	Savannah Suites
Holiday Inn	Candlewood Suites	Affordable Suites of	Scottish Inn
Holiday Inn Express	Catalonia	America	Select Inn
Holiday Inn Select	City Express Suites	America's Best Inn	Studio 6
Home2 Suites	ClubHouse	Americas Best Value Inn	Suburban Extended Stay
Hotel Des Gouverneurs	Crystal Inn	AmeriVu Inn & Suites	Sundowner
IFA	Delfin Hotel	Budget Host	Toyoko Inn
Inns North	FairBridge Inn	Budget Suites of	Tune Hotel
Isle of Capri	Fiesta	Budgetel	Vienna 3hao
Lexington	Fiesta Inn	City Express Junior	Z
Marna Shelter	Gamma by Fiesta inn	Country Hearth Inn	Zest Hotel
Mercure	GuestHouse Inn	Crossland Economy	Zleep
Monte Carlo Inn	Hawthorn Suites by	Studios	
MOXY	Wyndham	Days Inn	
My Place	Hoteles Vista	Downtowner Inn	
OHANA	ibis	Econo Lodge	
Oxford Suites	ibis Styles	Extended Stay America	
Park Inn	InnSuites Hotel	E-Z 8	
Phoenix Inn	La Quinta Inns & Suites	Family Inn	
Princess	Lakeview	Good Nite Inn	

Brands/Chains are slotted by Chain Scale based on the previous year's annual system wide (global) Average Daily Rate and other factors. Rate ranges defining each Chain Scale are determined by STR. If you have questions about the Chain Scales, please email support@str.com (North America) or hotelinfo@str.com (Outside North America). Copyright 2018. STR, Inc. and STR Global, Ltd. trading as STR. Publishing or reproducing this information is strictly prohibited. Last updated 10 February 2018.

EXHIBIT G
MEMORANDUM OF GROUND LEASE

[Form attached]

Recording Requested By
And When Recorded Mail To:

City of Berkeley
2180 Milvia Street, 4th Floor
Berkeley, CA 94704

Attn: City Clerk

(Space Above This Line for Recorder's Use Only)
[Exempt from recording fee per Gov. Code § 27383]

MEMORANDUM OF GROUND LEASE

CITY OF BERKELEY, a public body corporate and politic, as Landlord, has leased to 200 MARINA BOULEVARD, BERKELEY, LLC, a Delaware limited liability company, as Tenant, the real property described in Exhibit A attached hereto and incorporated herein by this reference (the “Premises”).

1. Landlord previously leased to Tenant the Premises upon the terms, covenants, conditions, limitations and restrictions contained in that certain unrecorded as of January 18, 2008 (the “**2008 Ground Lease**”) between Landlord, as lessor and Boykin Berkeley, LLC, a Delaware limited liability company, as lessee (“**Boykin Berkeley**”). Notice of the 2008 Ground Lease is provided by that certain Memorandum of Lease dated January 10, 2008 and recorded on January 24, 2008 as instrument number 2008017660 with the Alameda County Recorder’s Office (“**2008 Ground Lease Memorandum**”). The 2008 Ground Lease granted to Boykin Berkeley the right to use and occupy the Premises until December 31, 2058.

2. Pursuant to that certain Assignment and Assumption of Ground Lease effective April 18, 2011 and recorded on April 20, 2011 as instrument number 2011115637 with the Alameda County Recorder’s Office, Boykin Berkeley assigned to Westpost Berkeley LLC (“**Westpost**”), and Westpost assumed from Boykin Berkeley, LLC, all of Boykin Berkeley, LLC’s right, title and interest in the 2008 Ground Lease.

3. Pursuant to that certain Assignment and Assumption of Ground Lease dated February 6, 2014 and recorded on February 10, 2014 as instrument number 2014046461 with the Alameda County Recorder’s Office, **[and that certain Consent of City, dated January 30, 2014 and recorded on February 10, 2014 as instrument number 2014046460 with the Alameda County Recorder’s Office (“2008 Consent”)]**, Westpost assigned to Tenant, and Tenant assumed from Westpost, all of Westpost Berkeley’s right, title and interest in the 2008 Ground Lease and the Premises.

4. Landlord and Tenant have now entered into that certain unrecorded Ground Lease dated as of _____, 2019 (the “**Ground Lease**”), pursuant to which Landlord continues to lease the Premises to Tenant. The Ground Lease constitutes a renewal of the 2008 Ground Lease and an extension of the term of the 2008 Ground Lease and grants to Tenant the right to continue to use and occupy the Premises until December 31, 2080. There is no option to extend the term of the Ground Lease.

5. This Memorandum of Ground Lease supersedes and replaces the 2008 Ground Lease Memorandum, as assigned; and this Memorandum of Ground Lease shall provide record

notice of the existence of the Ground Lease with respect to the Premises and of Tenant's rights with respect thereto.

TENANT:

200 MARINA BOULEVARD, BERKELEY, LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Its: _____

By: _____

Print Name: _____

Its: _____

Date: _____

LANDLORD:

CITY OF BERKELEY, a public body corporate
and politic

By: _____

Dee Williams-Ridley
City Manager

Date: _____

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

STATE OF CALIFORNIA)
) SS.
COUNTY OF _____)

On _____ before me, _____,
Notary Public, personally appeared
_____, who proved
to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

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

STATE OF CALIFORNIA)
) SS.
COUNTY OF _____)

On _____ before me, _____,
Notary Public, personally appeared
_____, who proved
to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

That parcel of land in the City of Berkeley, County of Alameda, State of California, described as follows:

A portion of the Grant to the City of Berkeley as said Grant is shown of "Map of the Grant to the City of Berkeley," Chapter 2180, Statutes of 1961, Vicinity of Berkeley, Alameda County, California, Sheet 1 of 1, April 1962, and recorded July 24, 1963, in Book 43 of Maps, page 13A, Alameda County Records, being more particularly described as follows:

Beginning at the point of intersection of the northerly line of University Avenue, as described in the deed to the Town of Berkeley dated September 25, 1907 and recorded September 28, 1907, in the Book 1405 of Deeds, page 165, Alameda County Records, with the westerly line of Lot 5 in Section 9 Township 1 South, Range 4 West M.D.B.&M. as said lot is shown on "Map No. 4 of Salt Marsh and Tide Lands situated in the County of Alameda, State of California," certified copies of which are on file with the State Lands Department of the State of California; thence N 76°47'36" E 110.000 feet; thence N 21°53'29" W 1341.479 feet to the true point of beginning; thence N 32°12'53" W 731.938 feet; thence S 78°28'12" W 403.731 Feet; thence S 11°31'48" E 405.000 feet; thence N 78°28'12" E 95.007 feet; thence S 11°31'48" E 550.364 feet; thence S 28°22'11" W 95.301 feet; thence S 11°31'48" E 55.000 feet; thence S 76°01'15" E 169.303 feet; thence N 68°06'31" E 452.668 feet; thence N 21°53'29" W 396.672 feet; thence N 78°28'12" E 101.657 feet to the true point of beginning, containing 12.949 acres more or less.

EXHIBIT H

EXISTING GROUND LEASEHOLD MORTGAGE

[Tenant to confirm and complete, including (as applicable):]

- That certain _____ Note in the original principal amount of \$_____ from 200 Marina Boulevard, Berkeley, LLC, a Delaware limited liability company, to Cantor Commercial Real Estate Lending, L.P., Delaware limited partnership, dated _____, 2017.
- That certain ***[Deed of Trust, Assignment of Leases and UCC Financing Statement]***, executed by 200 Marina Boulevard, Berkeley, LLC, a Delaware limited liability company as trustor in favor of _____ as trustee and Cantor Commercial Real Estate Lending, L.P., Delaware limited partnership as beneficiary, dated _____, 2017 and recorded on August 10, 2017 as instrument number 2017174794 with the Alameda County Recorder's Office, as assigned to UBS AG, a _____ pursuant to that certain ***[Assignment of Deed of Trust]***, dated _____, 2017 and recorded on October 31, 2017 as instrument number 2017240211 with the Alameda County Recorder's Office, as further assigned to ***[Wilmington Trust as trustee]***, a _____ pursuant to that certain ***[Assignment of Deed of Trust]***, dated _____, 2017 and recorded on November 27, 2017 as instrument number 2017259912 with the Alameda County Recorder's Office.
- That certain ***[Assignment of Leases]***, executed by 200 Marina Boulevard, Berkeley, LLC, a Delaware limited liability company as ***[grantor]*** in favor of Cantor Commercial Real Estate Lending, L.P., Delaware limited partnership as ***[grantee]***, dated _____, 2017 and recorded on August 10, 2017 as instrument number 2017174795 with the Alameda County Recorder's Office.
- That certain ***[UCC-1 Financing Statement]*** identifying 200 Marina Boulevard, Berkeley, LLC, a Delaware limited liability company as ***[debtor]*** and Cantor Commercial Real Estate Lending, L.P., Delaware limited partnership as ***[secured party]***, recorded on August 10, 2017 as instrument number 2017174796 with the Alameda County Recorder's Office, as assigned to UBS AG, a _____ pursuant to that certain ***[UCC Amendment]***, dated _____, 2017 and recorded on October 31, 2017 as instrument number 2017240213 with the Alameda County Recorder's Office.

EXHIBIT I

MAINTENANCE STANDARDS

Maintenance Standards include, at a minimum, the following:

A. Maintain the surface of all pedestrian areas level, smooth and evenly covered with the type of surfacing material originally installed thereon or such substitute therefor as shall be in all respects substantially comparable thereto or better in quality, appearance and durability;

B. Remove all papers, debris, filth and refuse, and sweep, wash down and/or clean all hard surfaces, including brick, metal, concrete, glass, wood and other permanent poles, walls or structural members as required;

C. Maintain such appropriate entrance, exit and directional signs, markers and lights as reasonably required, but at least to the extent customarily maintained by comparable major first-class Hotel Facilities;

D. Clean lighting fixtures and relamp and/or reballast as needed;

E. Repaint exterior of the Improvements as frequently and to at least the condition customarily maintained by comparable major first-class Hotel Facilities;

F. Maintain signs, including relamping and/or reballasting and/or repairing as required;

G. Maintain and keep in a first-class condition and repair all benches, shelters, planters, banners, furniture, trash containers, sculptures and other such exterior fixtures to at least the condition customarily maintained by comparable major first-class Hotel Facilities;

H. Maintain and keep in a sanitary condition public restrooms and other common use facilities;

I. Clean, repair and maintain all common utility systems;

J. Maintain all fountains, water courses and associated structures, drinking fountains, pumps and associated plumbing;

K. Provide adequate security lighting in all areas during periods of unrestricted public access, and maintain all security and decorative light fixtures and associated wiring systems;

L. Maintain all surface and storm lateral drainage systems;

M. Maintain all sanitary sewer lateral connections;

N. Promptly remove any graffiti on or about the Premises or Improvements;

O. Perform landscape maintenance including watering/irrigation, fertilization, pruning, trimming, shaping, and replacement, as needed, of all trees, shrubs, grass, and other

plants or plant materials, weeding of all plants, planters and other planted areas, staking for support of plants as necessary, and clearance, cleaning and proper disposal of all cuttings, weeds, leaves and other debris, all to at least the condition customarily performed by major first-class Hotel Facilities; and

- P. Perform other maintenance as required by Law or the Ground Lease.

CAPITAL CONTRIBUTION AGREEMENT

(Marina Streets Work)

[Parties to discuss recording this Agreement]

THIS CAPITAL CONTRIBUTION AGREEMENT (this “**Agreement**”) is dated _____, 20____, but effective on the “**Effective Date**” (as defined below), by and between the CITY OF BERKELEY, a public body corporate and politic (“**City**”), and 200 MARINA BOULEVARD, BERKELEY, LLC, a Delaware limited liability company (“**200 Marina**”).

RECITALS

A. Prior to the Effective Date, City, as Landlord, and 200 Marina, as Tenant (and successor to Boykin Berkeley, LLC), were parties to a Ground Lease, dated January 18, 2008 (“**2008 Ground Lease**”), for an approximately 12.949 acre parcel of land commonly known and referred to as 200 Marina Boulevard on the Berkeley Marina, Berkeley, California (“**Premises**”). The stated expiration date under the 2008 Ground Lease was December 31, 2058.

B. Effective as of the Effective Date, City, as Landlord, and 200 Marina, as Tenant are replacing the 2008 Ground Lease with that certain Ground Lease, dated on or about the date hereof (“**Ground Lease**”). The stated expiration date under the Ground Lease is December 31, 2080.

C. As additional consideration for the City’s agreement, as Landlord, to enter into the Ground Lease which extends the term of the 2008 Ground Lease, 200 Marina, the Tenant, is agreeing to make the \$3,000,000.00 capital improvement contribution required by this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, stipulated and agreed, City and 200 Marina hereby agree as follows:

1. Recitals and Exhibits; Capitalized Terms. The foregoing recitals and Exhibits attached hereto, and the defined terms therein, are incorporated by reference into this Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Ground Lease.

2. Effectiveness of Agreement. This Agreement shall be effective on the date the Ground Lease is effective (“**Effective Date**”).

3. Payment of Capital Improvement Contribution. On or before three (3) business following the Effective Date, 200 Marina shall pay the City Three Million and no/100th Dollars (\$3,000,000.00) (“**Capital Improvement Contribution**”) as consideration for City’s agreement to enter into the Ground Lease which extends the term of the 2008 Ground Lease.

4. City Use of Capital Improvement Contribution.

(a) The City will use the Capital Improvement Contribution only for the Marina Streets Work (as defined below), and not for other municipal purposes. The City will diligently continue the Marina Streets Work consistent with this Agreement, and the (i) work scope, (ii) development budget, (iii) sources and uses schedule, (iv) and milestone dates, set forth on Exhibit 1 hereto. The City shall: (x) report to 200 Marina monthly on the project progress; (y) notify 200 Marina of any milestone delay of three months or longer and the plans to get back on schedule; and (z) use diligent efforts to identify and source additional financial resources to bridge budget cost overruns. 200 Marina acknowledges that both the specifics and timing of the Marina Streets Work are subject to budget approvals by the City's City Council and changes to accommodate changed circumstances over time, and therefore the City cannot assure 200 Marina of either the specific components of the Marina Streets Work or the timing thereof.

(b) **“Marina Streets Work”** means the planned improvement work on and around University Avenue, Marina Boulevard and Spinnaker Way at the Berkeley Marina, as described in Exhibit 1 hereto and subject to Subsection 4(a) above.

5. Marina Development and Commercial Leasing Opportunities. During the Ground Lease Term, the City will notify 200 Marina of planned major development and commercial leasing opportunities at the Berkeley Marina, particularly along Spinnaker Way or Marina Boulevard. Nothing herein will require the City to grant any preferences to 200 Marina in any such matters.

6. Entire Agreement. This Agreement (and the Ground Lease) sets forth the entire understanding of the parties with respect to the subject matter hereof. There are no agreements between City and 200 Marina relating to this Agreement other than those set forth in writing and signed by the parties. Neither party hereto has relied upon any understanding, representation or warranty not set forth herein, either oral or written, as an inducement to enter into this Agreement.

7. Miscellaneous.

(a) Successors and Assigns. Except pursuant to an assignment described in Section 13.1B of the Ground Lease, 200 Marina shall not assign, sublet or otherwise transfer, whether voluntarily or involuntarily or by operation of Law, this Agreement without the City's, which shall not unreasonably be withheld, conditioned or delayed. The provisions contained herein shall bind and inure to the benefit of the heirs, representatives, and permitted successors and assigns of the parties hereto.

(b) Force Majeure. Ground Lease Section **[16.4]** is incorporated herein into this Agreement by this reference.

(c) Notices. Any notice to be given or other document to be delivered by either party to the other hereunder shall be in writing and shall be deemed to have been duly given and received if done so as provided in the Ground Lease.

(d) Disclaimer of Partnership. The relationship of the parties hereto is that of payor and municipality, and it is expressly understood and agreed that the City does not in any way nor for any purpose become a partner of 200 Marina or a joint venturer with 200 Marina in any improvements or in the performance of the Marina Street Improvements or otherwise.

(e) Interpretation. The titles to the sections of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of this

Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly by both parties.

(f) Severability. If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

(g) Legal Advice. Each party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

(h) Nonliability of the City's Officials and Employees. No officer, elected official, employee or representative of the City shall be personally liable to 200 Marina, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to 200 Marina or its successors, or on any obligations under the terms of this Agreement. 200 Marina hereby waives and releases any claim it may have against the members, officials or employees of the City with respect to any default or breach by the City or for any amount which may become due to 200 Marina or its successors, or on any obligations under the terms of this Agreement.

(i) Applicable Laws. The laws of the State of California, including all statutes of limitations but without regard to conflict of laws principles, shall govern the interpretation and enforcement of this Agreement.

IN WITNESS WHEREOF, the City and 200 Marina have caused this Agreement to be executed on their behalf by their respective officers thereunto duly authorized as of the dates set forth below.

[Signature Page Follows]

10-22-2019

200 MARINA:

200 MARINA BOULEVARD, BERKELEY, LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Its: _____

By: _____

Print Name: _____

Its: _____

Date: _____

CITY:

CITY OF BERKELEY, a public body corporate
and politic

By: _____

Dee Williams-Ridley
City Manager

Date: _____

Approved as to form:

Farimah Brown, City Attorney

Registered by:

_____, City Auditor

Attest:

_____, City Clerk

EXHIBIT 1

MARINA STREETS WORK

This project report will be updated monthly and posted to the City's website at <https://www.cityofberkeley.info/MeasureT1Updates.aspx>.

ORDINANCE NO. 7,696-N.S.

AMENDMENT TO MODIFY BERKELEY MUNICIPAL CODE SECTIONS 23D.16.030, 23D.20.030, 23D.24.030, 23D.28.030, 23D.32.030, 23D.36.030, 23D.40.030, 23D.44.030, 23D.48.030, 23D.52.030, 23E.36.030, 23E.40.030, 23E.44.030, 23E.48.030, 23E.52.030, 23E.56.030, 23E.60.030, 23E.68.030, 23E.80.040, 23E.80.090, 23E.84.040, 23E.84.090.H, AND 23F.04.010 TO MODIFY DEFINITION AND PERMITTING REGULATIONS FOR FAMILY DAYCARE HOMES IN ALL RESIDENTIAL AND NON-RESIDENTIAL DISTRICTS.

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

Section 1. That the "Accessory Uses and Structures" section of Table 23D.16.030 in Chapter 23D.16 Section 23D.16.030 of the Berkeley Municipal Code is amended to read as follows:

Table 23D.16.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22

Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceed six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 2. That the “Accessory Uses and Structures” section of Table 23D.20.030 in Chapter 23D.20 Section 23D.20.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.20.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required yards
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 3. That the "Accessory Uses and Structures" section of Table 23D.24.030 in Chapter 23D.24 Section 23D.24.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.24.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures		
Under 100 sq. ft.	ZC	Must satisfy the requirements of Chapter 23D.08
100 or more sq. ft.	UP(PH)	If has either habitable space and/or exceeds the requirements of Chapter 23D.08
Located on a vacant lot without a Main Building	UP(PH)	
Accessory Dwelling Units	Prohibited	
Child Care: Family Daycare Homes (Small or Large)	ZC	
Fences		
Four ft. or less in height	ZC	
Exceeding four ft. in height	AUP	Subject to Fire Department review and comment
Home Occupations		
Low Impact	AUP	If the requirements of Section 23C.16.020 are met
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030, except that no non-resident employees or customer visits are allowed in ES- R District
Hot Tubs, Jacuzzis, Spas or Swimming Pools	UP(PH)	See Section 23D.08.060.C
Rental of Rooms	UP(PH)	Not to exceed four persons. Occupancy of a single dwelling unit by a single household as defined in Sub-title 23F is permitted
Stables for Horses	AUP	

Section 4. That the “Accessory Uses and Structures” section of Table 23D.28.030 in Chapter 23D.28 Section 23D.28.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.28.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 5. That the “Accessory Uses and Structures” section of Table 23D.32.030 in Chapter 23D.32 Section 23D.32.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.32.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 6. That the “Accessory Uses and Structures” section of Table 23D.36.030 in Chapter 23D.36 Section 23D.36.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.36.030</i>

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 7. That the "Accessory Uses and Structures" section of Table 23D.40.030 in Chapter 23D.40 Section 23D.40.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.40.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060.
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making of applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Section 8. That the “Accessory Uses and Structures” section of Table 23D.44.030 in Chapter 23D.44 Section 23D.44.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.44.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care, Family Daycare Home (Small or Large)		
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Section 9. That the “Accessory Uses and Structures” section of Table 23D.48.030 in Chapter 23D.48 Section 23D.48.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.48.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care, Family Daycare Home (Small or Large)	ZC	
Fences		
Six ft. or less in height	ZC	In required setbacks
Exceeding six ft. in height	AUP	
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	Prohibited	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the

		street
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Section 10. That the “Accessory Uses and Structures” section of Table 23D.52.030 in Chapter 23D.52 Section 23D.52.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.52.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		In required setbacks
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	
Home Occupations		If the requirements of Section 23C.16.020 are met
Low Impact	ZC	
Moderate Impact, teaching-related	AUP	
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	Prohibited	

Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street
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Section 11. That the “Uses Permitted in Residential Districts” section of Table 23E.36.030 in Chapter 23E.36 Section 23E.36.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23E.36.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.36.070.E. Residential-only projects are prohibited within the University Avenue Node Overlay areas, and permitted within University Avenue Overlay Mixed Use areas
Group Living Accommodations subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.36.070.E
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	

Senior Congregate Housing Six or fewer people Seven or more persons New Construction	ZC AUP UP(PH)	Changes of use from an existing dwelling unit
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Section 12. That the “Uses Permitted in Residential Districts” section of Table 23E.40.030 in Chapter 23E.40 Section 23E.40.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23E.40.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agricultures	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.40.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.40.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.40.080.B
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.40.080.B
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer persons	ZC	Changes of use from an existing dwelling unit

Seven or more persons	AUP	
New Construction	UP(PH)	

Section 13. That the “Uses Permitted in Residential Districts” section of Table 23E.44.030 in Chapter 23E.44 Section 23E.44.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23E.44.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.44.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.44.070.F
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements under Section 23E.44.080
Nursing Homes	UP(PH)	Subject to parking requirements under Section 23E.44.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Changes of use from an existing dwelling unit

Section 14. That the “Uses Permitted in Residential Districts” section of Table 23E.48.030 in Chapter 23E.48 Section 23E.48.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23E.48.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	Prohibited	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.48.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.48.070.F
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.48.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.48.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Change of use from an existing dwelling unit

Section 15. That the “Uses Permitted in Residential Districts” section of Table 23E.52.030 in Chapter 23E.52 Section 23E.52.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23E.52.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.52.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.52.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	

Senior Congregate Housing Six or fewer people Seven or more people New construction	ZC AUP UP(PH)	Change of use from an existing dwelling unit
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Section 16. That the “Uses Permitted in Residential Districts” section of Table 23E.56.030 in Chapter 23E.56 Section 23E.56.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23E.56.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.56.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.56.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	
Nursing Homes	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 17. That the “Uses Permitted in Residential Districts” section of Table 23E.60.030 in Chapter 23E.60 Section 23E.60.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23E.60.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	Prohibited	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.60.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.60.070.F
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Change of use from an existing dwelling unit

Section 18. That the “Residential and Related Uses” section of Table 23E.64.030 in Chapter 23E.64 Section 23E.64.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23E.64.030</i>		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Residential and Related Uses		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Additions, Major Residential	AUP	See definition in Sub-title 23F. Subject to required finding under Section 23E.64.090.G
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Care Facilities/Homes	ZC	
Community Centers	UP(PH)	
Dwelling Units	UP(PH)	Subject to Development Standards under Section 23E.64.070
Group Living Accommodations	UP(PH)	Subject to Development Standards under Section 23E.64.070
Home Occupations Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F

Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.070.C
Hotels, Residential, including Single Room Occupancy (SRO)	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Nursing Homes	UP(PH)	
Parks and Playgrounds	AUP	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	AUP	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Changes of use from an existing dwelling unit
All other Residential Accessory Structures and Uses not listed	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060

Section 19. That the “Uses Permitted in Residential Districts” section of Table 23E.68.030 in Chapter 23E.68 Section 23E.68.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23E.68.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	As per R-5 District	See Table 23D.44.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	AUP	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, including multifamily developments	UP(PH)	Subject to the standards under Section 23E.68.060.F
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.68.060.F
Hospitals	UP(PH)	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	Subject to Section 23E.68.060.F
Libraries	UP(PH)	
Nursing Homes	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use of an existing dwelling unit
Six or fewer people	ZC	

Seven or more persons New Construction	AUP UP(PH)	Subject to Section 23E.68.070
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Section 20. That the “Residential and Related Uses” section of Table 23E.80.030 in Chapter 23E.80 Section 23E.80.030 of the Berkeley Municipal Code is amended to read as follows:

Table 23E.80.030				
Use and Required Permits				
Uses	Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.)			Special Requirements (if any)
	Under 20,000	20,000 – 30,000	More than 30,000	
Residential and Related Uses				
Child Care Centers	UP(PH)			Subject to the findings in Section 23E.80.090.I
Child Care; Family Daycare Home (Small or Large)	ZC			
Clubs, Lodges, Union Halls and similar uses for persons working in the district	UP(PH)			
Dwelling Units	Prohibited			
Group Living Accommodations	Prohibited			
Major Residential Additions	Prohibited			
Public Safety and Emergency Services	UP(PH)			
Religious Assembly Uses	Prohibited			
Schools	Prohibited			
Public or Private (other than vocational)	Prohibited			
Vocational	ZC	AUP	UP(PH)	Must provide training for occupations and/or industries found in the West Berkeley Plan area
Shelters for Homeless Persons	Prohibited			Existing shelter shall not be considered a non-conforming use and may add floor area with a UP(PH)
Utility Substations, Buildings and Tanks	UP(PH)			
All Other uses permitted in residential districts	Prohibited			
Accessory Buildings and Structures with Urban Agriculture	ZC			Subject to 23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060

Section 21. That the “Residential and Related Uses” section of Table 23E.84.030 in Chapter 23E.84 Section 23E.84.030 of the Berkeley Municipal Code is amended to read as follows:

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Residential and Related Uses		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Additions, Major Residential	AUP	See Definition in Sub-title 23F. Subject to finding required under 23E.84.090.L; see limitations on location in Section 23E.84.060.G
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	Subject to the findings in Section 23E.84.090.H
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Care Facilities/Homes (Changes of Use)	ZC	Subject to parking requirements; see Section 23E.84.080.B
Community Centers	UP(PH)	
Dwelling Units		See limitation on location in Section 23E.84.060.G. Subject to development standards of Section 23E.84.070 and parking requirements in Section 23E.84.080.B
1 – 4 Units	AUP	

5+ Units	UP(PH)	
Group Living Accommodations, subject to R-3 District Standards	UP(PH)	See limitations on location in Section 23E.84.060.G
Home Occupations		
Low Impact	ZC	Subject to requirements under Section 23C.16.020
Moderate Impact, teaching-related	AUP	Subject to requirements under Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to requirements under Section 23C.16.030.B
Hospitals	Prohibited	
Hotels, Residential	Prohibited	
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Libraries	UP(PH)	Subject to additional parking requirements; see Section 23E.84.080.B
Nursing Homes	UP(PH)	Subject to additional parking requirements; see Section 23E.84.080.B
Parks, Playgrounds, and outdoor recreation facilities	UP(PH)	If the park, playground, or outdoor recreation facility is likely to be used by children, subject to the finding under 23E.84.090.H
Public Safety and Emergency Services	UP(PH)	
Public Utilities Substations, Buildings, Tanks	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private and Other Educational Institutions	UP(PH)	Subject to the findings in Section 23E.84.090.H
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Changes of use from an existing dwelling unit

Accessory Buildings and Structures with Urban Agriculture	ZC	Subject to 23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
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Section 22. That Berkeley Municipal Code Section 23E.80.040.A is amended to read as follows:

23E.80.040 Special Provisions: Protected Uses

A. The following uses which were lawfully in place as of July 6, 1989 are Protected Uses where the affected space is used exclusively for a Protected Use or the Protected Use is combined with residential use in the form of a Live/Work Unit. Protected Uses are divided into two categories, as follows:

Category 1	Art/Craft Studio
Category 2	Art Galleries, ancillary to Art/Craft Studios and when located in the same building Child Care Facility Family Daycare Home Fine arts performance, instruction and rehearsal studios (dance, music, theater) Theaters, Stage Performance, but excluding Motion Picture Theaters

Section 23. That Berkeley Municipal Code Section 23E.80.090.I is amended to read as follows:

23E.80.090 Findings

I. In order to approve a Permit for the establishment or expansion of a child care center, or recreational or educational facility to be used by children, the Zoning Officer or Board must make all of the following findings:

1. Development of the school, child care center, or recreational facility to be used by children is not, in the particular circumstances of the project, incompatible with adjacent and nearby uses, including industrial uses;
2. An appropriate risk analysis or risk assessment, as defined by the City, has been made and has shown that there is not significant risk to children in the use from other activities near the site;
3. The applicants have made adequate provisions to ensure that all parents of students or children in the school, child care center, or recreational facility to be

used by children will be notified in writing (on a form approved by the City) that the school is in the West Berkeley Plan MU-LI District, and that light manufacturing is a permitted activity in the District and that Primary Production Manufacturing or Construction Products Manufacturing may be permitted uses in adjacent districts, including a requirement that each parent will indicate that they have read and understood this information by means of a written statement returned to the school or child care center and available for review. (Ord. 7194-NS § 8, 2011; Ord. 7167-NS §§ 20 – 22, 2011; Ord. 6478-NS § 4 (part), 1999)

Section 24. That Berkeley Municipal Code Section 23E.84.040.A is amended to read as follows:

23E.84.040 Special Provisions: Protected Uses

A. The following uses which were lawfully in place as of July 6, 1989 are Protected Uses where the affected space is used exclusively for a Protected Use or the Protected Use is combined with residential use in the form of a Live/Work Unit. Protected Uses are divided into two categories, as follows:

Category 1	Art/Craft Studio
Category 2	Art Galleries, ancillary to Art/Craft Studios and when located in the same building Child Care Facility Family Daycare Home Fine arts performance, instruction and rehearsal studios (dance, music, theater) Theaters, Stage Performance, but excluding Motion Picture Theaters

Section 25. That Berkeley Municipal Code Section 23E.84.090.H is amended to read as follows:

23E.84.090 Findings

H. In order to approve a Use Permit for the establishment or expansion of a school, child care center, or recreational or educational facility to be used by children, the Zoning Officer or Board must make all of the following findings:

1. Development of the school, child care center, or recreational facility to be used by children is not, in the particular circumstances of the project, incompatible with adjacent and nearby uses;
2. An appropriate risk analysis or risk assessment, as defined by the City, has been made and has shown that there is not significant risk to children in the use from other activities near the site;
3. The applicants have made adequate provisions to ensure that all parents of students or children in the school, child care center or recreational facility to be used by children will be notified in writing (on a form approved by the City) that the school is in the West Berkeley Plan MU-R District, and that light manufacturing is a permitted activity in the District and that Primary Production Manufacturing or Construction Products Manufacturing may be permitted uses in adjacent districts, including a requirement that each parent will indicate that they have read and understood this information by means of a written statement returned to the school or child care center and available for review.

Section 26. That Berkeley Municipal Code Chapter 23F.04 is amended to revise the spelling of “day care” and “family day care home” as follows:

23F.04.010 Definitions

Child Care Center or Facility: An establishment providing daycare for children, other than a Family Daycare Home, which is licensed by the State of California Department of Social Services.

Community Care Facility: Any facility, place or building where non-medical care and supervision of children, adolescents, adults or elderly persons is conducted under license from the California State Department of Social Services (SDSS), but not including medical care institutions, skilled nursing facilities, nursing homes, foster homes, Family Daycare Homes, child care facilities or transitional housing.

Section 27. That Berkeley Municipal Code Chapter 23F.04 is amended to revise the definition of “Family Day Care Home” as follows:

23F.04.010 Definitions

For the purposes of this chapter certain terms used herein are defined as follows:

Family Daycare Home: A facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider’s own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family daycare home or a small family daycare home as licensed by the State of California. Includes Small Family Daycare Home and Large Family Daycare Home.

Small Family Daycare Home: The use of a dwelling for eight (8) or fewer children, including children under 10 years of age who reside at the home, as set forth by the State of California.

Large Family Daycare Home: The use of a dwelling for nine (9) to fourteen (14) children, including children under 10 years of age who reside at the home, as set forth by the State of California.

Section 28. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on April 14, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.

ORDINANCE NO. 7,697-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 13.78 TO PROHIBIT NON-REFUNDABLE APPLICATION FEES ASSOCIATED WITH EXISTING TENANCIES AND LEASE TERMINATION FEES

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

Section 1. That Berkeley Municipal Code Chapter 13.78 is hereby amended to read as follows:

**Chapter 13.78
TENANT SCREENING AND LEASE FEES**

Sections:

- 13.78.010 Notification of state law limitation on tenant screening fees.
- 13.78.015 Calculation and publication of maximum allowable tenant screening fee.
- 13.78.016 Prohibition of non-refundable application fees associated with existing tenancies.
- 13.78.017 Prohibition of lease termination fees.
- 13.78.018 Applicability to existing rental agreements.
- 13.78.020 Remedies – Civil penalty – Not exclusive.

13.78.010 Notification of state law limitation on tenant screening fees.

When an owner of residential rental property or the owner’s agent receives a request to rent residential property in the City of Berkeley from an applicant and the owner charges that applicant a fee to purchase a consumer credit report and to validate, review, or otherwise process an application for the rent or lease of residential rental property, the owner shall provide, either in the rental application or in a separate disclosure prior to receipt of the fee, a clear and conspicuous tenant screening fee rights statement and a statement of the maximum fee cap permitted under California Civil Code Section 1950.6(b). The "Tenant Screening Fee Rights Statement" shall mean the following statement or a statement substantially similar to the following statement:

"Pursuant to California law you have tenant screening fee rights, including the right to a copy of your consumer credit report if one is obtained with your screening fee, a refund of any unused portion of the fee and a receipt of the costs of the screening. For more information about your rights, please visit [URL to be provided by City]."

13.78.015 Calculation and publication of maximum allowable tenant screening fee.

Beginning on January 1, 2015, the Rent Stabilization Board shall calculate and publish on an annual basis the maximum allowable tenant screening fee in accordance with California Civil Code Section 1950.6(b).

13.78.016 Prohibition of Non-refundable Application Fees Associated with Existing Tenancies

It is unlawful for an owner of residential rental property or the owner's agent to charge a non-refundable fee to any existing tenant for the purpose of renewing a tenancy, in whole or in part, including any fee associated with the departure of a roommate or to request to add or replace a roommate in a pre-existing household.

Nothing in this law is intended to disallow a property owner, or the owner's agent, to charge a "tenant screening fee" as permitted under California Civil Code Section 1950.6 to any tenant, including any new or additional roommate who seeks to be added to an existing rental agreement or lease, seeking to rent or lease residential rental property.

13.78.017 Prohibition of Lease Termination Fees

It is unlawful for an owner of residential property, or the owner's agent, to charge any fee for the termination of their tenancy prior to the expiration of a lease. Nothing in this section shall prohibit a landlord from recovering any charges, fees or damages associated with termination of tenancies that are authorized under California Civil Code Section 1951.2.

13.78.018 Applicability to Existing Rental Agreements

This chapter is applicable to all residential rental agreements regardless of any contractual language in any rental agreement or lease to the contrary. Any provision of an existing rental agreement or lease that violates the provisions of this chapter shall be null, void, and unenforceable.

13.78.019 Reserved

13.78.020 Remedies – Civil penalty – Not exclusive.

A. The remedies provided under this section are in addition to any the City or any person might have under applicable law.

B. Any owner of residential rental property shall be liable to any applicant or tenant harmed for a civil penalty of two hundred fifty dollars (\$250.00) if the owner fails to comply with any part of this Chapter.

C. Any person aggrieved by the owner's failure to comply with this Chapter may bring a civil action against the owner of the residential rental property for all appropriate relief including damages and costs which the applicant may have incurred as a result of the owner's failure to comply with this Chapter.

D. In any action to recover damages resulting from a violation of this Chapter the prevailing plaintiff(s) shall be entitled to reasonable attorneys' fees in addition to other

costs, and in addition to any liability for damages

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on April 14, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.



Office of the City Manager

CONSENT CALENDAR
April 28, 2020

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

RECOMMENDATION

Approve the minutes for the council meetings of March 10, 2020 (special closed, and regular), and March 17, 2020 (special).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. March 10, 2020 - Special Closed City Council Meeting
2. March 10, 2020 - Regular City Council Meeting
3. March 17, 2020 - Special City Council Meeting

**BERKELEY CITY COUNCIL
SPECIAL MEETING MINUTES**

TUESDAY, MARCH 10, 2020

3:30 P.M.

School District Board Room – 1231 Addison Street, Berkeley, CA 94702

Teleconference Location – 1130 Shattuck Avenue, Berkeley, CA 94707

Teleconference Location – 1404 Le Roy Avenue, Berkeley, CA 94708

Teleconference Location – 2911 Lorina Street, Berkeley, CA 94705

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – CHERYL DAVILA

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – LORI DROSTE

Preliminary Matters

Roll Call: 3:36 p.m.

Present: Kesarwani, Hahn, Robinson, Droste, Arreguin

Absent: Davila, Bartlett, Harrison, Wengraf

Councilmember Davila present at 3:40 p.m.

Councilmember Bartlett present at 3:44 p.m.

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

CLOSED SESSION:

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

1. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

a. Hooker, Earl v. City of Berkeley, WCAB Case #: ADJ10642675; ADJ9311479

Action: M/S/C (Droste/Robinson) to approve a stipulated settlement up to 59% (\$99,245.50) or else by compromise up to \$165,000.00, as to a workers' compensation matter entitled: Hooker, Earl v. City of Berkeley, WCAB Case #: ADJ10642675; ADJ9311479.

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

b. Landsberg, Jennifer v. City of Berkeley, WCAB Case #: ADJ1157084; ADJ11156949; ADJ11159005

Action: M/S/C (Robinson/Droste) to approve a stipulated settlement up to 63% PD (\$108,822.50), as to a workers' compensation matter entitled: Landsberg, Jennifer v. City of Berkeley, WCAB Case #: ADJ1157084; ADJ11156949; ADJ11159005.

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

2. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

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

Employee Organizations: Berkeley Police Association, Berkeley Chief Fire Officers Association, Local 1227, Berkeley Fire Fighters Association, Local 1227, Berkeley IBEW Local 1245, Public Employees Union, Local 1, SEIU Local 1021 CSU & PTRLA, SEIU Local 1021 M&C, Unrepresented Employees

Action: No reportable action taken.

OPEN SESSION:

City Council met in closed session Pursuant to Government Code Section 54956.9(d)(2) and provided direction to approve a stipulated settlement up to 59% (\$99,245.50) or else by compromise up to \$165,000.00, as to a workers' compensation matter entitled: Hooker, Earl v. City of Berkeley, WCAB Case #: ADJ10642675; ADJ9311479.

City Council met in closed session Pursuant to Government Code Section 54956.9(d)(2) and provided direction to approve a stipulated settlement up to 63% PD (\$108,822.50), as to a workers' compensation matter entitled: Landsberg, Jennifer v. City of Berkeley, WCAB Case #: ADJ1157084; ADJ11156949; ADJ11159005.

Adjournment

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

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

Councilmember Davila absent 5:40 p.m. – 5:44 p.m.

Adjourned at 5:44 p.m.

This is to certify that the foregoing is a true and correct record of the special closed meeting of March 10, 2020 as approved by the Berkeley City Council.

Mark Numainville, City Clerk

MINUTES
BERKELEY CITY COUNCIL MEETING
Tuesday, March 10, 2020
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702
TELECONFERENCE LOCATION – 1130 SHATTUCK AVENUE, BERKELEY, CA 94707
TELECONFERENCE LOCATION – 1404 LE ROY AVENUE, BERKELEY, CA 94708
TELECONFERENCE LOCATION – 2911 LORINA STREET, BERKELEY, CA 94705

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

Preliminary Matters

Report from Closed Session:

City Council met in closed session Pursuant to Government Code Section 54956.9(d)(2) and provided direction to approve a stipulated settlement up to 59% (\$99,245.50) or else by compromise up to \$165,000.00, as to a workers’ compensation matter entitled: Hooker, Earl v. City of Berkeley, WCAB Case #: ADJ10642675; ADJ9311479.

City Council met in closed session Pursuant to Government Code Section 54956.9(d)(2) and provided direction to approve a stipulated settlement up to 63% PD (\$108,822.50), as to a workers’ compensation matter entitled: Landsberg, Jennifer v. City of Berkeley, WCAB Case #: ADJ1157084; ADJ11156949; ADJ11159005.

Roll Call: 6:13 p.m.

Present: Kesarwani, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: Davila, Harrison

Councilmember Davila present at 6:15 p.m.

Councilmember Harrison present at 7:21 p.m.

Ceremonial Matters:

1. Recognition of Nolan Coleman, Korean War Veteran
2. Adjourned in Memory of Sheridan “Sherry” Warrick, Former Director of the International House
3. Adjourned in Memory of James Sweeney, Former Councilmember

City Manager Comments:

1. The City Manager provided the Health Officer’s new Guidance on Limiting Mass Gatherings

City Auditor Comments:

1. The City Auditor highlighted Items 31 and 32 (Public Works Audit Updates) and the importance of continuing to work towards the City's zero waste goals.

Public Comment on Non-Agenda Matters: 10 speakers.

Consent Calendar

Action: M/S/C (Robinson/Davila) to add an urgent item to the agenda related to the emergency declaration for the health impacts related to COVID-19 (novel coronavirus).

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

Public Comment on Consent Calendar and Information Items Only: 18 speakers

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

Vote: All Ayes.

Resolution Ratifying the Proclamation of Emergency by the Director of Emergency Services Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (“COVID-19”)

From: City Manager

Recommendation: Adopt a Resolution Ratifying the Proclamation of Emergency by the Director of Emergency Services Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (“COVID-19”).

Financial Implications: To be determined

Contact: Farimah Brown, City Attorney, (510) 981-6998

Action: Adopted Resolution No. 69,312–N.S.

1. Contract: Blaisdell’s Business Products for Office Supplies, Printing Paper, Small Equipment and Office Furniture

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a Contract with Blaisdell’s Business Products for the purchase of miscellaneous office supplies, printing paper, small equipment and office furniture by piggy-backing off of Omnia Partners Region 4 ESC Contract No. R190301. The contract term will commence on March 15, 2020 through March 14, 2023 with the option of two consecutive single-year renewals for a total not to exceed amount of \$2,700,000 over a five year term, subject to the City’s annual budget appropriation.

Financial Implications: Various Funds - \$2,700,000

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

Action: Adopted Resolution No. 69,313–N.S.

Council Consent Items

- 2. Contract: Resource Development Associates for Results Based Accountability Evaluation**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to approve a Contract and any amendments with Resource Development Associates (RDA) to provide an evaluation of mental health programs across the division utilizing the Results Based Accountability (RBA) framework for a total not to exceed amount of \$100,000 through June 30, 2022.
Financial Implications: Mental Health Services Act Fund - \$100,000
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
Action: Adopted Resolution No. 69,314–N.S.
- 3. Acquisition and Predevelopment Loan for 1740 San Pablo Avenue**
From: City Manager
Recommendation: Adopt a Resolution: 1. Authorizing the execution of a \$7.1 million loan to BRIDGE Housing Corporation (BRIDGE) for costs related to acquisition and predevelopment of the proposed affordable housing development at 1740 San Pablo Avenue. 2. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
Action: Adopted Resolution No. 69,315–N.S.
- 4. Designating City's Labor Negotiators Under Govt. Code Section 54957.6**
From: City Manager
Recommendation: Adopt a Resolution establishing a standing list of representatives of the City of Berkeley designated to participate in Closed Sessions with the City Council to discuss labor negotiations with certain unions and unrepresented employees for negotiations between January 1, 2020 and December 31, 2020.
Financial Implications: None
Contact: LaTanya Bellow, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 69,316–N.S.
- 5. Contract No. 31900172 Amendment: Cadalys, Inc. for Additional Software Application Consulting Services for Building Energy Saving Ordinance (BESO) Online Software System**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900172 with Cadalys, Inc. to provide additional application consulting services and support for the BESO online software system in an amount not to exceed \$20,000 for a total contract amount not to exceed \$65,000, and extending the term from June 7, 2019 through June 30, 2021.
Financial Implications: Permit Service Center Fund - \$20,000
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 69,317–N.S.

Council Consent Items

- 6. Contract No. 9263C Amendment: SSP Data Products Inc. for Barracuda Backup Solution with Hosted Cloud Storage**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 9263C with SSP Data Products Inc. for the City's Barracuda Backup Solution with hosted cloud storage, increasing the amount by \$65,081, for a total contract amount not to exceed \$365,773 for the term May 15, 2013 through June 30, 2021.
Financial Implications: IT Cost Allocation Fund - \$65,081
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 69,318–N.S.
- 7. Donation: Ohlone Park Mural Garden**
From: City Manager
Recommendation: Adopt a Resolution accepting a donation of \$9,500 for the design of the Ohlone Park Mural Garden from Friends of Ohlone Park.
Financial Implications: \$9,500 (donation)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 69,319–N.S.
- 8. Grant Application: National Fitness Campaign for Fitness Courts**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to: submit a grant application in the amount of \$150,000 to the National Fitness Campaign for up to five fitness courts; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 69,320–N.S.
- 9. Contract No. 7470 Amendment: 2M Associates for Construction Phase Environmental Services for the Berkeley Tuolumne Camp Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 7470 with 2M Associates for Construction Phase Environmental Services for the Berkeley Tuolumne Camp Project, increasing the contract by \$125,000 for a total amount not to exceed \$1,386,771.
Financial Implications: Camps Fund - \$125,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 69,321–N.S.

Council Consent Items

- 10. Contract No. 32000026 Amendment: APB General Engineering for the Hillview Road and Woodside Road Drainage Improvement Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32000026 with APB General Engineering for the Hillview Road and Woodside Road Drainage Improvement Project, increasing the contract of \$240,000 by \$40,000 for a total amount not-to-exceed of \$280,000.
Financial Implications: Clean Storm Water Fund - \$40,000
 Contact: Phillip Harrington, Public Works, (510) 981-6300
Action: Adopted Resolution No. 69,322–N.S.
- 11. Purchase Order: Pape Machinery, Inc. for One (1) John Deere, Co. 644L 20 Ton Hybrid Wheel Loader**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcwell (previously NJPA) contract #032515-JDC and authorizing the City Manager to execute a purchase order for one 2019 John Deere Co. 644L 20 Ton Hybrid Wheel Loader with Pape Machinery, Inc. in an amount not to exceed \$457,000.
Financial Implications: Zero Waste Fund - \$457,000
 Contact: Phillip Harrington, Public Works, (510) 981-6300
Action: Adopted Resolution No. 69,323–N.S.
- 12. Vision Zero Action Plan**
From: City Manager
Recommendation: Adopt a Resolution approving the City of Berkeley Vision Zero Action Plan and directing the City Manager to form a Vision Zero Coordinating Committee; proceed with the “Vision Zero Program”, “Safer Streets for Everyone” and “Safer Streets by Everyone: Public Awareness” priority actions as described in the Plan; and work with the Vision Zero Coordinating Committee to develop a Vision Zero Traffic Enforcement policy before proceeding with the “Safer Streets by Everyone: Enforcement” actions described in the Plan.
Financial Implications: See report
 Contact: Phillip Harrington, Public Works, (510) 981-6300
Action: Adopted Resolution No. 69,324–N.S.
- 13. Utilize Substantial Portion of Cannabis Tax Proceeds to Fund Subsidies under 1000 Person Plan (Reviewed by the Budget & Finance Committee)**
From: Homeless Commission
Recommendation: That Council direct a substantial portion of the incoming cannabis tax proceeds to fund subsidies under the 1000 Person Plan.
Financial Implications: See report
 Contact: Brittany Carnegie, Commission Secretary, (510) 981-5400
Action: Moved to Action Calendar. 1 speaker. M/S/C (Arreguin/Droste) to take no action on the commission recommendation.
Vote: All Ayes.

Council Consent Items

- 14. Oppose S.2059 - Justice for Victims of Sanctuary Cities Act of 2019**
From: Mayor Arreguin (Author); Councilmember Bartlett (Co-Sponsor); Councilmember Wengraf (Co-Sponsor); Councilmember Davila (Co-Sponsor)
Recommendation: Adopt a Resolution opposing S.2059 – Justice for Victims of Sanctuary Cities Act of 2019. Send a copy of the Resolution to Congressman Barbara Lee, Senators Diane Feinstein and Kamala Harris, and President Donald Trump.
Financial Implications: None
 Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 69,325–N.S.
- 15. Support of AB 1839 – California Green New Deal**
From: Mayor Arreguin (Author); Councilmember Bartlett (Co-Sponsor); Councilmember Harrison (Co-Sponsor); Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt a Resolution in support of Assembly Bill (AB) 1839, which would create the California Green New Deal Council with specified membership appointed by the Governor. The bill would require the California Green New Deal Council to submit a report to the Legislature no later than Jan 1, 2022. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Rob Bonta.
Financial Implications: None
 Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 69,326–N.S.
- 16. Support AB 2037 – Hospital Closure Notification**
From: Mayor Arreguin (Author); Councilmember Harrison (Author); Councilmember Hahn (Author); Councilmember Droste (Author)
Recommendation: Adopt a Resolution in support of AB 2037, which will require hospitals to provide a 180 day notice before closing or reducing emergency services. Send a copy of the Resolution to Assemblymember Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.
Financial Implications: None
 Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 69,327–N.S.
- 17. Referral: Update the definition of “Research and Development”**
From: Mayor Arreguin (Author); Councilmember Wengraf (Co-Sponsor)
Recommendation: Refer to the Planning Commission to update the definition of “Research and Development.”
Financial Implications: None
 Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Approved recommendation.

Council Consent Items

18. Siting the African American Holistic Resource Center and Affordable Housing at 1890 Alcatraz

From: Councilmember Bartlett (Author); Councilmember Davila (Co-Sponsor); Mayor Arreguin (Co-Sponsor)

Recommendation: That the City Council refers to the City Manager to study the feasibility of using the city-owned property located at 1890 Alcatraz Avenue (currently temporary Mental Health Division offices) for the African American Holistic Resource Center (AAHRC) and also developing affordable housing on the site. The City Manager should report back on the costs and implementation steps to repurpose the property for the AAHRC using the AAHRC Feasibility study as a guide, including what physical improvements would need to be made, and cost for ongoing operations by a non-profit. The City Manager and Planning Department should also conduct an analysis of potential site capacity looking at site context and yield and report on how much housing could be developed on the site under current zoning, including the AAHRC on the ground floor. Additionally, the City Manager and Planning Commission should incorporate the Community Preference policy in selecting applicants for the affordable housing units created by this project.

Financial Implications: See report

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

Action: Councilmember Harrison added as a co-sponsor. Amended to add that the AAHRC Steering Committee will be consulted during the implementation. Approved recommendation.

Council Consent Items

19. **Allocation of U1 General Fund Revenues** *(Reviewed by the Land Use, Housing, and Economic Development Committee)*

From: Land Use, Housing, and Economic Development Committee

Recommendation: Accept the Housing Advisory Commission's (HAC) recommendations, as presented in the Measure U1 Budget draft projections table, for the allocation of U1 General Fund revenues with the following amendments:

1. Allocation of \$1M for small sites;
2. Addition of \$100K in FY 2022 and FY 2023 in organizational capacity building (BACLT);
3. Add \$150K in 2021-2023 for new programs under the category of development of new housing programs;
4. Allocations for staffing to implement programs; and
5. Allocate \$2.5M in 2023 for the Housing Trust Fund.

In addition, the Committee asked City staff for clarification of Health Housing and Community Services (HHCS) Department personnel line items of \$558,214 in FY 2020, with cost of living adjustment increases to \$577,751 (FY 2021), \$597,973 (FY 2022), and \$618,902 (FY 2023). A staff memo dated January 6, 2020 providing an overview of these costs will be submitted in Supplemental 1.

Financial Implications: See report

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

Action: Moved to the Action Calendar. 0 speakers. M/S/C (Arreguin/Harrison) to approve the following funding allocations:

1. Personnel costs through FY 2022-2023
2. \$3,000,000 in FY 2021 and \$3,023,365 in FY 2022 for 2012 Berkeley Way project
3. Proposed allocations for the debt service on 1001-1011 University Avenue through FY 2022
4. Fund the allocations for FY 2020 included in the item with \$1 million for small sites

Vote: All Ayes.

20. **Letter in Support of Reviving Berkeley Bus Rapid Transit** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*

From: Councilmember Robinson (Author); Mayor Arreguin (Co-Sponsor)

Recommendation: Send a letter to AC Transit, the Alameda County Transportation Commission, Assemblymember Buffy Wicks, and State Senator Nancy Skinner in support of expanding Bus Rapid Transit into Berkeley on Telegraph Avenue at the first possible opportunity.

Financial Implications: None

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

Action: Councilmembers Bartlett and Harrison added as co-sponsors. Approved recommendation including the revisions in Supplemental Communications Packet #2 from Councilmember Robinson.

Council Consent Items

21. **Affirming the City of Berkeley's Support for the People of Tibet**
From: Councilmember Robinson (Author); Mayor Arreguin (Co-Sponsor); Councilmember Davila (Co-Sponsor); Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt a resolution affirming support to the people of Tibet.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
Action: Adopted Resolution No. 69,328–N.S.

Action Calendar – Public Hearing

22. **Electric Bike Share Program Franchise Amendment**
From: City Manager
Recommendation: Pursuant to Berkeley Municipal Code Chapter 9.60, conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance granting a Franchise Agreement Amendment to Bay Area Motivate, LLC, a subsidiary of Lyft Incorporated, to provide shared electric bicycles to the Berkeley public.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, (510) 981-6300
- Public Testimony:** The Mayor opened the public hearing. 0 speakers.
M/S/C (Arreguin/Droste) to continue the public hearing to April 21, 2020.
Vote: All Ayes.

Recess 8:45 p.m. – 8:55 p.m.

Action Calendar

23. Directing the City Manager to Lease Caltrans Property at University and West Frontage Road

From: Mayor Arreguin (Author); Councilmember Robinson (Author); Councilmember Harrison (Author)

Recommendation: Direct the City Manager to:

1. Negotiate a lease agreement with the California Department of Transportation (Caltrans) for the leasing of state property at University Avenue and West Frontage Road as indicated in Attachment 1. The property will be used for a temporary outdoor shelter with restrooms, hand washing stations and garbage service. The City Manager should also inquire about whether additional Caltrans parcels adjacent to those being offered are also available for lease. The City Manager should utilize funding previously allocated for an Outdoor Shelter program from Measure P tax receipts.
2. Concurrent with the lease negotiation, develop a plan and budget for the establishment and staffing of the Outdoor Emergency Shelter as further defined herein.
3. Immediately provide toilet and handwashing stations on the north and south side of University Avenue and under the overpass at University Avenue.
4. Immediately provide garbage receptacles and work with the residents to establish consistent weekly garbage collection on the north and south side of University Avenue and under the overpass at University Avenue.
5. Immediately schedule ongoing outreach from service providers including, but not limited to, mental health, health, and Coordinated Entry.

Financial Implications: See report

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

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

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

Action: Councilmember Hahn added as a co-sponsor. 14 speakers. M/S/C (Arreguin/Harrison) to adopt recommendations #1 and #2 amended to include providing a shower program, sharps containers, and recycle bins.

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

Action: Councilmember Hahn added as a co-sponsor. 14 speakers. M/S/C (Arreguin/Harrison) to approve recommendations #3, #4, and #5 amended to include that the City will enter into a maintenance agreement with Caltrans.

Vote: All Ayes.

Action Calendar

24. **Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106** *(Reviewed by Land Use, Housing, and Economic Development Committee)*

From: Mayor Arreguin, and Councilmembers Davila, Harrison, and Bartlett
Recommendation:

1. Adopt a first reading of the Ronald V. Dellums Fair Chance Access to Housing Ordinance and;
2. Direct the City Manager to take all necessary steps to implement this chapter including but not limited to developing administrative regulations in consultation with all relevant City Departments including the Rent Stabilization Board, preparing an annual implementation budget, designating hearing officers and other necessary staffing for administrative complaint, exploring the development of a compliance testing program similar to that used by the Seattle Office of Civil Rights, developing timelines and procedures for complaints, conducting outreach and education in partnership with the Alameda County Fair Chance Housing Coalition, and referring program costs to the June budget process.

Financial Implications: See report

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

Action: 16 speakers. M/S/C (Arreguin/Harrison) to:

1. Adopt first reading of Ordinance No. 7,692-N.S. Second reading scheduled for March 24, 2020.
2. Direct the City Manager to take all necessary steps to implement this chapter including but not limited to developing administrative regulations in consultation with all relevant City Departments including the Rent Stabilization Board, preparing an annual implementation budget, designating hearing officers and other necessary staffing for administrative complaint, exploring the development of a compliance testing program similar to that used by the Seattle Office of Civil Rights, developing timelines and procedures for complaints, conducting outreach and education in partnership with the Alameda County Fair Chance Housing Coalition, and referring program costs to the June budget process.

Vote: All Ayes.

Action Calendar

- 25. Placing a Measure on the November 3, 2020 Ballot to Increase the Berkeley City Council Salary**
From: Councilmember Davila (Author)
Recommendation: Adopt a Resolution to submit a Ballot Measure for the November 3, 2020 Election, Amending the Berkeley Municipal Code Charter Article V. Section 19, to Increase Salaries for Members of the Berkeley City Council and the Mayor, Ensuring Elected Officials are Paid a Living Wage and Compensated Fairly for the Actual Time Spent Working for the City.
Financial Implications: See report
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
Action: Moved to Consent Calendar. Adopted Resolution No. 69,329–N.S. as revised in Supplemental Communications Packet #1 from Councilmember Davila and further amended to include that two revisions will be added to the text of the measure; 1) require the Personnel Board to set the salaries initially after the effective date of the measure (if passed), and 2) include the Mayor in the survey provisions.
- 26. Disposition of City-Owned, Former Redevelopment Agency Property at 1631 Fifth Street** *(Continued from February 11, 2020) (Reviewed by the Land Use, Housing & Economic Development Committee)*
From: City Manager
Recommendation: Adopt a Resolution authorizing the sale of the City-owned, former Redevelopment Agency property at 1631 Fifth Street at market rate and authorizing the City Manager to contract with a real estate broker to manage the sale.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
Action: Moved to Consent Calendar. Amended to refer the item to the City Manager to explore City uses of the property for housing and homelessness services and needs, or other uses, and review the remediation needs of the property.

Action Calendar

27. **Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras** *(Continued from February 25, 2020. Item contains revised and supplemental materials.)*

From: City Manager

Recommendation: Adopt a Resolution accepting the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras submitted pursuant to Chapter 2.99 of the Berkeley Municipal Code.

Financial Implications: None

Contact: Andrew Greenwood, Police, (510) 981-5900; Dave White, City Manager's Office, (510) 981-7000

Action: M/S/C (Arreguin/Robinson) to accept revised materials from Councilmember Hahn.

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

Councilmember Droste absent 7:04 p.m. – 7:08 p.m.

Action: M/S/C (Arreguin/Droste) to call for the previous question on Item 27.

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

Action: 0 speakers. M/S/C (Arreguin/Droste) to adopt Resolution No. 69,330–N.S. as revised in Supplemental Communications Packet #2 from the City Manager's Office and including the revised resolution submitted at the meeting by Councilmember Hahn.

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

Information Calendar

28. **Berkeley Economic Dashboards and Demographic Profile Update**

From: City Manager

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

Action: Referred to the Land Use, Housing, and Economic Development Committee.

29. **FY 2019 Fourth Quarter Investment Report: Ended June 30, 2019**

From: City Manager

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

Action: Referred to Budget and Finance Committee.

30. **FY 2020 First Quarter Investment Report: Ended September 30, 2019**

From: City Manager

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

Action: Referred to Budget and Finance Committee.

Information Reports

31. **Audit Status Report: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal**
From: City Manager
Contact: Phillip Harrington, Public Works, (510) 981-6300
Action: Received and filed.
32. **Audit Status Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity**
From: City Manager
Contact: Phillip Harrington, Public Works, (510) 981-6300
Action: Received and filed.
33. **Proposed Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley**
From: Commission on Disability
Contact: Dominika Bednarska, Commission Secretary, (510) 981-6300
Action: Referred to Agenda and Rules Committee for scheduling.
34. **FY 2019-2020 Peace and Justice Commission Work Plan**
From: Peace and Justice Commission
Contact: Nina Goldman, Commission Secretary, (510) 981-7000
Action: Received and filed.

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

Adjournment

Adjourned at 11:30 p.m.

This is to certify that the foregoing is a true and correct record of the regular meeting of March 10, 2020 as approved by the Berkeley City Council.

Mark Numainville, City Clerk

Communications

- Item #24: Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106**
1. Ashy Lynette

2. Merle Lustig
3. Shilpa Jain

5G/Cell Towers

4. Vivian Warkentin
5. Elizabeth Starr
6. Carol Hirth

Starbucks Bathroom

7. Donna Evans

Harriet Tubman Terrace Apartments

8. Darinxoso Oyamasela (3)

RV Dwellers

9. Diana Bohn
10. Ann Garbarino

Homelessness/Encampments

11. Liz Wiener
12. Marcia Poole

Density, Development and Displacement

13. Barbara Gilbert

High Cost of City Fees for Upgrading a Craftsman Home

14. Marc Bodian

Berkeley High School Assaults

15. Jeff Breidenbach and Stephanie Wade

South Shattuck Development

16. Donna Mickleson

Seismic Safety

17. Nancy Caruso
18. Tony Benado

Opposed to Abortion

19. Fred Dodsworth

Gas Powered Leaf Blower

20. David Lerman

Outdoor Emergency Shelter

21. Carole Marasovic, Chair, Homeless Commission

Rent Control Measure V in Mountain View

22. Rick Loughran

Supplemental Communications and Reports 1

Item #19: Allocation of U1 General Fund Revenues

23. Supplemental material, submitted by HHCS

24. Supplemental material, submitted by Councilmember Hahn

Item #25: Placing a Measure on the November 3, 2020, Ballot to Increase the Berkeley City Council Salary

25. Revised material, submitted by Councilmember Davila

Item #26: Disposition of City-Owned, Former Redevelopment Agency Property at 1631 Fifth Street

26. Rhiannon

Supplemental Communications and Reports 2

Item #12: Vision Zero Action Plan

27. Katy Love

28. Steve Solnit

29. Andy Peterson

30. Jordan Burns

31. Melanie Curry

32. MaryAnn Furda

Item #20: Letter in Support of Reviving Berkeley Bus Rapid Transit

33. Revised material, submitted by Councilmember Robinson

Item #23: Directing the City Manager to Lease Caltrans Property at University and West Frontage Road

34. Charles Clarke

35. Tom Lent

36. Chris Edmunds

37. Eliot Halpern

38. Carole Marasovic

Item #27: Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras

39. Supplemental materials, submitted by the City Manager's Office

40. Katherine Lee, Police Review Commission Officer

Item #24: Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106

41. 213 Communications submitted via Berkeley Considers, includes summary information

Supplemental Communications and Reports 3

Urgency Item: Resolution Ratifying the Proclamation of Emergency by the Director of Emergency Services Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (“COVID-19”)

42. Agenda material, submitted by the City Manager’s Office

Item #12: Vision Zero Action Plan

- 43. Ben Gerhardstein, on behalf of Walk Bike Berkeley
- 44. Jonathan Walden
- 45. Dan Leaverton
- 46. Ana Vasudeo
- 47. Michelle Braasch-Carman
- 48. Cate Leger
- 49. Andrew Fisher

Item #18: Siting the African American Holistic Resource Center and Affordable Housing at 1890 Alcatraz

50. Margy Wilkinson, on behalf of Friends of Adeline

Item #23: Directing the City Manager to Lease Caltrans Property at University and West Frontage Road

- 51. John Caner, on behalf of Downtown Berkeley Association
- 52. Kirsten MacDonald, on behalf of the Berkeley Chamber of Commerce
- 53. East Bay Community Law Center
- 54. Andrea Henson (2)
- 55. Cindy Shamban
- 56. Erica Etelson
- 57. Kelly Hammargren
- 58. Jessica Woodard
- 59. Margy Wilkinson
- 60. Moni Law
- 61. Julianna Dickey
- 62. Leroy Blea
- 63. Jack Kurzweil
- 64. Carol Denney
- 65. Lyssa Jaye
- 66. Diana Bohn
- 67. Chimey Lee
- 68. Barbara Stebbins

Item #24: Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106

- 69. Presentation, submitted by Mayor Arreguin
- 70. Margy Wilkinson, on behalf of Friends of Adeline
- 71. Igor Tregub, on behalf of the Sierra Club Northern Alameda County Group
- 72. Margaretta Lin, on behalf Congresswoman Barbara Lee
- 73. Just Cities

Item #25: Placing a Measure on the November 3, 2020 Ballot to Increase the Berkeley City Council Salary

74. Barbara Gilbert

Item #27: Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras

75. Supplemental material, submitted by Councilmember Hahn

Miscellaneous Communications

Homelessness and Coronavirus

76. Unknown

**MINUTES
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL**

Tuesday, March 17, 2020

6:00 P.M.

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

Preliminary Matters

Roll Call: 6:14 p.m.

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

Absent: None

Action Calendar

1. Ratification of Recommendations Issued by the Director of Emergency Services and the Public Health Officer Regarding Meetings of Legislative Bodies

From: City Manager

Recommendation: Adopt a Resolution ratifying the recommendations issued by the Director of Emergency Services and the Public Health Officer regarding meetings of Berkeley legislative bodies in response to the COVID-19 (Novel Coronavirus) pandemic.

Financial Implications: None

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

Action: 4 speakers. M/S/C (Arreguin/Robinson) to adopt Resolution No. 69,331–N.S.

Vote: All Ayes.

Action Calendar

Action: M/S/C (Arreguin/Robinson) that pursuant to Government Code Section 54954.2(b)(1) the Council finds that an emergency situation exists given the declared federal, state and local emergency regarding the COVID-19 pandemic and approves adding the following items to the March 17, 2020 agenda:

- Revised “Urgency Ordinance Adopting BMC Chapter 13.110, the COVID-19 Emergency Response Ordinance” from Mayor Arreguin
- Revised Agenda Material from Councilmember Harrison, Mayor Arreguin and Councilmember Hahn “Strategies for Special Populations During COVID-19 Crisis”
- “Alignment with Grassroots Strategies for COVID-19 City Preparedness” from Councilmember Davila
- “Letter to Employers Regarding Protective Gear for Essential Workers” from Councilmember Bartlett

Vote: All Ayes.

2. **Urgency Ordinance Adopting BMC Chapter 13.110, the COVID-19 Emergency Response Ordinance**

From: Mayor Arreguin (Author); Councilmember Robinson (Author); Councilmember Harrison (Author)

Recommendation: Adopt an Urgency Ordinance adding Berkeley Municipal Code Chapter 13.110, the COVID-19 Emergency Response Ordinance, to provide protections to residential tenants against evictions during the declared state of emergency, to preserve the health and safety of the Berkeley community.

Financial Implications: None

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

Action: 4 speakers. M/S/C (Arreguin/Robinson) to adopt Ordinance No. 7,693–N.S. as written in the revised materials submitted at the meeting with amendments in Sections 13.110.020, 13.110.030, 13.110.040, 13.110.050, and 13.110.070.

Vote: All Ayes.

Action Calendar

3. Berkeley COVID-19 Relief Fund and Expanding Flexible Housing Pool

From: Mayor Arreguin (Author)

Recommendation:

1. Refer to the City Manager to consider the creation of a tax-exempt special fund at up to \$ 3 million dollars, to provide gap resources which to be matched with grants or philanthropic donations to provide gap assistance to renters, small businesses and arts organizations significantly impacted (demonstrated decrease in gross receipts or patronage) by the COVID-19 state of emergency. The City Manager is requested to consider all federal, state and not-for-profit funding available to provide economic relief to businesses and arts organizations which can be leveraged with the City's additional funding.

2. Direct the City Manager to identify additional funding and increase the allocation to the Flexible Housing Pool, administered by BACS, and amend the contract and program guidelines if necessary, to provide emergency rental assistance and flexible funding for housing, and to report back to Council on the funding allocated and outcomes after the declared state of emergency.

Financial Implications: See report

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

Action: 8 speakers. Councilmembers Bartlett, Wengraf, and Droste added as co-sponsors. M/S/C (Arreguin/Davila) to adopt the recommendation revised to read as follows.

1. Refer to the City Manager to create a tax-exempt special fund which can accept private donations, and launch the fund with up to \$3 Million Dollars in city funding, to provide gap resources which can be matched with grants or philanthropic donations to provide gap assistance to renters, small businesses and arts organizations significantly impacted (demonstrated decrease in gross receipts or patronage) by the COVID-19 state of emergency. The City Manager is requested to consider all federal, state and not-for-profit funding available to provide economic relief for businesses and arts organizations which can be leveraged with the City's additional funding. As part of the development for criteria consider equity in the allocation of funding and consult with businesses throughout the city including business groups. Clarify that the funding will be provided to small businesses and arts groups in the form of a grant and not a loan.

The City Manager is requested to take immediate action to create the fund and identify funding and distribute funding to eligible small businesses and arts organizations. The City Manager is empowered under their authority granted by the Proclamation Declaring a Local Emergency to identify and allocate city funding to launch the fund, no Council action is required.

2. Direct the City Manager to identify additional funding and increase the allocation to the Flexible Housing Pool, administered by BACS, or other appropriate community based organization(s), and amend the contract and program guidelines if necessary, to provide emergency rental assistance and flexible funding for housing, and to report back to Council on the funding allocated and outcomes after the declared state of emergency.

Vote: All Ayes.

Action Calendar

4. Strategies for Special Populations During COVID-19 Crisis

From: Councilmember Hahn (Author)

Recommendation: Refer to the City Manager to develop and implement strategies to address the needs of populations in Berkeley who face unique challenges during the COVID-19 crisis. Coordinate with public and community agencies and consult appropriate experts as needed, to ensure the special needs of these populations, and of those who work with them, are identified and addressed. Populations for whom special strategies shall be considered include, but are not limited to:

1. People experiencing homelessness
2. Individuals with disabilities
3. Senior citizens (especially low-income Seniors)
4. Single parent households with children
5. People experiencing food insecurity
6. Undocumented residents
7. Stranded visitors

Consider allocating additional resources to City of Berkeley departments and partner agencies to meet identified challenges during the COVID-19 emergency.

Financial Implications: See report

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

Action: 6 speakers. M/S/C (Hahn/Arreguin) to adopt the recommendation as written with the addition of the recommendation submitted at the meeting amended to read as written below.

Individuals experiencing homelessness are one of the special populations named. We appreciate the City's incredible efforts to provide tents, trailers, and other forms of housing. In the interim, in addition to other measures that have already been taken, and to provide further clarification to Councilmember Hahn's referral, the City Manager is additionally requested to implement the following recommendations to support Berkeley's homeless population during the COVID-19 crisis.

- 1) *Information distribution via public bulletin boards and fliers across the City.*
- 2) *Allow homeless advocates to continue to provide supplies to the unhoused.*
- 3) *Additional Porta Potties be placed at each homeless encampment and in areas where there are concentrated homeless populations.*
- 4) *Trash pick up and vector control at each location.*
- 5) *Additional handwashing stations at each encampment location and locations where homeless individuals are concentrated.*
- 6) *Drinking water.*

Vote: All Ayes.

Action Calendar

Alignment with Grassroots Strategies for COVID-19 City Preparedness

From: Councilmember Davila (Author); Councilmember Bartlett (Co-sponsor)

Recommendation: Adopt the recommendations prompted by the Demands from Grassroots Organizers Concerning COVID-19 to inform the City of Berkeley's emergency response to the Coronavirus.

Financial Implications: To be determined

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

Action: 0 speakers. M/S/C (Arreguin/Robinson) to adopt Resolution No. 69,332–N.S. amended to be recommendations to the City Manager.

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

Letter to Employers Regarding Protective Gear for Essential Workers

From: Councilmember Bartlett (Author)

Recommendation: Refer to the City Manager to write a letter urging business employers offering “essential services” to supply their employees with protective personal equipment and hygienic resources to defend against the contraction of COVID-19.

Financial Implications: None

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

Action: 1 speaker. Councilmembers Davila and Harrison added as co-sponsors. M/S/C (Bartlett/Harrison) to approve the recommendation as revised to exclude reference to masks and respirators, and that employers “make best efforts” to supply employees with hygienic resources.

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

Councilmember Droste absent at 10:55 p.m.

Adjournment

Adjourned at 11:00 p.m.

This is to certify that the foregoing is a true and correct record of the special meeting of March 17, 2020 as approved by the Berkeley City Council.

Mark Numainville, City Clerk

Communications

Item #1: Ratification of Recommendations Issued by the Director of Emergency Services and the Public Health Officer Regarding Meetings of Legislative Bodies

1. James McFadden (5)
2. David Lerman
3. John Caner, on behalf of Downtown Berkeley Association (2)
4. Eva Chrysanthe
5. JJ Noire
6. Cynthia Sue Larson
7. Topher Brennan
8. Margy Wilkinson
9. Phoebe Anne Sorgen
10. Forest Mozer
11. Lori Fagerholm
12. James Brook
13. Michael Frank
14. Pamela Michaud
15. Carole Marasovic, Chair of the Homeless Commission (2)

Item #2: Urgency Ordinance Adopting BMC Chapter 13.110, the COVID-19 Emergency Response Ordinance

16. Kevin Walters
17. Margy Wilkinson (2)
18. East Bay Housing Organizations

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

- None

Supplemental Communications and Reports 3

Item #1: Ratification of Recommendations Issued by the Director of Emergency Services and the Public Health Officer Regarding Meetings of Legislative Bodies

19. Jacqueline Sarratt

Item #2: Urgency Ordinance Adopting BMC Chapter 13.110, the COVID-19 Emergency Response Ordinance

20. Revised Material, submitted by Mayor Arreguin
21. Sam Eaton
22. Caitlin Romtvedt
23. Ed Stres
24. Kris Kargo
25. Chimey Lee
26. Heidi Becker
27. Maura Allen
28. Laura Kiernan

29. LR Altman
30. Carole Kalous
31. Alex Werth, on behalf of East Bay Housing Organizations
32. Alfred Manning
33. John H. Phillips
34. Iliana Montauk
35. Janet Cusick and Tony Lioce
36. Lance Montauk
37. Steve Piantadosi
38. Mary Kazmer
39. Dan Fries
40. Jessi Carrier
41. Russ Greene
42. Igor Tregub
43. Helena Teply-Figman
44. Sandra Smith
45. Gramma Grass
46. Daniel Moore
47. The Berkeley Tenants Union
48. 14 similarly worded communications
49. 83 similarly worded communications

Item #3: Berkeley COVID-19 Relief Fund and Expanding Flexible Housing Pool

50. Ingrid Chen
51. Rao Singh
52. Jill Randall
53. Gary Long
54. Kirsten MacDonald
55. Tai Yu, on behalf of Great China Restaurant
56. Simone Arpaio
57. Bharat Pariyar
58. John Caner
59. Laurie Rich, on behalf of David Brower Center
60. Sharon Dolan

Item #4: Strategies for Special Populations During COVID-19 Crisis

61. Revised material, submitted by Councilmember Hahn
62. Hannah Liu
63. James McFadden
64. Darinxoso Oyamasela
65. Margy Wilkinson (2)
66. Alfred Twu
67. James Wood
68. Marcia Poole
69. Mary Behm-Steinberg
70. Phuoc Le
71. Margy Wilkinson, on behalf of Friends of Adeline
72. Eugene Turitz
73. Osha Neumann (2)
74. Kevin Walters
75. Russbumper

76. Michael Sullivan

77. Asha

78. 57 similarly worded communications

Urgency Item: Alignment with Grassroots Strategies for COVID-19 City Preparedness

79. Agenda material, submitted by Councilmember Davila

Urgency Item: Letter to Employers Regarding Protective Gear for Essential Workers

80. Agenda material, submitted by Councilmember Bartlett



Office of the City Manager

CONSENT CALENDAR

April 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Mark Numainville, City Clerk
 Subject: Citizens Redistricting Commission Implementation Ordinance; Adding BMC Chapter 2.10

RECOMMENDATION

Adopt first reading of an Ordinance establishing regulations and procedures for the Berkeley Citizens Redistricting Commission to supplement the existing provisions of the City Charter related to redistricting, and adding Berkeley Municipal Code Chapter 2.10.

FISCAL IMPACTS OF RECOMMENDATION

No fiscal impact associated with adopting the ordinance. A total of \$60,000 has been allocated to support the redistricting process (e.g. outreach materials, consultants, software).

CURRENT SITUATION AND ITS EFFECTS

For the City Council District Redistricting Process following the 2020 Census, the City of Berkeley will utilize a Citizens Redistricting Commission for the first time. The Commission was created by Measure W1 in 2016 which passed with the support of over 88% of Berkeley voters.

The City Charter prescribes that the Council may adopt an ordinance to implement the requirements of Charter Section 9.5.

The key components of the ordinance are as follows:

- Definition of “immediate family” for the purposes of qualifying as a member
- Additional detail on the application and selection of Commissioners
- Vote threshold and quorum requirements to take actions
- Requests for a Leave of Absence by Commissioners
- Requirements for public hearings
- Limitations and disclosure requirements for Commissioners
- Removal of Commissioners and Alternate Commissioners
- Selection of Special Master if needed for the impasse procedure
- Compensation for Commissioners

BACKGROUND

Section 9.5 of the City Charter prescribes the process for the Citizens Redistricting Commission. Section 9.5(a)(1) provides that the Council may adopt an ordinance to implement the Charter provisions. This ordinance fills in some of the gaps regarding the operational and administrative implementation of the Charter.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects associated with the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This ordinance is needed in order to operationalize the provisions of the City Charter related to redistricting.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

- 1: Ordinance
- 2: Redistricting Plan Summary

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

CITIZENS REDISTRICTING COMMISSION; ADDING BERKELEY MUNICIPAL CODE
CHAPTER 2.10

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

Section 1. That a new Chapter 2.10 of the Berkeley Municipal Code is added to read as follows:

Chapter 2.10
Citizens Redistricting Commission

- 2.10.010 Purpose**
- 2.10.020 Definitions**
- 2.10.030 Commission Composition**
- 2.10.040 Duties of the City Clerk**
- 2.10.050 Application and Selection of Commissioners**
- 2.10.060 Commission procedures**
- 2.10.070 Removal of Commissioners and Alternate Commissioners**
- 2.10.080 Selection of Special Master**
- 2.10.090 Compensation**
- 2.10.110 Severability**

2.10.010 Purpose

The purpose of this Chapter is to implement Article V, Section 9.5 of the Charter, which provides for the decennial establishment of a Citizens Redistricting Commission in order to ensure an open and transparent redistricting process that allows public comment on the drawing of district boundaries and is conducted with integrity, fairness, and without personal or political considerations.

2.10.020 Definitions

A. "Commission" means the Citizens Redistricting Commission.

B. "Immediate Family" means a spouse, domestic partner, cohabitant, child, stepchild, grandchild, parent, stepparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, great grandparent, brother, sister, half-brother, half-sister, stepsibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin (that is, a child of an aunt or uncle)

C. "Special Master" means an individual with the requisite expertise and qualification on the subject of redistricting that is appointed by the commission to create a council district map pursuant to the impasse procedures of the City Charter.

2.10.030 Commission Composition

- A. The Commission shall consist of eight (8) District Commissioners (one (1) for each Council district) and five (5) At-Large Commissioners.
- B. There shall be eight (8) Alternate District Commissioners and five (5) alternate At-Large Commissioners.

2.10.040 Duties of the City Clerk

- A. Beginning no later than September 1st of the year in which the decennial federal census is taken, the City Clerk shall conduct public outreach as specified in Charter Section 9.5(b)(4).
- B. No later than February 1st of the year after the decennial federal census is taken, the City Clerk shall initiate the nomination process as specified in Charter Section 9.5(b)(5).
- C. The City Clerk shall develop and recommend a budget for the Commission sufficient to carry out the requirements of the City Charter and this Chapter.
- D. The City Clerk or City Clerk's designee shall serve as Secretary to the Citizens Redistricting Commission.
- D. At each meeting or public hearing of the Commission, the City Clerk shall make available for public viewing copies of each Commissioner's application to serve on the Commission as well as copies of all political, financial or other disclosures required of each Commissioner by Section 9.5 of the Charter or any other provision of City or state law, including but not limited to each Commissioner's Statement of Economic Interests and any disclosures under Charter Section 9.5(b)(3)(iii).

2.10.050 Application and Selection of Commissioners

- A. All applicants shall submit their application on a form provided by the City Clerk, which shall include a declaration under penalty of perjury that the applicant meets the eligibility criteria set forth in Charter Section 9.5 and this Chapter, has made all required disclosures, and that the statements they are making are true and correct.
- B. The Commission application shall include questions asking if an applicant falls into one or more of the prohibited categories set forth in Charter Section 9.5(b)(3)(i).
 - 1. If an applicant discloses that they fall into any of the prohibited categories set forth in Charter Section 9.5(b)(3)(i), the applicant shall be removed from the applicant pool and shall not be considered for appointment.
 - 2. If it is determined at any point during the selection process that an applicant falls into one or more of the prohibited categories as set forth in Charter Section 9.5(b)(3)(i) then that applicant shall be disqualified.

3. If, after being selected and appointed to the Commission, it is determined that a Commissioner falls into one of the prohibited categories set forth in Charter Section 9.5(b)(3)(i), the Commissioner shall be immediately removed from the Commission, as provided for in Charter Section 9.5(e) and this Chapter.

C. All applicants shall affirm that, if selected, they shall comply with all requirements of the Charter and this Chapter applicable to members of the Commission.

D. Applicants shall file a Statement of Economic Interests (Form 700), provide a written statement of qualifications not longer than three hundred (300) words expressing why they believe they are qualified to serve on the Commission, and consent to a background check if appointed. Promptly after reviewing the background check to determine eligibility, the City Clerk shall either return it to the applicant or destroy it.

E. To the extent permitted by law, all application forms, materials and disclosures shall be kept confidential, and shall not be released to the public until all thirteen (13) Commissioners have been appointed.

F. After closure of the 30-day nomination period provided for in Charter Section 9.5(b)(5), the City Clerk shall remove from the applicant pool any applicants who do not satisfy the eligibility criteria set forth in Charter Section 9.5(b)(3), and shall divide the remaining applicants into separate pools, one for each then-existing City Council district in which the applicants reside. If there is an insufficient number of applicants in the pool of eligible applicants to fill a district seat or an alternate seat, the Commission may request, by a majority vote, that the City Clerk conduct a new, accelerated nomination and selection process to add additional applicants to the pool of eligible applicants.

G. The selection process for District Commissioners and At-Large Commissioners shall be conducted in accordance with Section 9.5(b)(6) of the City Charter and this Chapter.

H. When selecting the five (5) At-Large Commissioners, if there is an insufficient number of applicants in the remaining pool of eligible applicants to fill five (5) at-large seats and five (5) alternate at-large seats, the Commission may request, by a majority vote, that the City Clerk conduct a new, accelerated nomination and selection process to add additional applicants to the remaining pool of eligible applicants.

1. Once the pool of eligible applicants has a sufficient number of applicants to fill five (5) at-large seats and five (5) alternate at-large seats, the Commission shall, by a majority vote, select five (5) additional individuals from the remaining pool to serve as At-Large Commissioners and five (5) more individuals to serve as alternate At-Large Commissioners.

I. All commissioners and alternate commissioners shall swear or affirm the oath for public officials prescribed by the California Constitution.

2.10.060 Commission procedures

A. The Commission shall operate under the provisions of the Commissioners' Manual, as adopted by resolution of the City Council, except when superseded by the City Charter or the provisions of this Chapter.

B. After selection of the five (5) At-Large Commissioners pursuant to Charter Section 9.5(b)(6)(iii), the Commission shall elect one (1) of its members to serve as Chair and one (1) to serve as the Vice-Chair. The term of the Chair and Vice-Chair is the term of their service on the Commission as defined in Charter Section 9.5(b)(2), unless the Chair or Vice-Chair resign the position or is removed from the position by a two-thirds (2/3) vote of the Commission. The Commissioner selected by the body to fill a vacancy in the position of Chair or Vice-Chair shall serve the remainder of the term.

C. Once all commissioners and alternate commissioners have completed training related to their service on the Commission, the Commission shall convene for the purpose of drawing City Council district boundaries.

D. For the purpose of selecting the At-Large Commissioners and At-Large Alternates, a quorum of the eight (8) District Commissioners is always five (5), and five (5) affirmative votes are always needed to take action unless otherwise specified by statute.

E. A quorum of the full thirteen (13) member Commission is always seven (7), and seven (7) affirmative votes are always needed to take action unless otherwise specified by statute.

F. Commissioners may make a request for a Leave of Absence from a Commission meeting, or for a period of time not to exceed three (3) months, by submitting a written request to the City Clerk by 5:00pm on the business day prior to the Commission meeting. The temporary vacancy will be filled as specified in Charter Section 9.5(e)(3).

G. The Commission shall comply with all relevant provisions of the Open Government Ordinance (Berkeley Municipal Code Chapter 2.06).

H. The Commission shall hold at least three (3) public hearings, each at a different location, to solicit public input on redistricting priorities and allow for submission of redistricting proposals by members of the public and public review of and input on any map proposed to be adopted by the Commission. The Commission shall display draft redistricting maps for public comment in a manner designed to achieve the widest public access reasonably possible and shall provide ample opportunity for public input.

I. Commissioners are strictly prohibited from communicating with or initiating or receiving communications about redistricting matters from anyone outside of a public meeting or hearing; however communications outside of a meeting between Commissioners, staff, legal counsel, and consultants retained by the City, that are otherwise permitted by the Brown Act (California Government Code Section 54950 *et seq.*) or its successor, are not prohibited. The receipt of written communications (whether

through paper or electronic format) from the public submitted at a public meeting of the Commission or submitted prior to a Citizens Redistricting Commission meeting to the Secretary and made part of the public record are not prohibited. Any communication received by a Commissioner inconsistent with this subsection shall be promptly disclosed to the Secretary for the public record. Failure to disclose received communications or a Commissioner's response to such communications may be considered gross misconduct and grounds for removal from the Commission.

J. Alternate commissioners may attend Commission meetings, other than closed session meetings under the Brown Act, and may give public comment to the Commission. Unless appointed to serve on the Commission, Alternate Commissioners may not vote in Commission meetings or hearings.

K. Upon the expiration of thirty (30) days after the Council's final approval by ordinance of the Commission's redistricting plan, the City Clerk shall submit the new district boundaries to the Alameda County Registrar of Voters for implementation starting with the next General Municipal Election.

2.10.070 Removal of Commissioners and Alternate Commissioners

If a Commissioner or Alternate Commissioner is eligible to be removed pursuant to Charter Section 9.5(e), the Commissioner or Alternate Commissioner shall be provided written notice. The vote to remove the Commissioner or Alternate Commissioner shall appear on the next Commission agenda for which no posting or publication deadline has passed, occurring not more than thirty (30) days from the date the notice was mailed. The Commissioner or Alternate Commissioner may provide a written response or may provide a verbal response at the meeting of the Commission where the vote for removal will occur. The Commissioner or Alternate Commissioner may be removed by a two-thirds (2/3) vote of the Commission. A Commissioner or Alternate Commissioner subject to removal may vote on their own removal. The decision of the Commission is final and may not be appealed.

2.10.080 Selection of Special Master

In the event of an impasse in which the City Clerk is required to recommend, and the Commission is required to select, a Special Master pursuant to Charter Section 9.5(d)(4), the City Clerk and Commission shall consider retired judges, professors with knowledge about redistricting and reapportionment law, experts with experience advising government agencies on redistricting, and other persons with appropriate knowledge, expertise and experience. The Commission must select a Special Master within thirty (30) days of the City Clerk presenting their recommendations.

2.10.090 Compensation

A. Voting members of the Commission shall be compensated at a rate of one hundred dollars (\$100) per meeting for attendance at a regular meeting of the full Commission to compensate for the time the Commissioner is engaged in Commission business.

B. The rate of compensation for Commissions seated after each of the subsequent federal decennial censuses will be calculated based on the increase in the Consumer Price Index over the compensation provided for in paragraph (A) of this section.

C. Members of the Commission who meet eligibility requirements may also receive reimbursement for expenses for child care, dependent care, or disabled support services in the same manner as members of City boards and commissions.

2.10.100 Severability

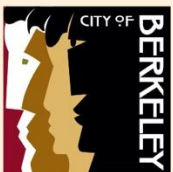
Should any provision of this Chapter be held invalid, the remainder of this Chapter shall not be affected thereby, and such word, phrase, sentence, part, section, subsection, or other portion shall be severable, and the remaining provisions of this Chapter shall remain in full force and effect. The voters hereby declare that they would have passed this Chapter and each subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more, subsections, sentences, clauses, or phrases had been declared invalid, and that each subsection, sentence, clause, phrase, word, or other portion is therefore explicitly severable, part-by-part, phrase-by-phrase, and word-by-word, and that if any portion is determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, voidable, or invalid, that the least amount of language possible shall be severed from the Chapter.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

CITY OF BERKELEY

CITIZENS REDISTRICTING COMMISSION PLAN

March 2020 ~ Prepared by the City Clerk Department



CITIZENS
REDISTRICTING
COMMISSION

BERKELEY

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

Disability Services Specialist

Email: ada@cityofberkeley.info

Phone: 1-510-981-6418

TTY: 1-510-981-6347



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INTRODUCTION

Like many cities throughout the Bay Area and California, Berkeley utilizes a district-based system of electing councilmembers and has done so since 1986. The city is divided into eight geographic areas called “districts.” One councilmember is elected from each district by the voters living in that district. Other elected officers (such as Mayor and Auditor) are elected at-large, meaning they can live anywhere in Berkeley and are elected by all of Berkeley’s voters.

On November 8, 2016, Berkeley voters approved Measure W1, amending the City’s Charter to transfer responsibility for drawing electoral boundaries from the City Council to an independent Citizens Redistricting Commission (the “Commission”). The measure was intended to establish a redistricting process that is open to the public, meets the requirements of law, and is conducted with integrity, fairness, and without personal or political considerations.

The Commission is tasked with adjusting the boundaries of City Council districts every ten years following the decennial federal census. Composed of thirteen members with broad community representation, the Commission will act as an independent body to engage the public and adopt an updated map of City Council district boundaries. The community will provide verbal and written input on the redistricting process, including submitting their own maps. The Charter also provides impasse procedures if a final map cannot be agreed upon.

The City Clerk Department will support the Commission throughout the redistricting process, including public outreach, coordinating the application process, and facilitating public meetings. The Commission will also receive technical support from an independent demographer, the City Attorney’s Office, and the Department of Information Technology. This document provides a high-level overview of the City’s Citizens Redistricting Commission Plan. If you have questions about the redistricting process or this document, you may call the City Clerk Department at (510) 981-6900 or email commission@cityofberkeley.info.

Due to the COVID-19 pandemic, certain outreach activities may be limited. City staff will focus on methods to reach the widest possible audience given the mass gathering and physical distancing requirements. Electronic methods will be employed to maximize the public’s ability to participate in the process if in-person meetings are not feasible.



KEY DATES AND MILESTONES

Below is a timeline for the Citizens Redistricting Commission highlighting key dates and milestones for the Commission and the public.

- **June – September 2020**
Public education and application outreach period
- **September 8 – October 9, 2020**
30-day commissioner application submission period
- **October – December 2020**
Applications screened for eligibility
- **January 2021**
Selection of eight district commissioners and alternates
- **January 2021**
Commission convenes and selects five at-large commissioners and alternates
- **February 2021**
Commission meets to establish its meeting schedule, meeting locations, and to receive training on conflict of interest, transparency, and ethics laws; and federal, state, and local redistricting laws and regulations
- **March 2021**
Population data released by U.S. Census Bureau
- **April 2021**
Redistricting information and tools available to the public
- **June 2021**
Deadline for the public’s redistricting plan submissions
- **June – July 2021**
Staff analysis of public redistricting plan submissions
- **July – October 2021**
Commission consideration of public redistricting plans and plans originating from the Commission
- **February 1, 2022**
Deadline for Commission to adopt a redistricting plan
- **February – March 2022**
City Council adopts Commission’s redistricting plan (unless impasse reached)
- **November 8, 2022**
First election with new districts (unless impasse reached or plan referended)



OUTREACH

Key components of the City’s outreach plan consist of the following.

Print Advertising

- ▶ Advertisement in the City’s Recreation Activity Guide
- ▶ Tri-fold brochure and posters at the City’s senior and recreation centers, administrative offices, public meetings, and public libraries; coordinated with U.C. Berkeley student union; and sent to community agencies
- ▶ Print advertisements in the Berkeley Times, Daily Cal, and Berkeley Tri-City Post newspapers

Community

- ▶ If permitted under the mass gathering and physical distancing policies, City staff will attend a variety of community events across the City
- ▶ Hold additional Town Hall community meetings upon request (in-person or via videoconference as conditions permit)
- ▶ Send information through existing communication outlets (Council newsletters; neighborhood groups, etc.) for dissemination

Media

- ▶ Public notices broadcast on Berkeley Community Media
- ▶ Press releases with targeted outreach to local print, online, radio, and multilingual media sources
- ▶ Coordinating with the Health, Housing, and Community Services Department to reach additional community partners

Internet & Social Media

- ▶ Dedicated page on City’s website and front-page advertising
- ▶ Posts on the City’s social media accounts, including Twitter and boosted advertisements on Facebook
- ▶ Paid advertisements posted on Berkeleyside



DEPARTMENT RESPONSIBILITIES

City Clerk Department

The Citizens Redistricting Commission plan is an interdepartmental effort coordinated by the City Clerk Department. Preliminary responsibilities include establishing timelines, procedures, and the redistricting plan; coordinating a Request for Proposal for demographer services; and coordinating with the Department of Information Technology to procure electronic districting software for use by the Commission and public.

Throughout the redistricting process, the City Clerk Department will serve as the Secretary to the Commission and be responsible for conducting outreach, evaluating applications, selecting the initial eight commissioners, facilitating public meetings, coordinating all interdepartmental staff efforts, and supporting the Commission.

When a final district map is approved by the Commission and the City Council, the City Clerk Department will work with the Alameda County Registrar of Voters to implement the map. If an impasse is reached, the City Clerk Department will coordinate the effort through the election process and, if necessary, the identification of special masters to develop the redistricting plan

City Attorney's Office

The City Attorney's Office serves as a legal resource to the Citizens Redistricting Commission during training on conflict of interest, open meeting, and ethics laws, will attend Commission meetings to answer legal questions, and provide ongoing legal analysis as required.

Department of Information Technology

The Department of Information Technology will provide technical support for installation of the electronic districting software system and ongoing support throughout the districting process as needed. The GIS Division will provide technical support with mapping and demographics, including initial review of the census data provided by the U.S. Census Bureau.

City Manager's Office

The City Manager's Office has overall responsibility for the City Clerk Department, including coordinating information presented to the City Council. The City's Public Information Officer will be a key coordinator for outreach including press releases and website information during the application period and the Commission's community outreach process.



APPLICATION AND SELECTION PROCESS

What are the requirements to serve?

Any Berkeley registered voter who has voted in the last two Berkeley elections (unless they didn't vote because they were too young to vote in those elections), and is eligible for public office in Berkeley, can apply for selection to the Citizen Redistricting Commission.

Who can serve?

Current members of City boards and commissions that are appointed by the Mayor or Councilmembers can serve provided that they resign from their board or commission upon selection to the Citizen Redistricting Commission (or as an alternate) and do not serve on any City commission during their tenure on the Citizen Redistricting Commission. Persons who made a disclosable contribution to a candidate for Mayor or Councilmember may serve on the Commission if they disclose all such contributions made within the previous four years prior to the date of application.

Who is ineligible?

- City of Berkeley employees
- Qualified candidates for Berkeley Mayor or Councilmember (within 2 years of application)
- Current and former holders of Berkeley elective office (within 2 years of application)
- Paid staff or unpaid interns to the Mayor or Councilmembers (within 2 years of application)
- Family members of the Mayor or Councilmember or their staff
- Officers, paid staff, or paid consultants for campaign committees for Berkeley Mayor or Councilmember (within 2 years)
- Contractors or subcontractors of the City of Berkeley

What else should I know before I apply?

For two years after the termination of service on the Citizen Redistricting Commission, you may not be a paid staff member for the Mayor or a Councilmember or serve on a City board or commission. Additionally, no Commission member may be a candidate for Mayor or City Council in the next election in which that office is on the ballot.

What happens after I apply?

The application deadline is October 9, 2020. The City Clerk will review all applications for eligibility. In January 2021, the City Clerk will randomly select eight Commissioners and eight alternates (one from each Council district). Within 10 days of selecting the initial commissioners, the Commission will convene to select five additional at-large members and alternates. The full Citizens Redistricting Commission then begins meeting regularly.



MAP REQUIREMENTS

Maps are subject to the criteria outlined in Charter Article V, Section 9.5. The final map will be drawn so that the districts are as equal in population as practicable, compliant with state and federal laws, and geographically contiguous.

The Commission will take into consideration topography, geography, cohesiveness, contiguity, and integrity and compactness of the districts, as well as existing communities of interest as defined below. The Commission will also utilize easily understood district boundaries such as major traffic arteries and geographic boundaries (to the extent they are consistent with communities of interest). The geographic integrity of a neighborhood or community of interest will be respected to the extent possible.

As used here, “communities of interest” means contiguous populations that share common social and economic interests. These populations should be included within a single district for purposes of effective and fair representation.

Examples of “common social and economic interests” are areas where people:

- Share similar living standards
- Use the same transportation facilities
- Have similar work opportunities
- Have access to the same media of communication relevant to the election process
- Live in neighborhoods
- Are students/have organized student housing
- Have shared ages
- Have shared racial demographics

Communities of interest shall not include relationships with political parties, incumbents, or political candidates. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party; i.e., the Commission may not consider the residence of current Councilmembers and a current Councilmember may be “drawn out” of their current district.

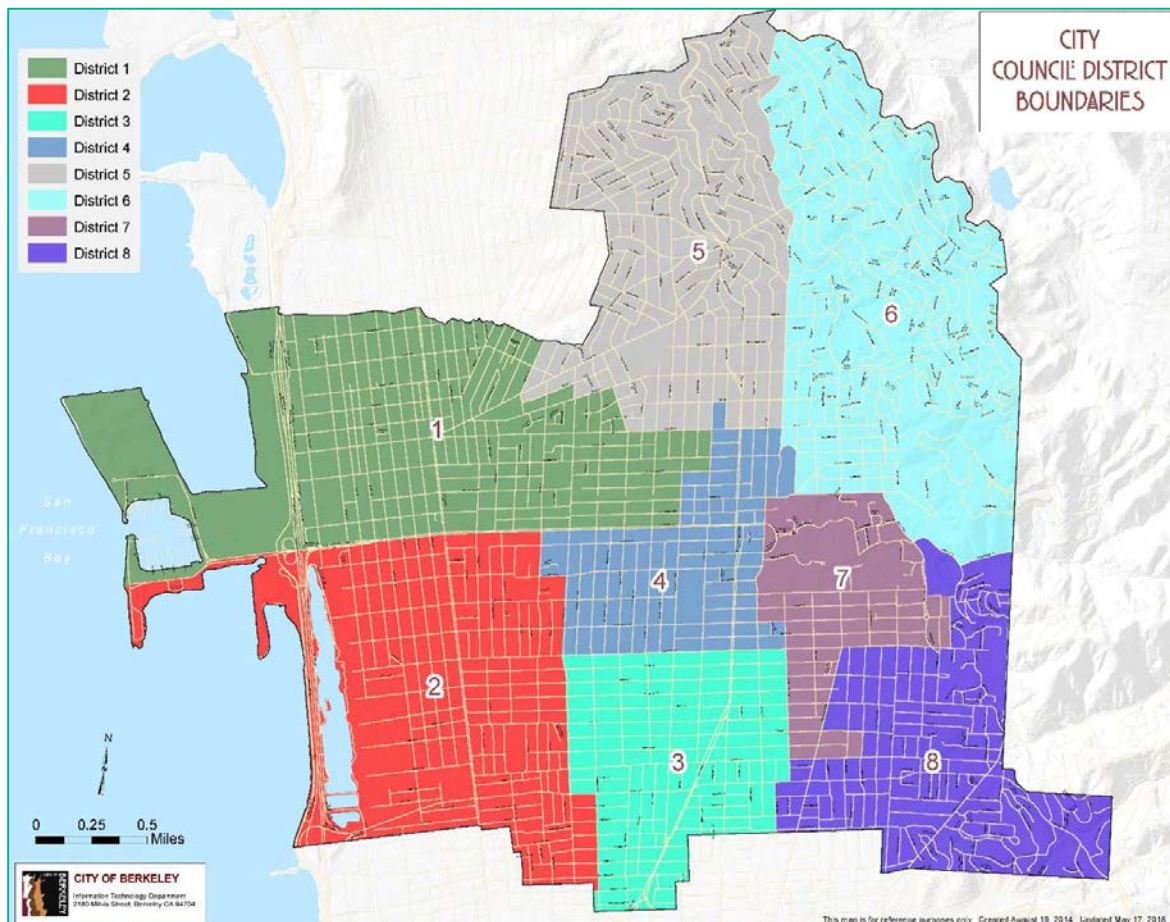
The Commission may consider existing district boundaries as a basis for developing new district boundaries.



FINAL DISTRICT MAP

Map Affirmed by Commission

The final map must be adopted by the Commission with at least seven affirmative votes (of the thirteen voting members) and submitted to the City Council. The City Council will adopt a redistricting ordinance implementing the final map without change. The boundaries of the districts will be effective until the adoption of new district boundaries following the next decennial federal census.



Final Map – 2010 Census Redistricting Process

Impasse Proceedings

If the Commission is unable to reach seven affirmative votes (of the thirteen voting members) for the final map, the map with the most votes will be placed on the ballot for the voters to consider. If the final map is rejected by the voters, the Commission will attempt to adopt a new redistricting plan within thirty days with at least seven affirmative votes. If the Commission is unsuccessful, the City Clerk will recommend a list of at least three special masters to develop a redistricting plan. The Commission will select a special master to develop the redistricting plan, and the City Council will adopt the redistricting plan determined by the special master.



EXHIBIT A: ELIGIBILITY WORKSHEET

 **Eligibility Worksheet for the
City of Berkeley Citizens Redistricting Commission**

Are you registered to vote in Berkeley?

Yes No (ineligible)

Did you vote in Berkeley's two most recent General Municipal Elections (2016 & 2018)?

Yes No (ineligible – unless you could not have voted in these elections due to age)

Have you been a qualified candidate for Mayor or Councilmember within the past two years?

No Yes (ineligible)

Are you (or have you been in the last two years) Berkeley Mayor, Councilmember, Auditor, School Board Director, or Rent Board Stabilization Board Commissioner?

No Yes (ineligible)

Are you the immediate family member of the Mayor or any Councilmember, or immediate family member of any staff to the Mayor or any Councilmember?

No Yes (ineligible)

Are you employed by the City of Berkeley?

No Yes (ineligible)

Are you performing paid services under contract with the City of Berkeley (including subcontractor employees)?

No Yes (ineligible)

Have you served as an officer, paid staff, or paid consultant of a campaign committee of a candidate for Berkeley Mayor or Councilmember within the past two years?

No Yes (ineligible)

Are you currently, or have you been within the last two years, a paid staff member or unpaid intern to the Berkeley Mayor or any Councilmember?

No Yes (ineligible)

Are you disqualified from serving in public office pursuant to Government Code sections 1021, 1021.5, or 1770, and the Constitution and laws of the State of California?

No Yes (ineligible)

Do you serve on a City of Berkeley board or commission appointed by the Mayor or Councilmembers?

No Yes → Eligible. However, you must resign from the board or commission if selected and agree not to serve on the City's other boards or commissions during your term on the CRC.

Have you made disclosable monetary or non-monetary contributions to a candidate for Mayor or Councilmember in the City of Berkeley within the past four years?

No Yes → Eligible. However, you must disclose those contributions under penalty of perjury.

Congratulations – you are eligible to serve on the Citizens Redistricting Commission!





Office of the City Manager

CONSENT CALENDAR
April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 28, 2020

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$500,000.

<u>PROJECT</u>	<u>Fund</u>	<u>Source</u>	<u>Amount</u>
Sanitary Sewer Rehabilitation Project: FY2020 MH Rehabilitation	611	Sanitary Sewer Operations	\$500,000
Total:			\$500,000

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

Formal Bid Solicitations and Request for Proposals
Scheduled for Possible Issuance After Council
Approval on April 28, 2020

CONSENT CALENDAR
April 28, 2020

BACKGROUND

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

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on April 28, 2020

a) Rehabilitation Project: FY2020 MH Rehabilitation

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

DATE SUBMITTED: April 28, 2020

SPECIFICATION NO.	DESCRIPTION OF GOODS / SERVICES BEING PURCHASED	APPROX. RELEASE DATE	APPROX. BID OPENING DATE	INTENDED USE	ESTIMATED COST	BUDGET CODE TO BE CHARGED	DEPT. / DIVISION	CONTACT NAME & PHONE
20-11399-C	Sanitary Sewer Rehabilitation Project: FY2020 MH Rehabilitation	4/29/2020	5/28/2020	To rehabilitate and replace old and deteriorated sanitary sewer maintenance holes.	\$500,000	611-54-623-676-0000-000-473-665130-PWENSR2006	Public Works - Engineering	Stephanie Angla 981-6422 Danny Akagi 981-6394
DEPT. TOTAL					\$500,000			
GRAND TOTAL					\$500,000			



Office of the City Manager

CONSENT CALENDAR
April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services

Subject: Contract: City Data Services for Streamlined Community Agency Contract Administration and Monitoring

RECOMMENDATION

Adopt a Resolution:

1. Authorizing the City Manager to enter into a contract with City Data Services (CDS) to continue to provide its online data management system to the Department of Health, Housing, and Community Services for the period July 1, 2020 through June 30, 2021 for \$32,160, and
2. Authorizing the City Manager to extend the contract for an additional three years (FY22, FY23 & FY24), and execute any amendments with CDS for ongoing maintenance of the community agency online applications and reporting systems for an annual service fee of \$32,160 for a total contract not to exceed amount of \$128,640.

FISCAL IMPACTS OF RECOMMENDATION

The breakdown of costs and budget codes is shown below:

Program Area	Annual Cost	GL Codes
Community Agency Maintenance Fee	\$13,260	E (128-51-504-530-0000-000-444-613130-) - 60% E (011-51-504-530-0000-000-444-613130-) - 40%
Housing Trust Fund (HTF) Maintenance Fee	\$6,300	E (128-51-504-533-2032-000-444-613130-)
HTF Monitoring and Inspection Maintenance Fee	\$2,400	E (128-51-504-533-2032-000-444-613130-)
Mental Health Contracts Maintenance Fee	\$5,100	E (315-51-503-526-2017-000-451-636110-)
Healthy Berkeley Maintenance Fee	\$5,100	E (011-51-506-559-2073-000-451-613130-)
Annual Total	\$32,160	
Contract NTE (FY21, FY22, FY23, FY24)	\$128,640	

CURRENT SITUATION AND ITS EFFECTS

On June 11, 2010 Council approved entering into a sole-source contract (No. 9111) with CDS to provide an online application and reporting system for administering community agency contracts. The contract with CDS was amended several times to extend the contract period, including adding annual service fees and the addition of several programs (Mental Health, Public Health, and Housing Trust Fund (HTF) Monitoring and Inspection modules). The current amended contract (now No. 093665-1) is set to expire at the end of FY20.

HHCS has been using the system since June 2010 and staff is satisfied with the system's performance and recommends continued utilization the system for its contracts and monitoring within the HHCS Department. Over ten City staff use CDS on a regular, if not daily, basis.

Continuing to contract with CDS is a Strategic Plan Priority Project, advancing our goal to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

BACKGROUND

In 2008, City staff began researching various data systems to explore the availability and affordability of an online application and reporting system for community agency contracts. The main goals were to manage the impacts of staffing reductions and create efficiencies by developing an online system that would comply with city, state and federal reporting requirements, simplify the reporting process for non-profit contractors, and simplify the application review process for Commissions. In 2010 City staff identified CDS as the most flexible and cost-efficient system. On June 11, 2010 Council approved a sole-source contract (No. 9111) with CDS that has since been amended several times to extend the contract period; including adding annual service fees and the addition of several programs (Mental Health, Public Health, and HTF Monitoring and Inspection modules). The current amended contract now numbered 093665-1 is set to expire at the end of FY20.

The CDS system enables applicants of City funds to submit applications online. It also allows reviewers of applications to view and evaluate them through a web-based portal. Currently, more than 50 community agencies with over 100 programs have contracts administered by the HHCS Department. Agencies have successfully applied for funding using the CDS system for several rounds of funding. They also regularly submit financial and program reports via CDS. CDS also contains a monitoring and inspection component where staff can track contract performance and inspection communications and results. Additionally, CDS can upload information into the federal Department of Housing and Urban Development reporting database which the City is required to use to report on Community Development Block Grant funding. This functionality makes work more efficient and reduces costs.

HHCS also uses CDS to track and monitor HTF and Below Market Rate (BMR) properties. All HTF and BMR property owners submit annual compliance reports through CDS and monitoring staff use CDS to coordinate and document on-site monitoring activities.

ENVIRONMENTAL SUSTAINABILITY

The CDS system supports the City's efforts to reduce the use of paper.

RATIONALE FOR RECOMMENDATION

The CDS system has been developed and modified to adequately meet the needs of the HHCS department monitoring and reporting requirements for community agency contracts and monitoring efforts. CDS has saved the city and community agencies money by reducing the cost of reproducing multiple applications for funding. It has also created efficiencies for both community agencies and city staff by streamlining the reporting, application and monitoring processes.

ALTERNATIVE ACTIONS CONSIDERED

HHCS continues to need an automated system to administer community agency contracts and track housing projects. If HHCS were to contract with another vendor for this service, there would likely be undue hardship to City staff and community partners during a system transition. Furthermore, procuring a new system would likely result in higher costs for the same or equivalent type of service.

CONTACT PERSON

Rhianna Babka, Community Services Specialist III, HHCS, 510-981-5410

Attachments:

1: Resolution

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

CONTRACT: CITY DATA SERVICES FOR STREAMLINED COMMUNITY AGENCY
CONTRACT ADMINISTRATION AND MONITORING

WHEREAS, City Data Services (CDS) provides an online contract reporting and monitoring system of the same name; and

WHEREAS, on June 11, 2010 Council approved that the City enter into a sole-source contract with CDS (No. 9111) to provide maintenance on an online application and reporting system for administering community agency contracts and monitoring the City's regulated housing portfolios, and this contract (amended No. 093665-1) is set to expire on June 20, 2020; and

WHEREAS, the CDS system has been developed and modified to adequately meet the needs of the HHCS department monitoring and reporting requirements for community agency contracts and monitoring efforts; and

WHEREAS, three Divisions in HHCS use CDS for contract reporting and monitoring of more than 50 different agencies with over 100 discrete programs, as well as the Housing Trust Fund Monitoring; and

WHEREAS, staff is satisfied with the system's performance and recommends continued utilization of the system for contracts in the HHCS Department; and

WHEREAS, funding for these additional costs is available from the following budget codes:

Program Area	Annual Cost	GL Codes
Community Agency Maintenance Fee	\$13,260	E (128-51-504-530-0000-000-444-613130-) - 60% E (011-51-504-530-0000-000-444-613130-) - 40%
Housing Trust Fund (HTF) Maintenance Fee	\$6,300	E (128-51-504-533-2032-000-444-613130-)
HTF Monitoring and Inspection Maintenance Fee	\$2,400	E (128-51-504-533-2032-000-444-613130-)
Mental Health Contracts Maintenance Fee	\$5,100	E (315-51-503-526-2017-000-451-636110-)
Healthy Berkeley Maintenance Fee	\$5,100	E (011-51-506-559-2073-000-451-613130-)
Annual Total	\$32,160	
Contract NTE (FY21, FY22, FY23, FY24)	\$128,640	

And;

WHEREAS, if HHCS were to contract with another vendor for this service, there would likely be transition costs and services impacts to City and community agency staff in system transition as well as increased costs to the City.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract with City Data Services to continue to provide maintenance activities to support community agency contracts, Housing Trust Fund and Single Family Rehabilitation projects, Housing Trust Fund Monitoring and Inspection tracking, Mental Health Services Act and Healthy Berkeley contracts bringing the total contract amount to \$32,160 from July 1, 2020 through June 30, 2021 and authorizing the City Manager to execute an option to extend for an additional three years (FY22, FY23 & FY24), and execute any amendments with City Data Services (CDS) for ongoing maintenance of the community agency online application and reporting system for an annual service fee of \$32,160 for a total contract not to exceed amount of \$128,640. A signed copy of said documents, agreements and any amendments will be kept on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR

April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services

Subject: Contract No. 32000094 Amendment: Youth Spirit Artworks for Transition Age Youth Case Management and Linkage Services and Tiny House Case Management

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with vendor Youth Spirit Artworks (YSA) to provide Transition Age Youth (TAY) case management and linkage services through June 30, 2021 in an amount not to exceed \$217,000. This will extend the existing contract by one year and add in \$117,000 for case management services at the Tiny Homes Village.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the scope of work in the amount of \$117,000 will be provided from ERMA GL Code 011-51-503-523-5002-000-451-636110-. The Contract Management System number for this contract is CMS No. YSA-TAY.

CURRENT SITUATION AND ITS EFFECTS

Berkeley Mental Health (BMH) currently holds Contract No. 32000094 with YSA for case management services for TAY youth with mental health issues, approved by City Council by Resolution No. 69,194-N.S. City Council has authorized funding of \$39,000 in FY20 and \$78,000 in FY21 from Measure P for case management services for TAY in the YSA Tiny Villages program. This contract amendment is required so that YSA can utilize this approved funding.

BACKGROUND

The funding for the Tiny Homes case management will serve 11 Berkeley youth residing or planning to reside at the Tiny Homes village, with the goal of supporting them in obtaining permanent housing.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the action recommended in this report.

RATIONALE FOR RECOMMENDATION

The scope of services under this amendment are being done at the direction of City Council. YSA provided similar services in a satisfactory manner last year.

ALTERNATIVE ACTIONS CONSIDERED

As an alternative action, Council could instead direct staff to conduct a new RFP to competitively solicit a different vendor, or decide to not fund this service.

CONTACT PERSON

Conor Murphy, Assistant Management Analyst, HHCS, 510-981-7611

Steven Grolnic-McClurg, Manager of Mental Health Services, HHCS, 510-981-5249

Attachments:

1: Resolution

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

CONTRACT NO. 32000094 AMENDMENT: YOUTH SPIRIT ARTWORKS FOR TRANSITION AGE YOUTH CASE MANAGEMENT AND LINKAGE SERVICES AND TINY HOUSE CASE MANAGEMENT

WHEREAS, Mental Health Services Act (MHSA) funds are allocated to mental health jurisdictions across the state for the purposes of transforming the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, includes community collaboration, and implements integrated services; and

WHEREAS, on July 23, 2019 by Resolution No. 69,033-N.S., City Council authorized the City Manager to approve the MHSA Plan FY2019-2020 Annual Update; and

WHEREAS, within the City Council approved MHSA Plan FY2019-2020 Annual Update was an allocation of \$100,000 for contracted Transition Age Youth (TAY) Case Management and Linkage Services; and

WHEREAS, on December 3, 2019 by Resolution No. 69,194-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2020 in an amount not to exceed \$100,000; and

WHEREAS, funds are available in the current budget year in ERMA GL Code 011-51-503-523-5002-000-451-636110- and this contract has been entered in the Citywide contract database and assigned CMS No. YSA-TAY.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute an amendment to the existing contract with Youth Spirit Artworks for Transition Age Youth case management and linkage services and Tiny House case management through June 30, 2021 in an amount not to exceed \$217,000. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.



Office of the City Manager

CONSENT CALENDAR
April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront

Subject: Contract: ENGEO for Testing and Inspection Services for Berkeley Tuolumne Camp Construction Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with ENGEO in an amount not to exceed \$500,000 to provide construction testing and inspection services (including Geotechnical inspections) for the Berkeley Tuolumne Camp Project for the period May 1, 2020 through July 1, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the contract are available in the Camps Fund. There is \$250,000 included in the FY19 Camps Fund budget (budget code 125-52-543-583-0000-000-461-612990 PRWCP19001). The remaining \$250,000 will be included in the third amendment to FY20 Annual Appropriations Ordinance and budgeted in the Camps Fund budget code 125-52-543-583-0000-000-461-612990 PRWCP19001.

The cost of this this contract is covered by insurance payments (partially received).

CURRENT SITUATION AND ITS EFFECTS

In August 2013, the California Rim Fire destroyed the Berkeley Tuolumne Camp (BTC), a residential family camp located within the Stanislaus National Forest. The closure of BTC has significantly impacted the Department of Parks, Recreation and Waterfront 'Camps Fund', which historically depended on the successful programming at BTC to support the finding of City-wide Camps programming and capital needs. Due to insurance coverage of business interruption losses and to successful re-organization of Camps programming, the Camps fund is projected to stay positive through FY22, however it has been unable to contribute to capital funding since the Rim Fire (historically \$250,000 per year).

Since the Rim Fire, the City has worked in partnership with the U.S. Forest Service to complete the design, environmental analyses and documentation and to secure permits for the reconstruction of Berkeley Tuolumne Camp. BTC was covered by the City's insurance policy and insurance is the primary source of funding for the reconstruction. The Project is also funded by a Public Assistance Grant from the Federal Emergency

Management Agency (FEMA) and California Office of Emergency Services (CalOES) and City funds.

BACKGROUND

Berkeley Tuolumne Camp, established in 1922, is a 30-acre property operated under a Special Use Permit with the US Forest Service (USFS). The camp has served primarily as a family camp, but also offered teen leadership programs, adult hiking camps, and private group rental opportunities. Prior to the fire, BTC had the capacity to host approximately 280 campers, 60 staff members, and 10 counselors-in-training at one time, and served over 4,000 campers each year. The major facilities at the Camp included a Dining Hall; a Recreation Hall, 77 small single-story wood-frame camper tent cabins; staff cabins; maintenance and storage structures; a bridge across the river; parking and loading areas, and electric, water supply, and wastewater utilities.

In August of 2013, the Rim Fire destroyed Berkeley Tuolumne Camp (BTC) and in December was declared a federal disaster. The majority of structures at BTC were destroyed by the fire. The property was covered by the City's insurance policy, and insurance proceeds will be the primary source of reconstruction funds. The City has also been awarded a Public Assistance Grant from the Federal Emergency Management Agency (FEMA) and California Office of Emergency Services (CalOES) to partially fund reconstruction.

Since the fire, the City has been working closely with the USFS to complete an updated master plan in order to rebuild Camp. On June 11, 2019, USFS completed its environmental review and finding of no significant impact for the Berkeley Tuolumne Camp Project. On January 22, 2019, the City adopted the notice of determination of no significant impacts for the Project. On September 30, 2019, the USFS executed a Special Use Permit authorizing the City to reconstruct Berkeley Tuolumne Camp and to operate the Camp for a term of 30-years. The City has also received permits for the Project from the United States Forest Service, California Department of Fish and Wildlife, California Regional Water Quality Control Board, and the United States Army Corps of Engineers.

City staff have been working closely with Insurance and FEMA/CalOES staff to determine Project funding and cost recovery. Insurance has confirmed the eligibility of specific costs incurred by the Project to date, and the handling of future construction costs.

The total cost estimate for the Berkeley Tuolumne Camp Rebuild Project is \$55M. This cost will be covered by insurance, FEMA/CalOES grant funding, and City funds. On April 4, 2017, City Council allocated \$3.3M of City funds from the Catastrophic Reserve to fund the City cost share of the reconstruction project (Resolution No. 67,889-N.S.).

The City currently anticipates beginning construction in 2020, with a goal to re-open camp in 2022. Prior to construction, hazardous conditions at the Project site must be mitigated.

On February 10, 2020 the City issued a request for qualifications for testing and inspection services for the Berkeley Tuolumne Camp Project (Spec No. 20-11373-C). The City received six submittals and evaluated qualifications and conducted reference checks. The selection panel identified ENGEO as the consultant best suited to meet the City's needs for this Project.

ENVIRONMENTAL SUSTAINABILITY

The City approved the Project CEQA documents on January 22, 2019. The United States Forest Service issued its final NEPA documents on June 11, 2019.

This Project will implement Best Management Practices (BMPs) to encourage biodiversity, preserve resources, and maintain riparian and other natural habitats while mitigating hazardous conditions.

RATIONALE FOR RECOMMENDATION

After reviewing six qualifications submittals and conducting reference checks, the selection panel identified ENGEO as the best-suited for the City's needs. Staff therefore recommends Council approval of a contract with ENGEO for testing and inspection services for the Berkeley Tuolumne Camp Reconstruction Project.

ALTERNATIVE ACTIONS CONSIDERED

The City does not have the expertise required to complete the tasks covered by this contract. Therefore no alternative actions were considered.

CONTACT PERSON

Scott Ferris, Director, PRW, 981-6700
Liza McNulty, Project Manager, PRW, 981-6437

Attachments:
1: Resolution

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

CONTRACT: ENGEO FOR TESTING AND INSPECTION SERVICES FOR
BERKELEY TUOLUMNE CAMP CONSTRUCTION PROJECT

WHEREAS, the City operated the Berkeley Tuolumne Camp, a residential family camp, since 1922 on United States Forest Service land pursuant to a special use permit; and

WHEREAS, in August 2013, the Berkeley Tuolumne Camp was destroyed by the California Rim Fire; and

WHEREAS, on January 22, 2019 the City of Berkeley adopted the Mitigated Negative Declaration and Mitigation and Monitoring and Reporting Plan for the Berkeley Tuolumne Camp Permit (46690) Project; and

WHEREAS, on June 11, 2019, the U.S. Forest Service completed its environmental review and finding of no significant impact for the Berkeley Tuolumne Camp Project; and

WHEREAS, on September 30, 2019, the U.S. Forest Service executed a 30-year Special Use Permit for the reconstruction and operation of Berkeley Tuolumne Camp; and

WHEREAS, on February 10, 2020 the City issued a Request for Qualifications for construction testing and inspection services for the Berkeley Tuolumne Camp Project (Spec No. 20-11373-C) and after reviewing six submittals and conducting and reference checks the selection panel identified ENGEO as the consultant best-suited for the City's needs; and

WHEREAS, funds are available in the Camps Fund. There is \$250,000 included in the FY19 Camps Fund budget (budget code 125-52-543-583-0000-000-461-612990 PRWCP19001). The remaining \$250,000 will be included in the third amendment to FY20 Annual Appropriations Ordinance and budgeted in the Camps Fund budget code 125-52-543-583-0000-000-461-612990 PRWCP19001.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a contract and any amendments with ENGEO in an amount not to exceed \$500,000 for construction testing and inspection services for the Berkeley Tuolumne Camp Project for the period May 1, 2020 through July 1, 2022. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
April 28, 2020

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Phillip L. Harrington, Director, Department of Public Works
Subject: Contract: Andes Construction, Inc. for Sanitary Sewer Rehabilitation at West Frontage Road Crossing Interstate 80 Project

RECOMMENDATION

Adopt a Resolution approving plans and specifications for the Sanitary Sewer Rehabilitation at West Frontage Road Crossing Interstate 80 Project; accepting the bid of the lowest responsive and responsible bidder, Andes Construction, Inc.; and authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$556,292, which includes a 10% contingency of \$50,572.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2020 Sanitary Sewer Fund 611-54-623-676-0000-000-473-665130-PWENSR2004.

Low bid by Andes	\$505,720
10% Contingency	\$50,572
Total construction cost	\$556,292

CURRENT SITUATION AND ITS EFFECTS

An Invitation for Bids (Specification. No. 20-11396-C) was released on March 11, 2020 and six non-local bids were received, ranging from a low of \$505,720 to a high of \$744,208 (Attachment 3, Bid Results). The engineer’s estimate for the project was \$575,000. Andes Construction, Inc. (Andes) of Oakland, California was the lowest responsive and responsible bidder with a bid of \$505,720. Previous work and references of Andes proved satisfactory, thus staff recommends award of the contract to Andes.

The Sanitary Sewer Rehabilitation at West Frontage Road Crossing Interstate 80 Project supports the City’s Strategic Plan goal of providing state-of-the-art, well-maintained infrastructure, amenities, and the goal of protecting the environment.

BACKGROUND

To remain compliant with the September 22, 2014 Consent Decree, the City has implemented a long-term mandated Sanitary Sewer Capital Improvement Program to eliminate sanitary sewer overflows (SSOs) and to reduce storm water infiltration and inflow into the sanitary sewer system. Under this program, the City utilizes a comprehensive asset management approach based on complex and evolving hydrologic and hydraulic modeling and condition assessments to repair, replace, or upgrade the City's portion of the sanitary sewer system. Ultimately, these actions will assist East Bay Municipal Utility District (EBMUD) in their goal of eliminating discharges from their wet weather facilities by the end of 2035.

This is the sixth year of the twenty-two-year Consent Decree program, which stipulates the City shall perform collection system repair and rehabilitation to control infiltration and inflow.¹ This is in support of and in addition to ongoing work previously identified in the City's Sanitary Sewer Management Plan (SSMP) and Asset Management Implementation Plan (AMIP).

This sanitary sewer project is part of the City's ongoing program to rehabilitate or replace its aging sanitary sewer system, and to eliminate potential health hazards to the public. The project is located at West Frontage Road and crosses under Interstate 80 just south of the University Avenue overcrossing as shown on the Location Map (Attachment 2). The sanitary sewer collection system in this area needs immediate rehabilitation to prevent pipe failures on the frontage road and under Interstate 80, sewer blockages, and leakage problems. Field investigations performed using a closed circuit television camera revealed deteriorated piping and pipe defects in the existing sanitary sewer mains. These conditions are similar to problems previously found in other sanitary sewer mains prior to their replacement.

Planned work entails rehabilitation of approximately 894 linear feet sanitary sewer mains varying in size from 16-inch to 18-inch diameter; maintenance hole rehabilitation; freeway off-ramp closure with traffic control; and other related work. To reduce traffic impacts, minimize inconvenience to the public, and reduce cost, a majority of this sanitary sewer rehabilitation work will be performed using the pipe bursting method. This trenchless method allows replacement of pipelines buried below street level without the need for a traditional open trench construction. This method of pulling a new high-density polyethylene pipe (HDPE) through the existing cast-iron pipe with a cone-shaped hammerhead to "burst" the surrounding clay pipe, allows for cost savings, and avoids street closures and traffic disruptions caused by open trenches.

The Living Wage Ordinance does not apply to this project as Department of Public Works construction contracts are subject to State prevailing wage laws. Andes has submitted a Certification of Compliance with the Equal Benefits Ordinance. The

¹ At an average annual rate of no less than 22,120 feet of sanitary sewer mains on a three-fiscal-year rolling average.

Community Workforce Agreement applies to this project because the estimated value of the project exceeds \$500,000. As a result, the contractor and all subcontractors will be required to sign an agreement to be bound by the terms of the Agreement.

ENVIRONMENTAL SUSTAINABILITY

Improvements to the City's sanitary sewer system will help protect water quality by reducing the frequency of SSOs, and infiltration and inflow into the City's sanitary sewer system that can negatively affect the San Francisco Bay.

RATIONALE FOR RECOMMENDATION

Contracted services are required for the specialized services required for this project, as the City lacks in-house resources needed to complete scheduled sanitary sewer rehabilitation and replacement projects. Further, the City must take timely action to address urgent/emergent sewer repairs without delay. Finally, subject to fines and stipulated penalties, the Consent Decree demands the City to repair acute defects within one year of discovery, and complete sanitary sewer mains rehabilitation and replacement at an average annual rate of no less than 22,120 feet on a three-fiscal-year rolling average. The City will have a three-year annual average of approximately 23,200 linear feet of replaced or rehabilitated sewer through the end of FY 2020 on June 30, 2020.

ALTERNATIVE ACTIONS CONSIDERED

No reasonable alternative exists as the City's sanitary sewer pipelines are in poor condition and in need of timely rehabilitation to prevent an increased probability of infiltration and inflows, sanitary sewer leakages, and backup problems in the sanitary sewer system.

CONTACT PERSON

Joe Enke, Acting Manager of Engineering, Public Works, (510) 981-6411
Daniel Akagi, Supervising Civil Engineer, Public Works, (510) 981-6394
Tiffany Pham, Associate Civil Engineer, Public Works, (510) 981-6427

Attachments:

- 1: Resolution
- 2: Location Map
- 3: Bid Results

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

CONTRACT: ANDES CONSTRUCTION, INC. FOR SANITARY SEWER
REHABILITATION – WEST FRONTAGE ROAD CROSSING INTERSTATE 80
PROJECT

WHEREAS, the Sanitary Sewer Project is part of the City's on-going Sanitary Sewer Capital Improvement Program to rehabilitate or replace the aging and deteriorated sanitary sewer system; and

WHEREAS, the Capital Improvement Program is a requirement of compliance with the National Pollution Discharge Elimination System Permit (NPDES) and California Regional Water Quality Control Board Consent Decree; and

WHEREAS, the City has neither the staff nor the equipment necessary to undertake this Sanitary Sewer Rehabilitation and Replacement Project and other urgent/emergent sewer repairs; and

WHEREAS, on March 11, 2020 the City released an Invitation for Bids (Specification No. 20-11396-C) for sanitary sewer rehabilitation and replacement; and

WHEREAS, the City received six bids, and Andes Construction, Inc. was found to be the lowest responsive and responsible bidder; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specifications No. 20-11396-C for the Sanitary Sewer Rehabilitation, West Frontage Road Crossing Interstate 80 Project are approved.

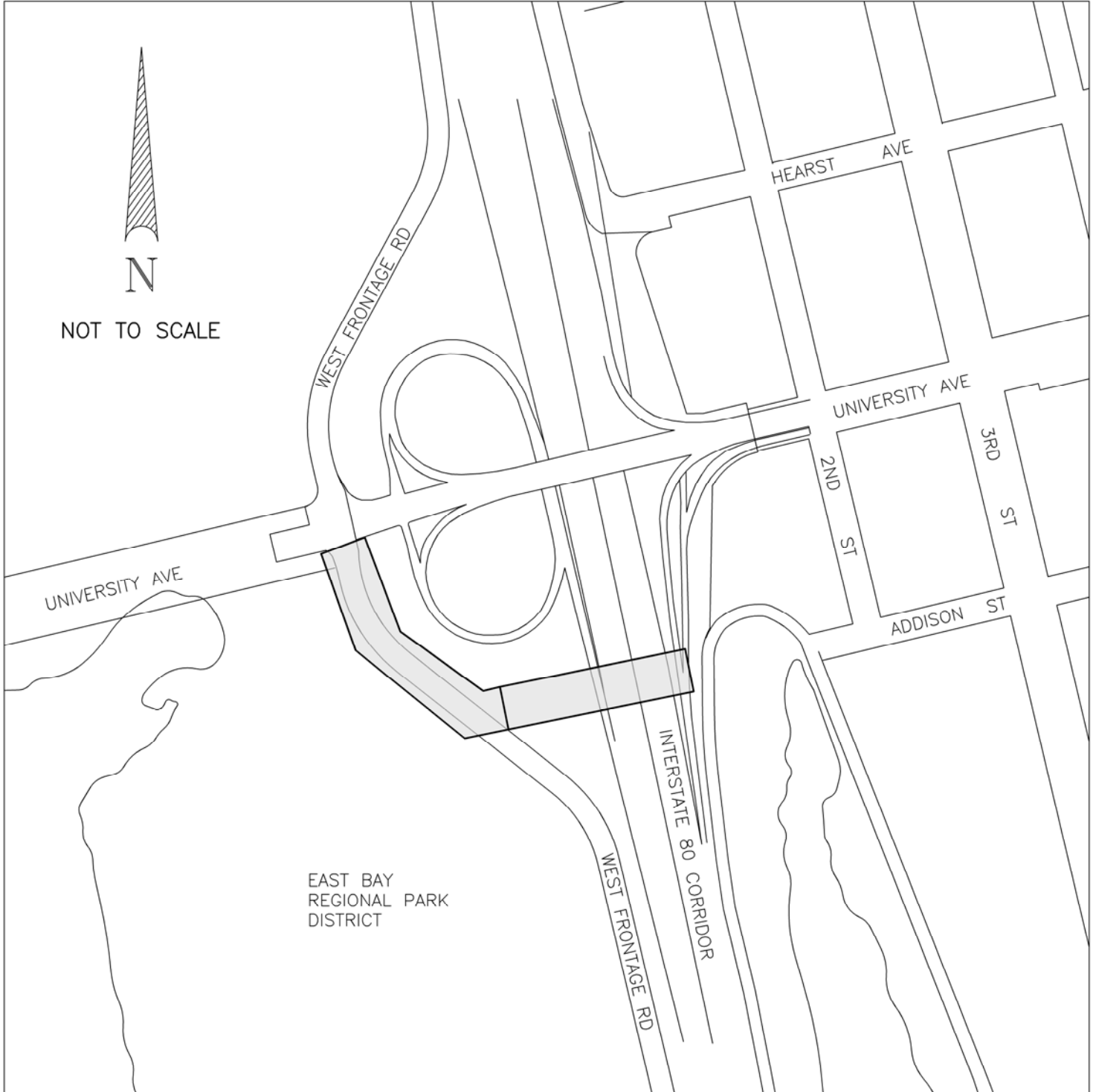
BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments with Andes Construction, Inc., until completion of the project in accordance with the approved plans and specifications for the Sanitary Sewer Rehabilitation Project located on West Frontage Road crossing Interstate 80, in an amount not to exceed \$556,292 which includes a 10% contingency for unforeseen circumstances. A record signature copy of said agreement and any amendments will be on file in the Office of the City Clerk.

LOCATION MAP

SANITARY SEWER REHABILITATION PROJECT

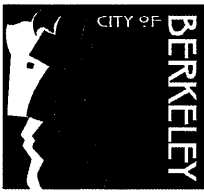
WEST FRONTAGE ROAD CROSSING INTERSTATE 80

SPECIFICATION NO. 20-11396-C



ATTACHMENT 2

 - CONSTRUCTION AREA



City of Berkeley
Abstract of Bid Worksheet

Finance Department
General Services Division

FOR: SANITARY SEWER REHAB
W. FRONTAGE RD. CROSSING @ I80

Spec. #

20-11396-C

Bid Date:

3/31/20

	Bidders	Base Bid	Alt. #1	TOTAL	Alt. #2	TOTAL	Bid Bond	Addenda	LW	WF	EBO	OS	NF
1	Pacific Trachless	520,960	4,145	525,105			✓	S			✓	✓	✓
2	Cratus	718,464	20,000	738,464			✓	S			✓	✓	✓
3	DARCY & HARTY	521,400	8,000	529,400			✓	S			✓	✓	✓
4	BMV Pacific PIPELINES	739,208	5,000	744,208			✓	S			✓	✓	✓
5	EXPRESS Plumbing		25,000	583,424			✓	S			✓	✓	✓
6	ANDES	504,720	1,000	505,720			✓	S			✓	✓	✓
7													
8													
9													
10													

Bid Recorder: HENRY OYEKANMI

Bid Opener: DJ ST PARRYC SWEET 3/31/20

Project Manager: David M. Kelly 31 MAR 2020



Office of the City Manager

CONSENT CALENDAR
April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: Contract Amendments: On-Call Civil Engineering and Construction Management Services, LCC Engineering & Surveying, Inc. and Pavement Engineering Inc.

RECOMMENDATION

Adopt two Resolutions authorizing the City Manager to execute amendments to

1. Contract No. 31900068 with LCC Engineering & Surveying, Inc. for on-call civil engineering services, increasing the original contract amount by \$1,000,000 for a total not-to-exceed amount of \$1,500,000, and extending the term of the contract from June 30, 2021 to June 30, 2022, and
2. Contract No. 31900047 with Pavement Engineering Inc. for on-call civil engineering services, increasing the original contract amount by \$1,000,000 for a total not-to-exceed amount of \$2,500,000 and extending the term of the contract from June 30, 2021 to June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Funding for these contract amendments is subject to appropriation in the Fiscal Year FY 2020 Capital Improvement Program (CIP) Budgets in the Capital Improvement Fund (501-54-623-673-0000-000-431-612310) and the Measure T1 Infrastructure Bond Fund (511-54-623-673-0000-000-431-612310). Funding for FY 2021 through FY 2022 of each contract is subject to appropriation in the future fiscal years' budget from the appropriate funds for capital improvement projects.

CURRENT SITUATION AND ITS EFFECTS

In order for certain capital improvement programs to move forward, City resources must be supplemented with outside civil engineering consultants. There is a need for civil engineering services for designing streets, storm drains, green infrastructure, and sidewalk projects, and for construction management and inspection for these projects.

The original contracts with LCC Engineering & Surveying, Inc. (LCC) and Pavement Engineering Inc. (PEI) cover a three-year period from FY 2019 through FY 2021, with not to exceed amounts of \$500,000 and \$1,500,000, respectively.

Contract Amendments: Contract No. 31900068
LCC Engineering & Surveying, Inc. and Contract No. 3190047
Pavement Engineering Inc. for On-Call Civil Engineering and
Construction Management Services

CONSENT CALENDAR
April 28, 2020

From September 1, 2018 to March 2, 2020, task orders have been authorized to LCC and to PEI for approximately 90% of their total contract amounts. Although one year remains in each of the contracts, there is a great need for on-call civil engineering services over the next two years for the multiple projects generated by the November 2016 passage of the Measure T1 Infrastructure & Facilities GO Bond (T1) including accelerated street paving. In order to expedite project design, staff proposes amending the contracts for LCC and PEI for increased expenditure authority. If these contracts are not amended, the City will be unable to continue using their services when the current not-to-exceed amounts are depleted.

The provided services support the Strategic Plan goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The Engineering Division of the Public Works Department is experiencing significantly increased workloads, resulting from deferred maintenance, ongoing capital projects, and T1 projects. The City has used civil engineering consultants in the past to design and manage projects to supplement City staff. These include situations in which the nature of the work is specialized such as paving, drainage, and green infrastructure for design, permitting, construction administration, and inspections. On-call contracts provide professional design, engineering, and construction management services when needed and reduce the need for hiring additional staff.

ENVIRONMENTAL SUSTAINABILITY

There are no negative environmental effects of this action. These contracts will help ensure successful completion of capital improvement projects including complete streets projects which facilitate walking and cycling as alternatives to driving.

RATIONALE FOR RECOMMENDATION

LCC Engineering & Surveying, Inc. and Pavement Engineering Inc. have particular expertise in engineering design, construction management, and construction support. The City has insufficient staffing and resources to design, manage and inspect construction of the number of projects in our capital program. Amending these contracts will assist the City's in proceeding with planned capital improvement projects.

ALTERNATIVE ACTIONS CONSIDERED

Council could choose not to amend these contracts, in which case, the progress of planned capital improvement projects would be delayed.

CONTACT PERSON

Phillip L. Harrington, Director, Public Works, (510) 981-6303
Nisha Patel, Manager of Engineering, Public Works, (510) 981-6406
Joe Enke, Supervising Civil Engineer, Public Works, (510) 981-6411

Contract Amendments: Contract No. 31900068
LCC Engineering & Surveying, Inc. and Contract No. 3190047
Pavement Engineering Inc. for On-Call Civil Engineering and
Construction Management Services

CONSENT CALENDAR
April 28, 2020

Attachments:

- 1: Resolution – Amendment to Contract with LCC Engineering & Surveying, Inc.
- 2: Resolution – Amendment to Contract with Pavement Engineering Inc.,

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

CONTRACT NO. 31900068 AMENDMENT: LCC ENGINEERING & SURVEYING, INC.
FOR ON CALL CIVIL ENGINEERING SERVICES

WHEREAS, on July 24, 2018 by Resolution No. 68,560-N.S., the City Council authorized Contract No. 31900068 with LCC Engineering & Surveying, Inc. for on-call civil engineering services, in an amount not to exceed \$500,000 for a three year period expiring June 30, 2021; and

WHEREAS, the City does not have sufficient in-house resources to perform the volume of necessary civil engineering services within the next two years; and

WHEREAS, the City desires to retain on-call civil engineering services for various Public Works projects including multiple projects generated by the passage of the Measure T1 Infrastructure & Facilities GO Bond; and

WHEREAS, funds are available from the Capital Improvement Fund 501, and the Measure T1 Infrastructure & Facilities GO Bond Fund 511, in the FY 2020 budget, and will be allocated from each fiscal year's capital budget based on each project or program.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to the Contract No. 31900068 with LCC Engineering & Surveying, Inc. for on-call civil engineering services increasing the amount by \$1,000,000 for a total not to exceed \$1,500,000 and extending the term of the contract to June 30, 2022. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT NO. 31900047 AMENDMENT: PAVEMENT ENGINEERING INC. FOR ON
CALL CIVIL ENGINEERING SERVICES

WHEREAS, on July 24, 2018 by Resolution No. 68,562-N.S., the City Council authorized Contract No. 31900047 with Pavement Engineering, Inc. for on-call civil engineering services, in an amount not to exceed \$1,500,000 for a three year period expiring June 30, 2021; and

WHEREAS, the City does not have sufficient in-house resources to perform the volume of necessary civil engineering services within the next two years; and

WHEREAS, the City desires to retain on-call civil engineering services for various Public Works projects including multiple projects generated by the passage of the Measure T1 Infrastructure & Facilities GO Bond; and

WHEREAS, funds are available from the Capital Improvement Fund 501, and the Measure T1 Infrastructure & Facilities GO Bond Fund 511, in the FY 2020 budget, and will be allocated from each fiscal year's capital budget based on each project or program.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to the Contract No. 31900047 with Pavement Engineering Inc. for on-call civil engineering services increasing the amount by \$1,000,000 for a total not to exceed \$2,500,000 and extending the term of the contract to June 30, 2022. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
April 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Phillip L. Harrington, Director, Department of Public Works
 Subject: Approving Proposed Projects Anticipated to be paid for by the State's Road Maintenance and Rehabilitation Account (RMRA) Funds for FY2021

RECOMMENDATION

Adopt a Resolution approving a proposed list of projects that will utilize funding from the State of California's Road Maintenance and Rehabilitation Account, and authorize the City Manager to submit the proposed list to the California Transportation Commission.

FISCAL IMPACTS OF RECOMMENDATION

Based on information provided by CaliforniaCityFinance.com and the League of California Cities, the City of Berkeley can expect to collect an estimated \$2,329,276 in Road Maintenance and Rehabilitation Account (RMRA) allocated funding in Fiscal Year (FY) 2021. No budgetary action is required at this time. RMRA appropriations will be addressed with the adoption of the FY 2021 Budget.

CURRENT SITUATION AND ITS EFFECTS

California Senate Bill 1 (SB1), signed into law on April 28, 2017, increased certain vehicle fuel and registration taxes and fees, and with those funds has created an RMRA, a portion of which will be distributed to jurisdictions. The California Transportation Commission (CTC) requires jurisdictions to submit documentation annually that RMRA funds were specifically adopted for allowed local streets and roads purposes. In order to receive this funding, the City must annually submit to the State a list of projects anticipated to be completed. For FY 2021, the CTC requires the submission of a list of projects proposed to be funded with RMRA during FY 2021 by May 1, 2020. The adoption of the attached resolution by Council is a CTC requirement for Berkeley's RMRA project list submittal.

BACKGROUND

On April 28, 2017, the Governor signed Road Repair and Accountability Act (SB1) to address basic road maintenance, rehabilitation, and critical safety needs on both the state highway and local streets and road system. SB1 provides for the deposit of various funds for the program in the RMRA, which SB1 created in the State Transportation Fund, including the following:

- Revenues attributable to a \$0.12 per gallon increase in the motor vehicle fuel (gasoline) tax imposed by the bill with an inflation adjustment;
- 50% of a \$0.20 per gallon increase in the diesel excise tax, with an inflation adjustment;
- A portion of a new transportation improvement fee imposed under the Vehicle License Fee Law with a varying fee between \$25 and \$175 based on vehicle value and with an inflation adjustment; and
- A new \$100 annual vehicle registration fee applicable only to zero-emission vehicles model year 2020 and later, with an inflation adjustment.

The fuel excise tax increases took effect on November 1, 2017, the transportation improvement fee took effect on January 1, 2018, and the zero-emission vehicle registration fee takes effect on July 1, 2020.

Similar to the Highway Users Tax Account (HUTA), the Road Maintenance and Rehabilitation Account (RMRA) is continuously appropriated, and apportioned on a monthly basis. There is not a set monthly amount as it is use-based. The first apportionments to the City of Berkeley were received in February 2018.

According to the applicable California Streets and Highways Code, eligible projects “shall be prioritized for expenditure on basic road maintenance and road rehabilitation projects, and on critical safety projects”¹. There is no use-it-or-lose-it requirement in SB1, so multi-year projects are eligible. Eligible projects include, but are not limited to:

- Road maintenance and rehabilitation
- Safety projects
- Railroad grade separations
- Complete streets components, including active transportation, bike/pedestrian, transit facilities, and stormwater capture projects, in conjunction with an allowable project
- Traffic control devices
- Match for state/federal funds for eligible projects

SB1 requires cities and counties to provide basic project reporting to the CTC annually for projects to be funded through the RMRA. On August 16, 2017, the CTC adopted annual reporting guidelines for this funding. The guidelines require jurisdictions to submit documentation annually to show that RMRA funds were specifically adopted for allowed local streets and roads purposes, and also requires the submission of a list of projects proposed to be funded with RMRA during the fiscal year. The legislation also requires an annual expenditure report on work completed during the previous fiscal year to be submitted no later than October 31st.

Complete streets improvements such as bike lanes, curb ramps, and pedestrian crossing improvements are allowable uses of RMRA funds. In addition to the previously

¹ Streets and Highways Code – SHC Division 3. Apportionment And Expenditure Of Highway Funds Chapter 2. Road Maintenance And Rehabilitation Program Section 2030(A)

designated projects listed in Resolution No. 68,395–N.S., staff has selected the FY 2021 Street Rehabilitation projects for use of RMRA funds and University Avenue/Marina Boulevard Renovation. The projects are summarized in the following paragraph, and the complete list is provided in the Resolution (Attachment 1).

Pavement maintenance or rehabilitation as part of the FY 2021 Street Rehabilitation project (PWENST2101). Selected segments include Bancroft Way from 6th Street to San Pablo Avenue (surface seal; 10-year useful life), Channing Way from Martin Luther King Jr. Way to Shattuck Avenue (reconstruction; 20-year useful life), Creston Road from Grizzly Peak Boulevard to Grizzly Peak Boulevard (surface seal; 10-year useful life), Durant Avenue from Milvia Street to Fulton Street (reconstruction; 20-year useful life), Emerson Street from Adeline Street to Shattuck Avenue (surface seal; 10-year useful life), Essex Street from Adeline Street to Shattuck Avenue (surface seal; 10-year useful life), Latham Lane from Miller Avenue to Grizzly Peak Boulevard (surface seal; 10-year useful life), Miller Avenue from Hilldale Avenue to Shasta Road (overlay; 10-year useful life), Spruce Street from Arch Street to Eunice Street (overlay; 10-year useful life), and University Avenue/Marina Boulevard Renovation (reconstruction; 20 year useful life).

Utilization of the RMRA funding will support the City's Strategic Plan goal of creating a resilient, safe, connected, and prepared city and providing state-of-the-art, well maintained infrastructure, amenities, and facilities.

ENVIRONMENTAL SUSTAINABILITY

RMRA funds will benefit all modes of transportation by improving road surfaces for bicyclists and transit riders as well as for auto riders, which could result in lessening greenhouse gas emissions.

RATIONALE FOR RECOMMENDATION

A project list is required to be adopted by City Council in order for the City to receive RMRA disbursements from the State Controller's office. Staff proposes use of RMRA funds for maintenance or rehabilitation of local streets as part of the FY 2021 Street Rehabilitation (21ST01). It should be noted that the provided project list is a plan; in the end-of-year reporting on actual spending of RMRA funds, the CTC allows for the completion of projects not included in this list as long as they meet the requirements for RMRA funding.

ALTERNATIVE ACTIONS CONSIDERED

No reasonable alternative exists as the City's pavement condition is currently in the low end of the fair index category and is projected to decline, and is in need of continued maintenance and rehabilitation.

CONTACT PERSON

Phillip L. Harrington, Director, Department of Public Works (510) 981-6303
Joe Enke, Supervising Civil Engineer (510) 981-6411

Resolution Approving Proposed Projects Anticipated to be Paid for by
the State's Road Maintenance and Rehabilitation Account (RMRA) Funds
for Fiscal Year 2021

CONSENT CALENDAR
April 14, 2020

Attachment:
1: Resolution

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

RESOLUTION APPROVING PROPOSED PROJECTS ANTICIPATED TO BE PAID FOR BY THE STATE'S ROAD AND MAINTENANCE AND REHABILITATION ACCOUNT (RMRA) FUNDS FOR FISCAL YEAR 2021

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must approve by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City, will receive an estimated \$2,329,276 in RMRA funding in Fiscal Year 2021 from SB 1; and

WHEREAS, this is the fourth year in which the City is receiving SB 1 funding and will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City has undergone a public process to ensure public input into our community's street priorities and the project list; and

WHEREAS, the City used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the communities priorities for transportation investment; and

WHEREAS, the funding from SB 1 will be used by the City for basic street maintenance and rehabilitation, critical safety projects on local roadways, and pedestrian safety and transportation projects throughout the City this year and for similar projects into the future; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City's streets and roads are in the low end of the fair condition category,

and this revenue will help us increase the overall quality of our road system, and improve their bicycle and pedestrian mobility and safety; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide; and

WHEREAS, the following list of proposed projects is anticipated to be funded in-part or solely with Fiscal Year 2021 Road Maintenance and Rehabilitation Account revenues:

FY 2021 Street Rehabilitation

- Segment 1, Bancroft Way from 6th Street to San Pablo Avenue (0.32 miles) – surface seal the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2021 and will be completed by December 2021.
- Segment 2, Channing Way from Martin Luther King Jr. Way to Shattuck Avenue (0.26 miles) - reconstruct the street pavement. The work will provide a twenty-year useful life. Construction is to start in June 2021 and will be completed by December 2021.
- Segment 3, Creston Road from Grizzly Peak Boulevard to Grizzly Peak Boulevard (0.72 miles) – surface seal the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2021 and will be completed by December 2021.
- Segment 4, Durant Avenue from Milvia Street to Fulton Street (0.23 miles) - reconstruct the street pavement. The work will provide a twenty-year useful life. Construction is to start in June 2021 and will be completed by December 2021.
- Segment 5, Emerson Street from Adeline Street to Shattuck Avenue (0.15 miles) – surface seal the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2021 and will be completed by December 2021.
- Segment 6, Essex Street from Adeline Street to Shattuck Avenue (0.17 miles) – surface seal the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2021 and will be completed by December 2021.
- Segment 7, Latham Lane from Miller Avenue to Grizzly Peak Boulevard (0.10 miles) – surface seal the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2021 and will be completed by December 2021.

- Segment 8, Miller Avenue from Hilldale Avenue to Shasta Road (0.66 miles) – overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2021 and will be completed by December 2021.
- Segment 9, Spruce Street from Arch Street to Eunice Street (0.19 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2021 and will be completed by December 2021.

University Avenue/Marina Boulevard Renovation

- Segment 1, University Avenue from Marina Boulevard to West Frontage Road (0.30 miles), reconstruct the street pavement. The work will provide a twenty year useful life. Construction is to start in June 2020 and will be completed by November 2020.
- Segment 2, Marina Boulevard from University Avenue to Spinnaker Way (0.43 miles), reconstruct the street pavement. The work will provide a twenty year useful life. Construction is to start in June 2020 and will be completed by November 2020.

The following previously proposed and approved projects may utilize fiscal year 2021 Road Maintenance and Rehabilitation Account revenues in their delivery. With the relisting of these projects in the adopted fiscal year resolution, the City is reaffirming to the public and the State our intent to fund these projects with Road Maintenance and Rehabilitation Account revenues:

FY 2020 Street Rehabilitation

- Cedar Street from 6th Street to San Pablo Avenue (0.31 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2020 and will be completed by December 2020.
- Center Street from Martin Luther King Jr. Way to Milvia Street (0.13 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2020 and will be completed by December 2020.
- Center Street from Milvia Street to Shattuck Avenue (0.13 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2020 and will be completed by December 2020.

- Rose Street from Le Roy Avenue to La Loma Avenue (0.14 miles) - reconstruct the street pavement. The work will provide a twenty-year useful life. Construction is to start in June 2020 and will be completed by December 2020.
- Santa Fe Avenue from Gilman Street to Cornell Avenue/ Page Street (0.27 miles) - overlay the street pavement. The work will provide a ten-year useful life. Construction is to start in June 2020 and will be completed by December 2020.
- Shasta Road from Grizzly Peak Boulevard to Park Gate (0.05 miles) - reconstruct the street pavement. The work will provide a twenty-year useful life. Construction is to start in June 2020 and will be completed by December 2020.
- Shasta Road from Park Gate to east City limit (Golf Course) (0.11 miles) - reconstruct the street pavement. The work will provide a twenty-year useful life. Construction is to start in June 2020 and will be completed by December 2020.
- Spinnaker Way from Breakwater Drive to Marina Boulevard (0.28 miles) - reconstruct the street pavement. The work will provide a twenty-year useful life. Construction is to start in June 2020 and will be completed by November 2020.

Shattuck Avenue Reconfiguration Project

- Reconfiguration of a three-block segment of Shattuck Avenue from Allston Way to University Avenue to improve pedestrian and bicycle safety, northbound circulation for motorists and transit vehicles, and the quality of public spaces in the Downtown core. Signals, sidewalks, and other hardware components will have a useful life of thirty years. The paving improvements will provide a twenty-year useful life. Construction started in January 2019 and will be completed by September 2020.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to submit the list of proposed projects to the California Transportation Commission as required by Senate Bill 1, Road Repair and Accountability Act of 2017.



[Commission Name]

CONSENT CALENDAR

April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Human Welfare and Community Action Commission

Submitted by: Samuel Kohn, Chairperson, Human Welfare and Community Action Commission

Subject: Filling a Vacancy among the Elected Representatives for the Poor

RECOMMENDATION

Adopt a Resolution confirming the appointment of Mr. Carlos Hill (District 1), as an elected representative of the poor on the Human Welfare Community Action Commission (HWCAC), having been selected by the commission members at the HWCAC February 19, 2020 meeting, and that his term expires November 18, 2020.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On February 19, 2020, the HWCAC received the required documentation to elect Carlos Hill as a representative of the poor, who was present at the meeting with the required ten signatures. Commissioner Deyhim made a motion to nominate Carlos Hill to the HWCAC as a representative of the poor. The motion was seconded and carried by Commissioner Bookstein and passed with the following vote: Ayes — Dunner, Sood, Kohn, Omodele, Behm-Steinberg, Bookstein, Deyhim, Sim; Noes — None; Abstain — None; Absent — Smith, Romo.

BACKGROUND

The HWCAC is made up of fifteen members, nine of whom are appointed by Berkeley City Council members and six of whom are elected representatives of the poor. Berkeley Municipal Code Section 3.78.080 stipulates that elections of representatives of the poor are held biennially in the month of November in even numbered years. The next election will take place in November 2020. Subsection C of the code states, "...the remaining representatives of the poor...shall select a person to fill the vacancy until the next election..." and that the, "...name of the selected representatives shall be submitted to the City Council for confirmation." BMC 3.78.030 (b) also states in part, that the remaining elected commission members shall recommend to the Council that the newly elected person fill out the term of the appointment.

At the February 19, 2020 HWCAC meeting, the commissioners selected Mr. Hill to fill one of the current vacancies.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts in adopting this resolution.

RATIONALE FOR RECOMMENDATION

Failure to maintain full membership on the HWCAC, which also acts as the Board of the Berkeley Community Action Agency (CAA), could result in a loss of Community Services Block Grant (CSBG) funding.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Mary-Claire Katz, Commission Secretary, HHCS, (510) 981-5414

Attachments:

1: Resolution

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

CONFIRMING THAT MR. CARLOS HILL MAY FILL ONE VACANCY AMONG THE ELECTED REPRESENTATIVES OF THE POOR THAT EXISTS ON THE HUMAN WELFARE AND COMMUNITY ACTION COMMISSION (HWCAC), HAVING BEEN SELECTED BY THE COMMISSIONERS AT THE HWCAC FEBRUARY 19, 2020 MEETING

WHEREAS, Berkeley Municipal Code Section 3.78.080 stipulates that election of representatives of the poor are held biennially in the month of November in even numbered years, and the next election will take place in November 2020; and

WHEREAS, Subsection C states "...the remaining representatives of the poor...shall select a person to fill the vacancy until the next election..." and that the "...name of the selected representatives shall be submitted to the City Council for confirmation"; and

WHEREAS, at the February 19, 2020 HWCAC regular meeting, the remaining commissioners selected Mr. Carlos Hill (District 1) to fill one vacancy with his term ending November 18, 2020.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that Mr. Carlos Hill (District 1) is confirmed as an elected representative of the poor serving on the Human Welfare and Community Action Commission until November 18, 2020 and that his term expires November 18, 2020.



Office of the City Manager

PUBLIC HEARING

April 28, 2020

(Continued from April 14, 2020)

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning & Development Department

Subject: General Plan Redesignation and Rezone of The Rose Garden Inn at 2740 Telegraph Avenue (APN 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00), and 2348 Ward Street (APN 054-1716-031-00)

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt a resolution amending the General Plan land use designations of portions of parcels that comprise The Rose Garden Inn from Low Medium Density Residential to Avenue Commercial;
2. Adopt first reading of an ordinance amending the Zoning Map for the portion of parcels that comprise the Rose Garden Inn from Restricted Two-Family Residential District (R-2) to General Commercial District (C-1); and
3. Certify that the reclassification of General Plan land use designations and rezoning are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Classes 1, 3, 5, and 31

FISCAL IMPACTS OF RECOMMENDATION

There are no direct fiscal impacts to the City of Berkeley by considering this General Plan redesignation and rezoning application. The property owner has an application pending to renovate the existing hotel site and add 14 hotel rooms. If these General Plan and zoning amendments are approved and The Rose Garden Inn improvements are built, the City may accrue increased property and transit occupancy tax revenues.

CURRENT SITUATION AND ITS EFFECTS

The Rose Garden Inn was originally established as a bed and breakfast in the 1970s. In the 1990s, it was converted to a hotel and restaurant. The Rose Garden Inn currently operates as a hotel with 40 guestrooms and a restaurant that is open to the general public.

The hotel occupies three parcels and includes five buildings (Attachment 3). The three parcels under consideration for a General Plan redesignation and rezoning are split-zoned between R-2 and C-1 (Attachment 4). One building (Building D) is also split between R-2 and C-1. The property owner is requesting the General Plan redesignation and Zoning Map amendment to bring the existing hotel uses at the Rose Garden Inn into conformity with the General Plan and Zoning Map. Previous work on this property, which included renovation of existing buildings and the addition of hotel rooms and improved food service areas, was approved with Use Permits, Design Review, Structural Alteration Permits and a Variance.

BACKGROUND

On December 4, 2019, the Planning Commission discussed and considered the proposed General Plan redesignation and zoning map amendments and directed staff to set a public hearing for the proposed amendments. On February 5, 2020, the Planning Commission conducted a public hearing and voted to recommend approval of the General Plan redesignation and rezone to the City Council by an 8-0-0-1 vote (Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: None. Abstain: None. Absent: Martinot.). See meeting minutes, included as Attachment 5.

ENVIRONMENTAL SUSTAINABILITY

There are no direct environmental opportunities from these proposed actions, however the existing hotel is on a major transit corridor and is within walking distance of Alta Bates Hospital and the University of California campus. If future improvements to the hotel are approved, they would need to meet the recently adopted 2019 California Building Code requirements which include higher sustainability standards.

RATIONALE FOR RECOMMENDATION

The rationale for the requested General Plan redesignation and zoning map amendment is to bring the existing hotel uses at the project site into conformity with the General Plan and Zoning Map, and to allow for future improvements to the hotel without need for a Variance (hotels are not allowed in the R-2 District). If approved, future improvements will be subject to C-1 development standards and regulations. The property owner is separately applying for Use Permits to upgrade and expand the non-historic portion of the hotel complex, which will be considered by the Zoning Adjustments Board if this zoning action is approved by the City Council. No changes to the overall use of the hotel are proposed and historic buildings (Berkeley Landmarks 125 and 126) would not be adversely impacted by these improvements.

The proposed General Plan redesignation and zoning map amendment would move the Low Medium Density/Avenue Commercial and the R-2/C-1 boundary approximately 50 feet west of its existing location to reflect the boundaries of the existing hotel site. Adjacent parcels to the north and south have the same geometry as this block-face (i.e. C-1 parcels fronting Telegraph Avenue and R-2 parcels to the west of the C-1). The

proposed General Plan redesignation from Low Medium Density Residential to Avenue Commercial and the rezoning of portions of the site from R-2 to C-1 would allow continuation of existing commercial uses at the project site that are compatible with commercial uses along the Telegraph Avenue corridor and have existed compatibly with the neighboring residential area.

The proposed General Plan amendment serves the public interest by allowing the entire existing hotel use to operate within a unified Avenue Commercial land use designation. The existing hotel has been in operation in some form since the 1970s. It is located on a pedestrian-friendly corridor that is serviced by a high-frequency bus line and is walking distance from Alta Bates Hospital and the UC Berkeley campus. These actions will also reconcile mapping irregularities that result in a split designation on a property that has been used as a hotel for several decades, and facilitate future renovation that would meet General Plan policies such as *Land Use Policy 13 and 27 (Basic Goods and Services and Avenue Commercial Areas)*, *Economic Development Policy 3 (Local Businesses)* and *Transportation Policy 16 (Access by Proximity)*. The Avenue Commercial land use designation would also be consistent with existing General Commercial land use designations along the Telegraph Avenue commercial corridor.

ALTERNATIVE ACTIONS CONSIDERED

The Council may deny the amendments, or continue the public hearing, or take no action, in which case the proposed renovation of The Rose Garden Inn would not occur.

CONTACT PERSON

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

Attachments:

- 1: Resolution for General Plan Amendment
Exhibit A: General Plan Amendment Map
- 2: Ordinance to adopt Zoning Amendment
Exhibit A: Zoning Amendment Map
- 3: Existing Site Plan
4. Current Zoning Map
- 5: Planning Commission meeting minutes– February 5, 2020
- 6: Public Hearing Notice of City Council Hearing on April 14, 2020

RESOLUTION NO. ___ N.S

AMENDING THE BERKELEY GENERAL PLAN TO REDESIGNATE ASSESSOR PARCEL NUMBERS (APNS) 054-1716-002-00, 054-1716-003-00, AND 054-1716-031-00 FROM LOW MEDIUM DENSITY RESIDENTIAL TO AVENUE COMMERCIAL

WHEREAS, the City Council of the City of Berkeley has the authority to approve and amend the designation of parcels from one General Plan land use designation to another in order to address unforeseen circumstances and changing priorities; and

WHEREAS, the redesignation of the noted parcels was prepared based on a request from a property owner that wishes to modify and unify the allowable uses within buildings and lots that currently cross General Plan land use designation boundaries; and

WHEREAS, on February 5, 2020, the Planning Commission held a duly noticed public hearing and took public testimony and recommended approval to the City Council regarding the adoption of a General Plan redesignation of Assessor Parcel Numbers (APNs) 054-1716-002-00, 054-1716-003-00, and 054-1716-031-00; and

WHEREAS, on April 14, 2020, the City Council held a duly noticed public hearing to consider the recommendations of the Planning Commission, staff, property owner and the general public regarding the General Plan map amendment of APNs 054-1716-002-00, 054-1716-003-00, AND 054-1716-031-00; and

WHEREAS, the proposed General Plan amendment serves the public interest by allowing the entire existing hotel use to operate within a unified Avenue Commercial land use designation. The existing hotel business has been in operation since the 1970s. It is located on a pedestrian-friendly corridor that is serviced by a high-frequency bus line and is walking distance from Alta Bates Hospital and the UC Berkeley campus; and

WHEREAS, the proposed General Plan amendment reconciles mapping irregularities that result in a split designation on a property that has been used as a hotel for several decades, as well as facilitates future renovation that would meet General Plan policies such as *Land Use Policy 13 and 27 (Basic Goods and Services and Avenue Commercial Areas)*, *Economic Development Policy 3 (Local Businesses)* and *Transportation Policy 16 (Access by Proximity)*.

WHEREAS, the proposed General Plan amendment would redesignate portions of the three parcels that comprise the Rose Garden Inn from Low Medium Density Residential to Avenue Commercial, maintaining consistency with current uses and existing land use designations along the Telegraph Avenue commercial corridor; and

WHEREAS, the proposed General Plan amendment would not directly result in changes to the physical characteristics of the property or existing structures, but will facilitate

renovation that would be completed in compliance with current codes and regulations. New development also would be reviewed for compliance with Berkeley Municipal Code and CEQA and would be constructed in compliance with California Building and Safety Code as adopted by the City of Berkeley; and

WHEREAS, staff evaluated the amendment request and determined it is categorically exempt from CEQA pursuant to Classes 1, 3, 5, and 31, which apply to the proposed General Plan and zoning amendments as well as the currently proposed renovation and expansion project. Section 15301 of the *CEQA Guidelines* states that a Class 1 Categorical Exemption (CE) is for minor alterations of existing private structures that involve negligible or no expansion of an existing use. Section 15303 states that a Class 3 CE is for construction of limited numbers of new structures and the conversion of existing structures from one use to another where only minor modifications are made in the exterior of the structure. Class 1 and Class 3 apply to the proposed project because the proposed amendment is undertaken to permit improvements to the existing hotel which are shown in pending Use Permit applications to include only minor expansions to the existing footprint and exterior of the buildings. Section 15305 states that a Class 5 CE is for minor alterations in land use limitations which do not result in changes to land use or density. As the proposed project includes only minor alterations to the land use limitations on a site with an existing building and does not include any proposed change to density, Class 5 applies to the proposed project. Section 15331 of the *State CEQA Guidelines* states that a Class 31 CE is for rehabilitation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for Rehabilitating Historic Buildings (1995). Class 31 applies to the proposed project because rehabilitation will be undertaken consistent with the Secretary of the Interior's standards as required by future Structural Alteration Permits. Notwithstanding the above, development proposed subsequent to the rezoning will be subject to project-level review under CEQA and the City of Berkeley's Environmental Review; and

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

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the General Plan is hereby amended as shown in Exhibit A.

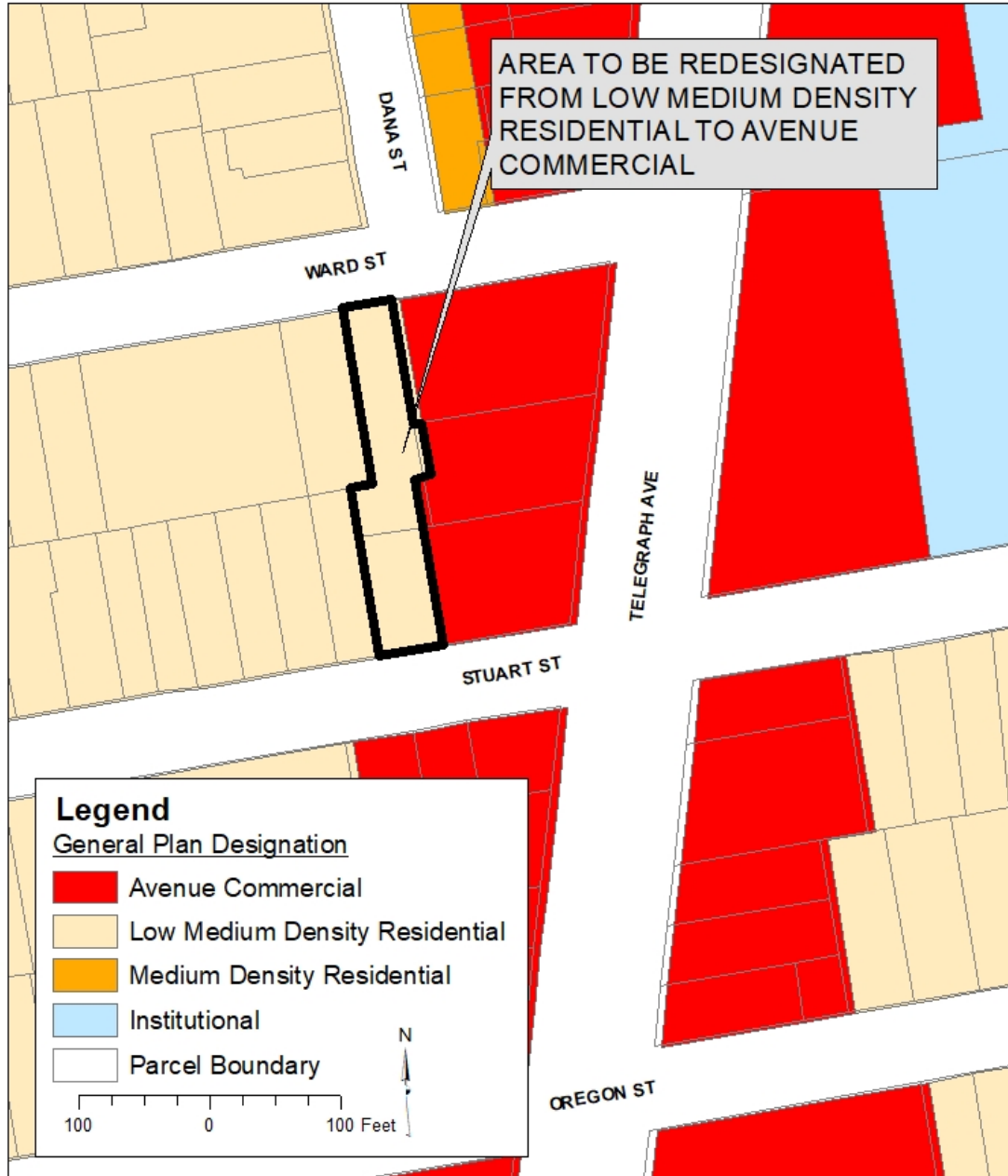
Attachment

Exhibit A: General Plan Amendment Map

ATTACHMENT 1: EXHIBIT A

GENERAL PLAN MAP AMENDMENT

2740 Telegraph Avenue (APN 054-1716-002-00),
2744 Telegraph Avenue (APN 054-1716-003-00)
2348 Ward Street (APN 054-1716-031-00)



source: G:\Planning\LANDUSE\GIS\Rezone\mxd\GenPlan.mxd

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE (BMC) TITLE 23 (ZONING), OFFICIAL ZONING MAP, TO REZONE ASSESSOR PARCEL NUMBERS (APN) 054-1716-002-00, 054-1716-003-00, AND 054-1716-031-00 FROM RESTRICTED TWO-FAMILY RESIDENTIAL DISTRICT (R-2) TO GENERAL COMMERCIAL DISTRICT (C-1)

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

Section 1. The City Council has certified that the rezone amendment request is categorically exempt from CEQA pursuant to Classes 1, 3, 5, and 31, which apply to the proposed amendment as well as the pending future hotel renovation project.

Section 2. The City Council finds this rezoning from R-2 (Restricted Two-family Residential) to C-1 (General Commercial) serves the public interest by eliminating the legal non-conformity of a hotel use. The amendment serves the public interest by allowing the entire existing hotel use to continue by-right within the General Commercial zoning district. The rezoning would correct a mapping anomaly that splits three parcels and a building, resolving unnecessary complexity in land use permitting processes and decisions for the site.

Section 3. The City Council finds that the proposed zoning map amendment would align the boundary between the R-2 and C-1 Districts with existing property lines, approximately 50 feet to the west, to include the entire existing footprint of the Rose Garden Inn. The proposed rezoning is compatible with existing General Commercial zoning district to the east, north and south of the project site and would align with the proposed General Plan amendment described above. The R-2 zoning district to the west and south would remain undisturbed by this amendment and is consistent with similar compatible adjacencies in the area.

Section 4. The City Council finds that the proposed zoning map amendment moves the R-2/C-1 boundary approximately 50 feet west of its existing location. Adjacent parcels to the north and south have the same geometry as this block-face (i.e. C-1 parcels fronting Telegraph Avenue and R-2 parcels to the west of the C-1). The proposed rezoning of portions of the site from R-2 to C-1 would allow continuation of existing commercial uses at the project site that are compatible with commercial uses along the Telegraph Avenue corridor and have existed compatibly with the neighboring residential area. The proposed C-1 zoning would allow compatible mixed residential/commercial and higher density uses with approval of a Use Permit, which would be consistent with the remainder of properties along Telegraph Avenue.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be

filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

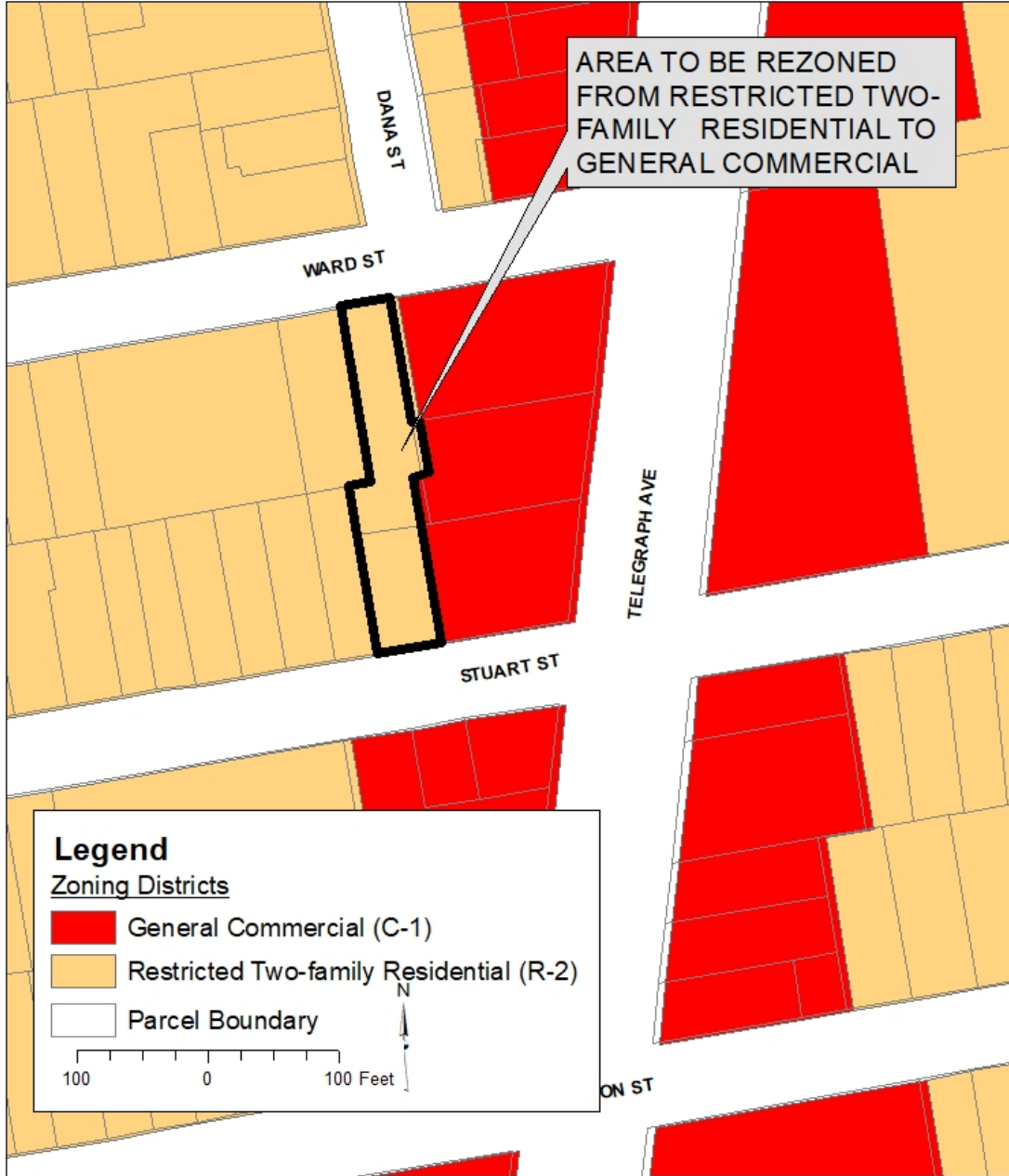
Exhibit

A: Zoning Map Amendment

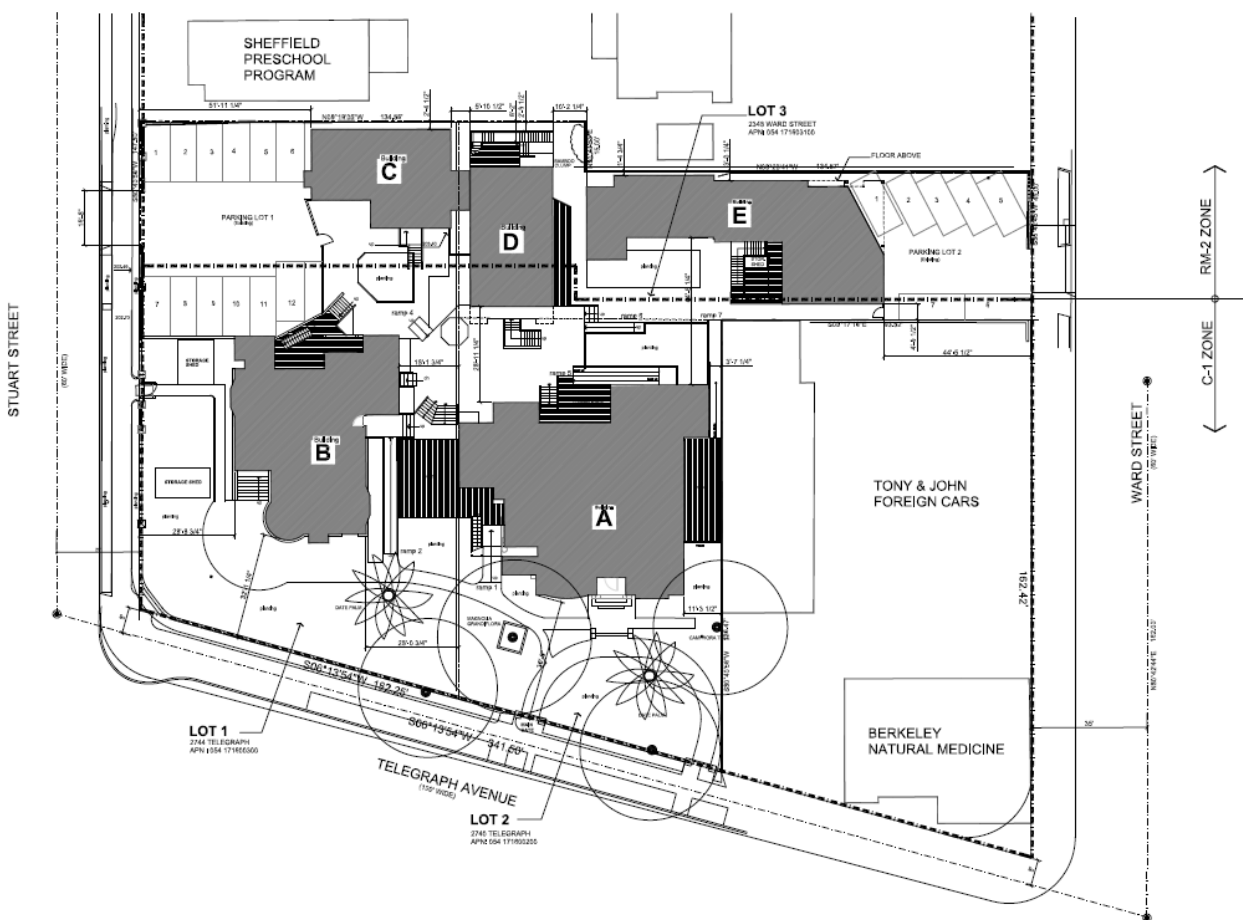
ATTACHMENT 2: EXHIBIT A

ZONING MAP AMENDMENT

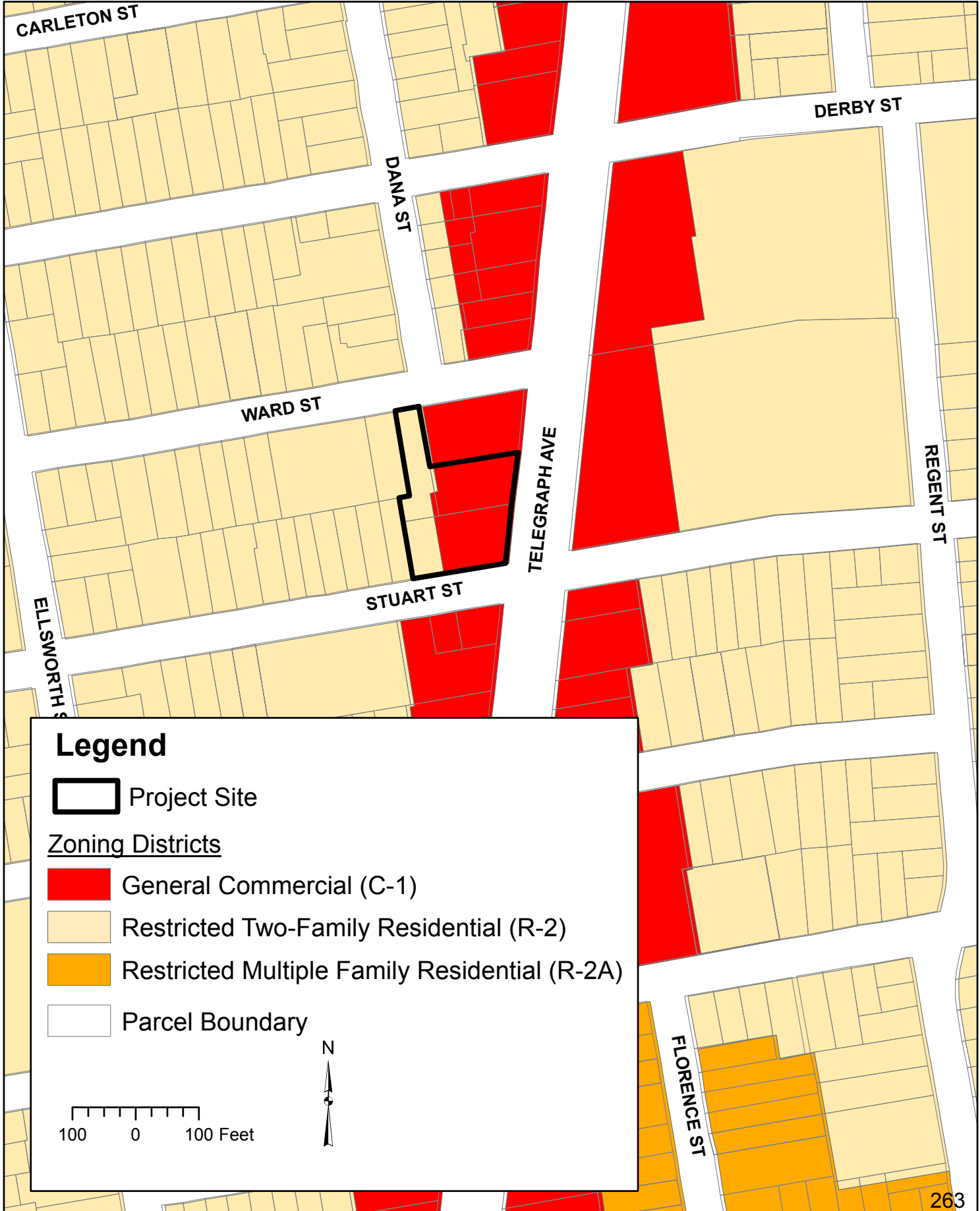
2740 Telegraph Avenue (APN 054-1716-002-00),
2744 Telegraph Avenue (APN 054-1716-003-00)
2348 Ward Street (APN 054-1716-031-00)



ATTACHMENT 3: EXISTING SITE PLAN



PROJECT SITE AND CURRENT ZONING





Planning Commission

1 **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**

2 **February 5, 2020**

3 The meeting was called to order at 7:01 p.m

4 **Location:** South Berkeley Senior Center, Berkeley, CA

5 **1. ROLL CALL:**

6 **Commissioners Present:** Benjamin Beach, Robb Kapla, Shane Krpata, Mary Kay Lacey,
7 Christine Schildt, Jeff Vincent, Brad Wiblin, and Rob Wrenn.

8 **Commissioners Absent:** Steve Martinot.

9 **Staff Present:** Secretary Alene Pearson, Katrina Lapira, and Beth Greene.

10 **2. ORDER OF AGENDA:** Move Item 9 (2020 Planning Commission Elections) to before Item 3
11 (Public Comment Period).

12 **9. 2020 Planning Commission Elections**

13 Motion (Schildt) to elect Commissioner Robb Kapla as Chair of the Planning Commission.
14 Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: None.
15 Abstain: None. Absent: Martinot. (8-0-0-1)
16

17 Motion (Schildt) to elect Commissioner Mary Kay Lacey as Vice Chair of the Planning
18 Commission.
19 Ayes: Beach, Kapla, Lacey, Schildt, and Wrenn. Noes: None. Abstain: Krpata, Vincent, and
20 Wiblin. Absent: Martinot. (5-0-3-1)
21

22 **3. PUBLIC COMMENT PERIOD: 1**

23 **4. PLANNING STAFF REPORT:**

- 24
- 25 • January 21 - City Council adopted Extension of ADU Urgency Ordinance
 - 26 • January 28 - City Council adopted First Reading of Comprehensive Cannabis Ordinance
 - 27 • February 4 - City Council held Work Session on the Adeline Corridor Plan
 - 28 • Planning Commission Meeting on February 19 is canceled

29 **Information Items:** *None.*

30 **Communications:**

- 31 • December 3, 2019 – Sheffield Preschool, 2740-44 Telegraph & 2348 Ward Re-zone
- 32 • January 22 – Planning Staff, APA Annual Planning Commissioner Conference
- 33 • January 24 – City Manager’s Office, Strategic Plan Information
- 34 • January 27 – Southside Neighborhood Consortium, Southside EIR
- 35 • January 28 – Yovino-Young, 2740-44 Telegraph & 2348 Ward Re-zone
- 36 • January 29 – People’s Park Historic District Advocacy Group, Southside EIR
- 37 • January 30 – Bell, Accessory Dwelling Units

38

39 **Late Communications** (Received after the Packet deadline):

- 40 • January 31 - Posselt, Southside EIR
- 41 • January 31 – Lee, Accessory Dwelling Units
- 42 • February 4 – Singh, Southside EIR
- 43 • February 4 – March, Southside EIR

44

45 **Late Communications** (Received and distributed at the meeting):

- 46 • February 5 – Associated Students University of California, Southside EIR
- 47 • February 5 - Griffin, Accessory Dwelling Units
- 48 • February 5 – Staff, Item 10 – Housing Capacity Analysis + Proposed Southside Zoning
- 49 Modifications (Updated February 5, 2020)

50 **5. CHAIR REPORT:** None.

51

52 **6. COMMITTEE REPORT:**

53

- 54 • Adeline Corridor Specific Plan Subcommittee: The next subcommittee meeting will be
- 55 on March 18.
- 56
- 57 • Zoning Ordinance Revision Project (ZORP): The next subcommittee meeting will be on
- 58 February 24.
- 59
- 60 • Joint Subcommittee for the Implementation of State Housing Laws: At the next meeting
- 61 on February 26, JSISHL will discuss objective design, shadow, and density standards.
- 62
- 63 • APA Planning Commissioner’s Training: Commissioner Shane Krpata shared some
- 64 insights about training session.

65 **7. APPROVAL OF MINUTES:**

66 Motion/Second/Carried (Wrenn/Schildt) to approve the Planning Commission Meeting Minutes
 67 from January 15, 2020 with the discussed corrections to line 81. Ayes: Beach, Kapla, Krpata,
 68 Lacey, Schildt, Vincent, Wrenn, and Wiblin. Noes: None. Abstain: None. Absent: Martinot. (8-
 69 0-0-1)

70

71 **FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** At the next meeting,
 72 March 4, 2020 the following items may be presented. (There will be no Planning Commission
 73 meeting on February 19.)

- 74 • Public Hearing on Parking Reform

75 **AGENDA ITEMS**

76 **10. Discussion: Public Hearing: Southside EIR Discussion**

77 Staff introduced the Southside Environmental Impact Report (EIR) project, explaining the basis
 78 for the project and the role of CEQA analysis as part of the study of potential development
 79 standards. Staff shared feedback received from the Southside EIR subcommittee and asked
 80 the Commission to provide comment on the proposed Zoning Ordinance and Zoning Map
 81 changes. The Commission directed Staff to include in their analysis the study of a scenario
 82 where 5-story buildings would be permissible in the R-3 zoning district, density bonus heights,
 83 and other alternatives.

84 **Public Comments: 13**

85 **11. Action: Public Hearing: Amendments to the Berkeley Zoning Map and**
 86 **General Plan for 2740 & 2744 Telegraph Avenue and 2348 Ward**
 87 **Street**

88 Staff provided a reviewed the proposal to redesignate and re-zone portions of parcels
 89 addressed 2740 & 2744 Telegraph Avenue and 2348 Ward Street- the existing Rose Garden
 90 Inn. The project requests a General Plan redesignation of the three parcels from Low Medium
 91 Density Residential to Avenue Commercial and a rezone from Restricted Two-family Residential
 92 (R-2) to General Commercial (C-1).

93 **Public Comments: 2**

94 Motion/Second/Carried (Schildt/Wiblin) to close the public hearing.
 95 Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: None.
 96 Abstain: None. Absent: Martinot. (8-0-0-1)
 97

98 Motion/Second/Carried (Vincent/Schildt) to make a recommendation to the City Council that
 99 portions of the parcels located at 2740 Telegraph Avenue (Assessor's Parcel Number [APN]
 100 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00) and 2348 Ward Street
 101 (APN 054-1716-031-00) be re-designated from Low Medium Density Residential to Avenue
 102 Commercial and be rezoned from Restricted Two-Family Residential District (R-2) to
 103 General Commercial District (C-1).
 104 Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: None.
 105 Abstain: None. Absent: Martinot. (8-0-0-1)

106

107 **12. Discussion: ADU Discussion**

108 Staff presented information on the existing interim ADU ordinance, noting areas in State law
109 where modifications could be adopted in a local ordinance. The Commission directed staff to
110 assess common issues experienced by the public as a result of the new State law and explore
111 ADU development incentives related to accessibility and affordability.

112 **Public Comments: 8**

113 **The meeting was adjourned at 11:12pm**

114 **Commissioners in attendance: 8**

115 **Members in the public in attendance: 33**

116 **Public Speakers: 23 speakers**

117 **Length of the meeting: 4 hours and 11 minutes**

DRAFT

NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

2740 & 2744 TELEGRAPH AVENUE / 2348 WARD STREET GENERAL PLAN REDESIGNATION AND ZONING MAP AMENDMENT

The Department of Planning and Development is proposing, at the request of the property owner, a rezoning and General Plan amendment for Assessor Parcel Numbers (APNs) 054-1716-002-00, 054-1716-003-00 and 054-1716-031-00, shown on the attached map. These parcels comprise the project site and correspond to 2740 and 2744 Telegraph Avenue and 2348 Ward Street. The requested General Plan amendment would change portions of the parcels from Low Medium Density Residential to Avenue Commercial. The rezoning would change portions of the parcels from the Restricted Two-Family Residential (R-2) District [Berkeley Municipal Code (BMC) Chapter 23D.28] to the General Commercial (C-1) District [BMC Chapter 23E.36].

The purpose of the requested re-designation and rezone is to bring the existing hotel uses at the project site into conformity with the General Plan and Zoning Map and to allow for future improvements to the hotel. The property owner is separately applying for Use Permits to upgrade and expand the non-historic portion of the hotel complex, but no changes to the hotel use are proposed, and the historic buildings (Berkeley Landmarks 125 and 126) would not be adversely impacted.

The hearing will be held on April 14, 2020 at 6:00 p.m.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of Thursday, April 2, 2020.

For further information, please contact Alene Pearson, Principal Planner, at 510-981-7489.

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

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the April 14, 2020 meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://zoom.us/j/724407089>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to

rename yourself to be anonymous. To request to speak, use the “raise hand” icon on the screen.

To join by phone: Dial **1-669-900-9128** and Enter Meeting ID: **724 407 089**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair. NOTE: Your phone number will appear on the videoconference screen.

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

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: April 3, 2020 per California Code Sections 65856(a) and 65090.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on Thursday, April 2, 2020.

\_\_\_\_\_  
Mark Numainville, City Clerk



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Additional data provided by City of Berkeley, 2019; Alameda County, 2018.



Office of the City Manager

PUBLIC HEARING

April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services

Subject: Submission of the 2020-2025 Consolidated Plan, Including the PY20 Annual Action Plan as informed by the Regional Analysis of Impediments to Fair Housing Choice

RECOMMENDATION

Conduct a public hearing on the 2020-2025 Consolidated Plan, including the Program Year (PY) 2020<sup>1</sup> Annual Action Plan (AAP), and upon conclusion, adopt a Resolution:

1. Approving proposed funding allocations under the PY20 Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG), and Home Investment Partnerships Program (HOME); and
2. Authorizing the execution of resultant agreements and amendments with community agencies for the above-mentioned funds; and
3. Allocating approximately 85% of the PY20 HOME funds to the Housing Trust Fund, up to 5% for Community Housing Development Organization (CHDO) operating funds, and 10% for program administration; and
4. Authorizing the City Manager to submit the 2020-2025 Consolidated Plan, including the PY20 Annual Action Plan as informed by the Regional Analysis of Impediments to Fair Housing Choice (AI), to the federal Department of Housing and Urban Development (HUD), and addressing any public comments.

SUMMARY

City Council action is needed now to enable timely submission of HUD's required planning documents, the Consolidated Plan and the Annual Action Plan. The City is required to submit a five-year Consolidated Plan, including the first year AAP, to HUD by May 15, 2020 in order to receive its annual allocation of CDBG, ESG and HOME funds. The Consolidated Plan is a planning document that sets Strategic Plan Priority Projects, advancing the City's goals to create affordable housing and housing support services for the City's most vulnerable community members. The AAP contains the first

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<sup>1</sup> PY 2020 is the federal program year coinciding with the City's Fiscal Year 2021.

year funding allocations, and the City's plan to implement its housing and community development programs.

This report includes funding recommendations for the PY20 AAP in the amount of \$2,738,258 in CDBG funds, \$234,354 in ESG funds, and \$778,383 in HOME funds, as detailed in Attachment 1, Exhibit A. These are the final allocation amounts provided to the City of Berkeley by the federal Department of Housing and Urban Development (HUD) in February 2020.

The recommendations include \$1,476,057 in CDBG funding for housing services activities and \$453,921 in CDBG funding for public services<sup>2</sup>. They continue the funding levels awarded in last year's community agency funding process. In addition, they include recommendations for \$535,998 in CDBG funding for the community facility program which will be released through a notice of funding availability (NOFA) in FY2021, \$210,101 in ESG funding for homeless outreach and rapid rehousing, and \$690,430 in HOME funding for the Housing Trust Fund.

This report includes authorization for the required submission of the AAP (Attachment 2), which details the City's plans for implementing the CDBG, HOME and ESG programs in FY2021.

#### FISCAL IMPACTS OF RECOMMENDATION

The recommended actions allocate HUD formula funding for the next fiscal year. Federal funding allocations for FY2021 have been finalized by HUD. The City also receives CDBG program income from activities such as loan repayments. Program income is estimated; the number represented is the number at the time of writing this report. CDBG program income available to use in FY2021 is estimated to be \$255,925.

Staff anticipate having \$222,352 in unexpended CDBG funds from prior years available for allocation, which will give the City a total of \$3,216,536 in CDBG funds to allocate for FY2021. Unexpended prior year funds cannot be used for public services or administration, which are both capped funding categories. These additional funds can be used, however, on housing services, community facility projects and the Housing Trust Fund. If the City receives a revised allocation of CDBG funds from HUD other than \$2,738,258, the adjusted amount will be allocated to the Community Facility Program accordingly.

The City's HOME and ESG entitlement amounts have both been increased modestly from the FY2020 allocation. The City will receive \$778,383 in HOME funds, plus \$20,000 in HOME program income, for a total of \$798,383 in HOME funds available for

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<sup>2</sup> CDBG funded public services were adopted for a four-year period (FY20 – FY23) under the Community Agency funding that was adopted by Council on April 23, 2019:  
[https://www.cityofberkeley.info/Clerk/City\\_Council/2019/04\\_Apr/Documents/04-23\\_Special\\_Annotated\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/04-23_Special_Annotated_Agenda.aspx)

allocation for FY 2020. The City's ESG entitlement for next year is \$234,354. If actual ESG funding differs from the estimate, staff recommend that the City utilize the maximum possible for administration (7.5% of the grant), and allocate \$6,676 to Homeless Management Information System (HMIS) support. Should the ESG allocation from HUD be adjusted from the original allocation, the rapid rehousing project and outreach activities (not to exceed 60% of the allocation) will adjust proportionately with the remaining funds available. Staff recommend that the City utilize up to the maximum possible for administration (10%) and Community Housing Development Organization (CHDO) operations (up to 5%) and place the remainder into the Housing Trust Fund, and applying these same proportions in the event HUD adjusts the allocation.

Proposed expenditures of CDBG, ESG and HOME Funds are detailed in Attachment 1, Exhibit A.

### CURRENT SITUATION AND ITS EFFECTS

The recommended actions will ensure City compliance with HUD regulations related to federal funding received by the City. The City is required to submit a five-year Consolidated Plan, including the first year AAP, to HUD by May 15, 2020 in order to receive its annual allocation of CDBG, ESG and HOME funds. The Consolidated Plan is a planning document that sets Strategic Plan Priority Projects, advancing the City's goals to create affordable housing and housing support services for the City's most vulnerable community members. The AAP contains the anticipated first-year funding allocations and the plan to implement housing and community development programs.

Federally-funded programs as described in the Consolidated Plan and AAP are also informed by a required accompanying document, the Regional AI Analysis of Impediments to Fair Housing Choice (AI). Berkeley partnered with Alameda County and other jurisdictions to develop a Regional AI that is available on the City's website.<sup>3</sup>

Additionally, last year, Housing and Community Services issued a four-year Request for Proposal (RFP) for public services using both federal and non-federal funds. Federal funds allocated by Council to community agencies in response to the RFP are reflected in both the Consolidated Plan and the AAP.

Failure to approve the Consolidated Plan and PY20 AAP, as informed by the Regional AI, for submission to the federal Department of Housing and Urban Development (HUD) by May 15, 2020 could result in delays or loss of this funding.

### BACKGROUND

The City of Berkeley is an entitlement jurisdiction which receives HUD funds according to a formula. HUD regulations governing CDBG, ESG and HOME funds require that the City of Berkeley submit a five-year Consolidated Plan including an AAP for each of the

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<sup>3</sup> The Final Regional Analysis of Impediments to Fair Housing Choice can be found at: <https://www.cityofberkeley.info/ContentDisplay.aspx?id=36278>



five-years, as well as an AI. The Consolidated Plan examines housing needs and establishes funding priorities in the areas of affordable housing and services for a wide range of low-income populations over the next five-year period. The Annual Action Plans are submitted on an annual basis and detail specific activities the City will take to address the goals outlined in the Consolidated Plan.

The PY20 AAP, covering the period July 1, 2020 through June 30, 2021, describes the City's strategy for developing and maintaining a viable urban community through the provision of decent housing and a suitable living environment, while expanding economic, health and educational opportunities principally for households with incomes at or below 80% of Area Median Income. The PY20 AAP is based on goals contained in the City's Five Year (2020 – 2025) Consolidated Plan<sup>4</sup> (Attachment 2). HUD requires the involvement of the public in the creation of the Consolidated Plan and each of the five AAP under the Consolidated Plan period. Berkeley's public participation process began on November 7, 2019 with a public hearing convened by the Housing Advisory Commission (HAC), and culminates in the April 28, 2020 public hearing.

At its February 6, 2020 meeting, the Housing Advisory Commission voted unanimously to recommend that City Council adopt the Draft 2020-2025 Consolidated Plan, including the first year Annual Action Plan (as outlined below and in Attachment 1, Exhibit A) and Final Regional AI (M/S/C: Sharenko/Wright. Ayes: Johnson, Lord, Mendonca, Sargent, Sharenko, Simon-Weisberg, Wolfe, and Wright. Noes: None. Abstain: None. Absent: Owens (unapproved)).

The proposed PY20 (FY2021) AAP includes the following estimated funding sources and proposed activities:

***PY20 AAP - Community Development Block Grant (CDBG)***

The City's CDBG entitlement for FY2021 is expected to be \$2,738,258. CDBG funds are proposed to be used for Public Services, Housing Services and Community Facilities Improvements. Of the funds available, the City will allocate an estimated \$597,652, a capped amount at 20%, to Planning and Administration, \$453,921, also a capped amount at no more than 17% to public services, \$1,476,057 to Housing Services and \$688,906 to Community Facility Improvements.

Detailed CDBG proposed allocations are summarized in Attachment 1, Exhibit A.

***PY20 AAP - Emergency Solutions Grant (ESG)***

ESG funds can be used for homeless emergency shelter renovations, operations and services, homeless street outreach, the operation and development of a Homeless Management Information System, rapid re-housing, homeless prevention, and administration. The City's ESG entitlement allocation for FY2021 is \$234,354 and should Council approve this recommendation the majority of the ESG funds will be used

<sup>4</sup> The Consolidated Plan can be found at: <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=12160>

to continue to fund rapid re-housing and outreach activities (outreach is capped at 60% of entitlement award). The City of Berkeley's Coordinated Entry System (CES) provider will administer the rapid rehousing program to households who are prioritized by the CES' screening and intake process.

ESG funds in the amount of \$6,676 will continue to support the County-wide Homeless Management Information System, known as InHouse, and 7.5% of the overall allocation will be allocated to the Health, Housing & Community Services Department to administer the funds (see Attachment 1, Exhibit A).

***PY20 AAP - Home Investment Partnership Program (HOME)***

HUD will allocate \$778,383 in HOME funds to the City of Berkeley for PY20. Projected program income of \$20,000 is estimated for PY20. Of the funds available, approximately 85% is recommended for the Housing Trust Fund, up to 5% for CHDO operating and 10% for program administration (Attachment 1, Exhibit A).

***Regional Analysis of Impediments to Fair Housing Choice (AI)***

Under the National Affordable Housing Act, localities which are eligible to receive federal funding from housing and community development programs administered by HUD are required to prepare an AI concurrently with the Consolidated Plan for the period covered under the Consolidated Plan.

The AI is a planning document regarding fair housing and is crafted with public participation. The purpose of the AI is to gather data and community feedback, identify specific impediments or barriers to fair housing within the jurisdiction, and then devise viable solutions, or actions to take against identified impediments.

For the AI that inform Berkeley's 2020 – 2025 Consolidated Plan, Berkeley partnered with the County of Alameda and the cities of Alameda, Albany, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City along with the Housing Authorities for the Cities of Alameda, Berkeley, Livermore, Oakland and Alameda County to form a working group to develop a Regional AI. The working group hired Michael Baker International (MBI) to support the completion of the Regional AI.

Public participation for the Regional AI started in July of 2019 and included local stakeholder focus groups, three community engagement public meetings, a press release, an online survey, and a public hearing at the November 7<sup>th</sup>, 2019 HAC meeting. Public input on the Regional AI also culminates at the April 28, 2020 public hearing and will be reflected in the Consolidated Plan documentation.

**ENVIRONMENTAL SUSTAINABILITY**

Projects funded with CDBG, ESG and HOME are required to follow state and local regulations, including those related to green building and energy. CDBG funding for

community facility projects place a priority on projects that promote energy efficiency and improve accessibility.

#### RATIONALE FOR RECOMMENDATION

Submission of the 2020-2025 Consolidated Plan and PY20 AAP, as informed by the Regional AI, is required to continue to receive CDBG, ESG and HOME funds.

#### *Community Development Block Grant (CDBG) Allocations*

Staff recommends that Council approve the HUD allocations for PY20. Last year, Council made recommendations for four-year (FY20-FY23) funding for community agencies funded by CDBG funds, under the Housing and Community Services RFP. PY20 will be the second year of the four year period so barring any unforeseen reductions in the City's CDBG allocation, funding to community agencies will continue at FY20 (PY19) levels.

#### *Emergency Solutions Grant (ESG) Allocations*

Staff continue to propose allocating the vast majority of the PY20 ESG funds to the City's Coordinated Entry System (CES) operated by Bay Area Community Services (BACS) to support the rapid rehousing placement of, and outreach to, literally homeless people in Berkeley.

#### *HOME Allocations*

Staff proposes to use the maximum amount of HOME funds for program administration, maintain Community Housing Development Organization (CHDO) operating support at the FY20 (PY19) funded amount, and place the remainder in the City's Housing Trust Fund.

#### ALTERNATIVE ACTIONS CONSIDERED

The 2020-2025 Consolidated Plan, PY20 AAP and Regional AI all include public and Housing Advisory Commission input and comments. Comments are considered throughout the processes and are reflected in the respective reports. No other alternative actions are currently being considered.

Failure to approve the 2020-2025 Consolidated Plan, PY20 AAP, and Regional AI for submission to HUD by May 15, 2020 could result in delays or loss of this funding.

#### CONTACT PERSON

Rhianna Babka, Community Service Specialist III, Health, Housing and Community Services, (510) 981-5410.

#### Attachments:

1: Resolution

Exhibit A: CDBG/HOME/ESG PY20 (FY2021) Allocations Spreadsheet



2: City of Berkeley 2020-2025 Consolidated Plan including the PY20 Annual Action Plan

3: Final Regional Analysis of Impediments to Fair Housing<sup>5</sup>

Parts attached include:

- Table of Contents;
- Executive Summary; and
- Appendix 1: Summary of Goals and Activities by Jurisdiction

4: Public Hearing Notice

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<sup>5</sup> Due to the length and large size of the document, only the parts listed are included in this Council report. The complete and Final Regional Analysis of Impediments to Fair Housing Choice can be found at: <https://www.cityofberkeley.info/ContentDisplay.aspx?id=36278>

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

SUBMISSION OF THE 2020-2025 CONSOLIDATED PLAN AND THE PY20 ANNUAL ACTION PLAN, INCLUDING ALLOCATIONS OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), EMERGENCY SOLUTIONS GRANT (ESG), AND HOME INVESTMENT PARTNERSHIP GRANT (HOME) FUNDS AS INFORMED BY THE REGIONAL ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING

WHEREAS, the submission of the 2020-2025 Consolidated Plan, including the PY20 Annual Action Plan and as informed by the Regional AI, is a requirement the City must meet in order to receive its allocation of CDBG, ESG and HOME funds, available for the period July 1, 2020 through June 30, 2021; and

WHEREAS, on April 28, 2020, the Housing Advisory Commission (HAC) and City Manager made funding recommendations to City Council on the Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG), and HOME Programs as contained in Exhibit A attached to this resolution; and

WHEREAS, the City will continue to 1) utilize the full allowable (10%) portion of the HOME funds for program administration; 2) up to 5% for CHDO operating support and 3) allocate the remainder of the HOME entitlement allocation and any program income into the Housing Trust Fund; and

WHEREAS, the City has established the following ERMA budget codes CDBG: 128 - various, ESG: 311 - various, HOME: 310 - various.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to:

1. Execute any resultant agreements and amendments for agencies receiving funding under the CDBG, ESG, or HOME Program in accordance with the proposal approved hereunder. If the federal government does not allocate sufficient funds to cover the allocations attached to this resolution in this year or subsequent years, the City may either terminate the resultant agreements with agencies without any liability occurring to the City. A record copy of said contracts and any amendments are on file in the Office of the City Clerk; and
2. Carry over any ESG unspent funds from PY18 (FY19) and PY19 (FY20) into PY20 (FY2021) and allocate those funds to the CES for ESG eligible activities. These funds will be included in the First Amendment to the FY2021 Annual Appropriations Ordinance; and
3. Allocate 20% of the PY20 (FY2021) CDBG funds to the Planning and Administration, up to 17.83% for public services, and the remaining to be distributed to Housing Services and Community Facility Improvements as outlined in Exhibit A with the Public Facility Improvements being a flexible line item should the HUD allocation differ than the amount currently allocated; and

4. Allocate the allowable 10% of PY20 (FY2021) HOME funds for program administration, up to the allowable 5% for CHDO operating support, and allocate the remainder to the Housing Trust Fund; and
5. Allocate the allowable 7.5% of the PY19 ESG to Administration, \$6,676 to the HMIS system and the remaining amount to Rapid Rehousing, and outreach (not to exceed 60% of PY20 ESG entitlement).
6. Finalize the 2020-2025 Consolidated Plan, including the PY20 Annual Action Plan, and the Regional Analysis of Impediments, including responses to public comments received until May 1, 2020, adding required HUD application forms and certifications, and including other HUD required information, submit it to the federal Department of Housing and Urban Development (HUD), and execute all documents necessary to receive the City's entitlement grants under the CDBG, ESG and HOME Programs.

BE IT FURTHER RESOLVED that the City manager is authorized to execute or amend contracts with agencies receiving funding under the CDBG, ESG or HOME Program in accordance with the proposals approved hereunder. A record copy of said contracts and any amendments are on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager is authorized to use the following invoicing/reporting system in contract administration, but maintains the discretion of requiring more frequent invoices and reports from new grantees or in contracts deemed to require closer scrutiny, and also maintains the discretion to terminate contracts based on a factors outlined in the contract boilerplate, including, but not limited to, the contractor's failure to fulfill obligations:

Fiscal Reports:

- All agencies, regardless of funding level, are required to submit quarterly statements of expense and quarterly requests for advance payment. The final statement of expense for each fiscal year must be accompanied by a copy of the agency's General Ledger and a Statement of Revenues and Expenditures for each program.

Program Reports:

- Agencies funded with non-federal funding: End-of-year narrative summary of accomplishments for the following types of programs, due by July 31: 1) Drop-In Services only with no intensive case management attached, 2) Meal Programs, and 3) Recreation Services.
- All other agencies with non-federal funding: Two program reports, due by January 31 and July 31;
- Agencies with federal funding (any amount): Four program reports due by October 31, January 31, April 30, and July 31.

BE IT FURTHER RESOLVED that the City Manager is authorized to refuse to execute a contract with any agency that has not provided required contract exhibits and documentation within 90 days of award of funding.

BE IT FURTHER RESOLVED that the City Manager is authorized to recapture any unspent CDBG funds awarded to an agency for a community facility improvement contract, if the funds are not spent by June 30, 2021.

Exhibits

A: PY20 (FY2021) CDBG/ESG/HOME Allocation Recommendations

## Community Development Block Grant (CDBG) PY2020 (FY2021) Allocations

| REVENUES |                             | Awarded FY20        | Awarded FY21        |
|----------|-----------------------------|---------------------|---------------------|
|          | CDBG Award                  | \$ 2,667,120        | \$ 2,738,258        |
|          | Program Income              | \$ 250,531          | \$ 255,925          |
|          | Earlier Unused Funds        | \$ 788,029          | \$ 222,352          |
|          | <b>SUBTOTAL CDBG</b>        | <b>\$ 3,705,680</b> | <b>\$ 3,216,536</b> |
|          | <b>GF Funding Available</b> | <b>\$ 232,229</b>   | <b>\$ 232,229</b>   |

| EXPENDITURES - By Category |                                             | Allocated FY20      | Allocated FY21      |
|----------------------------|---------------------------------------------|---------------------|---------------------|
|                            | I. Housing Services                         | \$ 1,476,057        | \$ 1,476,057        |
|                            | II. Public Services (17.83%)                | \$ 453,921          | \$ 453,921          |
|                            | III. Public Facility Improvements           | \$ 1,202,278        | \$ 688,906          |
|                            | IV. Planning & Administration (20%)         | \$ 573,424          | \$ 597,652          |
|                            | <b>Total CDBG Funds Allocated/Requested</b> | <b>\$ 3,705,680</b> | <b>\$ 3,216,536</b> |

## CDBG Project Details

| I. CDBG - HOUSING SERVICES PROJECTS |                                                                                                                                       | Allocated FY20      | Allocated FY21      |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|
| <b>CDBG</b>                         |                                                                                                                                       |                     |                     |
| 1                                   | Center for Independent Living: Residential Access Project for Disabled                                                                | \$ 159,660          | \$ 159,660          |
| 2                                   | Habitat for Humanity East Bay - Housing Rehabilitation Grant Program                                                                  | \$ 250,000          | \$ 250,000          |
| 3                                   | COB HHCS D: Loan Services                                                                                                             | \$ 70,008           | \$ 70,008           |
| 4                                   | COB HHCS D: Senior and Disabled Rehab Program                                                                                         | \$ 358,048          | \$ 358,048          |
|                                     | Rehab Loans                                                                                                                           | \$ 150,000          | \$ 150,000          |
| 5                                   | COB HHCS D: Affordable Housing Development and Rehab                                                                                  | \$ 488,341          | \$ 488,341          |
|                                     | <b>SUBTOTAL Housing Projects -- CDBG</b>                                                                                              | <b>\$ 1,476,057</b> | <b>\$ 1,476,057</b> |
|                                     | <b>General Fund</b>                                                                                                                   |                     |                     |
| 6                                   | Bay Area Community Land Trust (GF)                                                                                                    | \$ 5,200            | \$ 5,200            |
| <b>II. PUBLIC SERVICES PROJECTS</b> |                                                                                                                                       |                     |                     |
| <b>CDBG</b>                         |                                                                                                                                       |                     |                     |
| 7                                   | Homeless Services (Berkeley Food & Housing Project)*                                                                                  | \$ 170,502          | \$ 170,502          |
| 8                                   | Homeless Services (Bay Area Community Services)*                                                                                      | \$ 248,419          | \$ 248,419          |
| 9                                   | EDEN Housing: Fair Housing Services                                                                                                   | \$ 35,000           | \$ 35,000           |
|                                     | Total CDBG Public Services                                                                                                            | \$ 453,921          | \$ 453,921          |
|                                     | CDBG Public Services Cap                                                                                                              | \$ 520,217          | \$ 533,863          |
|                                     | <i>* These projects are for CDBG budgeting, but are reviewed by other Commissions whose funding recommendation is reflected here.</i> |                     |                     |
|                                     | <b>General Fund</b>                                                                                                                   |                     |                     |
| 10                                  | The Bread Project: Culinary Job Readiness Training                                                                                    | \$ 57,850           | \$ 57,850           |
| 11                                  | Inter-City Services: Employment, Education and Training                                                                               | \$ 101,351          | \$ 101,351          |
| 12                                  | Rising Sun Energy Center: Green Energy Training Services                                                                              | \$ 67,828           | \$ 67,828           |
|                                     | <b>Subtotal GF Public Services:</b>                                                                                                   | <b>\$ 227,029</b>   | <b>\$ 227,029</b>   |

III. CDBG - PUBLIC/COMMUNITY FACILITIES IMPROVEMENTS: Allocations or recommended funding is one-time only.

|                                                 | Allocated FY20      | Allocated FY21    |
|-------------------------------------------------|---------------------|-------------------|
| 13 Public Facilities FY2020                     | \$ 1,049,370        | \$ 535,998        |
| 14 COB HHCS: Public Facilities Improvements     | \$ 152,908          | \$ 152,908        |
| <b>Subtotal Public Facilities Improvements:</b> | <b>\$ 1,202,278</b> | <b>\$ 688,906</b> |

IV. CDBG - PLANNING AND ADMINISTRATION\*\*

|                                                 | Allocated FY20    | Allocated FY21    |
|-------------------------------------------------|-------------------|-------------------|
| 15 COB HHCS: CDBG Planning & Administration     | \$ 573,424        | \$ 597,652        |
| <b>CDBG Planning &amp; Administration TOTAL</b> | <b>\$ 573,424</b> | <b>\$ 597,652</b> |

*\*\*Set-aside. Planning and Administration is a capped category of CDBG funding. The City of Berkeley City Manager and Housing & Community Services Departments will utilize the maximum amount of funding available under this category.*

HOME Investment Partnership Program (HOME) Allocations

| REVENUES                             | Awarded FY20      | Awarded FY21      |
|--------------------------------------|-------------------|-------------------|
| HOME Award                           | \$ 737,273        | \$ 778,383        |
| Program Income (projected)           | \$ 20,000         | \$ 20,000         |
| <b>SUBTOTAL HOME Funds Available</b> | <b>\$ 757,273</b> | <b>\$ 798,383</b> |

| EXPENDITURES               | Allocated FY20    | Allocated FY21    |
|----------------------------|-------------------|-------------------|
| Administration (10%)       | \$ 75,272         | \$ 79,838         |
| CHDO Operating Funds (5%)  | \$ 28,115         | \$ 28,115         |
| Available for HTF Projects | \$ 653,431        | \$ 690,430        |
| <b>Total</b>               | <b>\$ 757,273</b> | <b>\$ 798,383</b> |

Emergency Solutions Grant (ESG) Allocation SUMMARY

| REVENUES  | Awarded FY20 | Awarded FY21 |
|-----------|--------------|--------------|
| ESG Award | \$ 227,398   | \$ 234,354   |

| EXPENDITURES                           | Amended Allocation FY20 | Allocated FY21    |
|----------------------------------------|-------------------------|-------------------|
| Rapid Rehousing*                       | \$ 67,228               | \$ 69,489         |
| Emergency Shelter and Street Outreach* | \$ 136,439              | \$ 140,612        |
| Homeless Management Information System | \$ 6,676                | \$ 6,676          |
| Administration (7.5%)                  | \$ 17,055               | \$ 17,577         |
| <b>Total</b>                           | <b>\$ 227,398</b>       | <b>\$ 234,354</b> |

\* Funding will be allocated to the Coordinated Entry System to carry out the program.

**CITY OF BERKELEY**

**CONSOLIDATED PLAN  
FOR HOUSING  
AND COMMUNITY DEVELOPMENT  
2020-2025**

**and Annual Action Plan for Program Year 2020**

**for the U.S. Department of  
Housing and Urban Development  
San Francisco Field Office of  
Community Planning and Development**

**MAY 2020**

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DRAFT

## Executive Summary

### ES-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

#### 1. Introduction

Eligible state and local governments receive annual block grants for community development and affordable housing from the U.S. Department of Housing and Urban Development (HUD). These grants include the Community Development Block Grant (CDBG), the HOME Investment Partnerships Program (HOME), and the Emergency Solutions Grant (ESG). For each program, HUD regulations allow for a broad range of eligible activities. The state or local governments determine which of the eligible activities will best serve the needs of their community. In order to determine the most pressing needs and develop effective, place-based market-driven strategies to meet those needs, HUD requires grantees to develop a Consolidated Plan (Plan).

This Plan by the City of Berkeley lays out the City's overall investment strategies for the City's use of federal entitlement grant funds for affordable housing, homelessness, addressing poverty, and community development from July 1, 2020, through June 30, 2025. For each year of the Consolidated Plan, the City must also produce an Annual Action Plan. The First-Year Annual Action Plan for the period July 1, 2020 through June 30, 2021 is attached to this Consolidated Plan. Please note that throughout the Consolidated Plan and Annual Action Plan, the terms "fiscal year" and "program year" are both used. The period from July 1, 2020 through June 30, 2021 is the City's fiscal year (FY) 2021 and HUD's program year (PY) 2020.

The Plan was prepared in accordance with HUD's Office of Community and Planning Development (CPD) eCon Planning Suite which was introduced in 2012. Since that time, HUD requires grantees submit their Consolidated Plan and First-Year Annual Action Plan using the Consolidated Plan template through the Integrated Disbursement and Information System (IDIS), their nationwide database. Most of the data tables in the Plan are populated with default data from the U.S. Census Bureau, specifically 2011-2015 American Community Survey (ACS) and Comprehensive Housing Affordability Strategy (CHAS) data. Other sources of data are noted throughout the Plan.

The Plan is divided into six sections:

- Executive Summary
- The Process
- Needs Assessment
- Market Analysis
- Strategic Plan
- First-Year Action Plan

## 2. Summary of the objectives and outcomes identified in the Plan Needs Assessment Overview

The City of Berkeley has set an ambitious array of goals for the use of its federal entitlement grant resources. The priority needs of the City are affordable housing, non-housing community development, and homelessness. The City has three goals to address those priority needs:

- Increase affordable housing supply and quality;
- Improve public facilities and public services; and
- Provide homeless services including prevention, emergency shelter, outreach and rapid re-housing.

The City of Berkeley has long placed a high priority on affordable housing and community services because they reflect important community values. The City is committed to maintaining high-quality programs for those in need but faces challenges due to insufficient resources to meet those needs. The City of Berkeley has been able to backfill some of the ongoing reductions in federal funding for affordable housing and critical community services. Local investments, however, do not begin to meet the dire need for more affordable housing and a more robust social safety need to prevent and end homelessness. At the same time, the ESG, HOME, and CDBG programs come with considerable administrative requirements, all of which impact the City's ability to address all the many needs identified.

## 3. Evaluation of past performance

The City tracks single family and multi-family housing rehabilitation and development efforts. Outcomes for all federally funded community agency programs are also tracked and prior outcomes are used to inform funding decisions. The City also uses countywide Homeless Count and program outcome data to inform its goals on homelessness.

## 4. Summary of citizen participation process and consultation process

A public hearing in front of the Housing Advisory Commission was held on November 7, 2019 on the Draft *Regional Analysis of Impediments*. This public hearing was noticed in the *Berkeley Voice* on October 25, 2019.

Specific outreach regarding the Draft *Regional Analysis of Impediments* public hearing was accomplished via mailings to interested parties, which include individuals, the Alameda County Homeless Continuum of Care, community agencies serving low income people, and postings at public buildings such as recreation centers, senior centers, libraries and other government buildings. The draft report was also posted on the City's website and made available at the Department office and the Main Library.

An additional public hearing on community needs was held on November 7, 2019 in front of the Housing Advisory Commission specifically to inform the Consolidated Plan. The November 7, 2019 public hearing on community needs was noticed in the *Berkeley Voice* on November 1, 2019.

Draft copies of the Plan were presented to the Housing Advisory Commission on January 9, and February 6, 2020. A public comment period was opened on March 27, 2020 and concluded on May 1<sup>st</sup>, 2020 after the public hearing at the April 28, 2020 City Council meeting. An announcement regarding the public hearing and public comment period were published in the *Berkeley Voice* on March 27, 2020. The announcement stated where to locate the publically available Plan, the dates of the public comment period, and a summary of key elements of the Plan. The announcement also included information in Spanish and Chinese languages regarding how to obtain information about the Plan.

Additional outreach was accomplished via mailings to interested parties, which include individuals, the Alameda County Homeless Continuum of Care, community agencies serving low income people, and postings at public buildings such as recreation centers, senior centers, libraries and other government buildings. The draft Plan was also posted on the City's website and made available at the Department office and the Main Library.

In addition, a public hearing on the Plan was held on April 28, 2020 before the Berkeley City Council. A notice regarding the public hearing was published in the *Berkeley Voice* on March 27, 2020.

## 5. Summary of public comments

Two public hearings were held on November 7, 2019 before the Housing Advisory Commission. One to review the Draft *Regional Analysis of Impediments*, and the second on the PY18 CAPER and hear from the community on community needs. An additional public hearing on the Plan was held on April 28, 2020 before the Berkeley City Council. Additional outreach for the three public hearings was sent via the distribution lists and noticing methods mentioned above.

Three members of the public were present, and one spoke, at the November 7, 2019 public hearing on the Draft Analysis of Impediments. Comments from the public and commissioners included dedicating additional City staff resources to monitor and enforce Berkeley's ordinance regarding source of income discrimination and to administer the City's fair housing efforts, consider supporting countywide or state efforts to develop and implement just cause eviction regulations, vacancy rates for new housing developments, and community input on development plans in Berkeley's R/ECAPs. During the Draft *Regional Analysis of Impediments* public comment period of October 28, 2019 through December 12, 2019 no written comments were received by the City of Berkeley.

Four members of the public were present, and none spoke, at the November 7, 2019 public hearing on community needs. Comments from the commissioners included dedicating additional City staff resources to monitor and enforce Berkeley's ordinance regarding source of income discrimination and to administer the City's fair housing efforts.

During the Housing Advisory Commission meetings on January 9, and February 6, 2020 no members of the public commented on the Plan. Comments from commissioners during these two meetings included the chosen paper of publication for the public hearings, possible Council considerations for ordinances that may impact affordable housing units, protections should be put into place, homeless being expensive and additional non-HUD funded strategies may have more success locally, current affordable housing fees and requirements do not support the demand for affordable housing, ensure outreach to the South West Berkeley community.

TBD members of the public spoke at the April 28, 2020 public hearing on TBD. During the Plan's public comment period of March 27, 2020 through May 1, 2020, TBD written comments were received and included ideas on TBD.

**6. Summary of comments or views not accepted and the reasons for not accepting them**

All comments were accepted. Additional resources could enhance City-administered programs as noted in the summary of public comments above. It would take additional federal or location funding, however, which are currently not available.

**7. Summary**

TBD

## The Process

### PR-05 Lead & Responsible Agencies 24 CFR 91.200(b)

#### 1. Describe agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

| Agency Role        | Name     | Department/Agency                                 |
|--------------------|----------|---------------------------------------------------|
| CDBG Administrator | BERKELEY | Health, Housing and Community Services Department |
| HOME Administrator | BERKELEY | Health, Housing and Community Services Department |
| ESG Administrator  | BERKELEY | Health, Housing and Community Services Department |

Table 1 – Responsible Agencies

#### Narrative

The Health, Housing and Community Services (HHCS) Department is the lead agency for overseeing the development of the plan. The Housing and Community Services Division coordinates the City's funding allocation process and monitoring for community based organizations, administration of the Housing Trust Fund, and operation of other housing and community services programs such as the Shelter Plus Care Program, and Senior and Disabled Home Rehabilitation Loan Program. The Department also includes the Environmental Health, Mental Health, Public Health, and Aging Services divisions, all of which provide direct services to the community.

#### Consolidated Plan Public Contact Information

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## **PR-10 Consultation - 91.100, 91.200(b), 91.215(l)**

### **1. Introduction**

The consolidated planning process requires jurisdictions to reach out to and consult with other public and private agencies when developing the plan. The Plan includes a summary of the consultation process and information on agencies that participated in the process.

**Provide a concise summary of the jurisdiction’s activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).**

The City of Berkeley coordinates housing and community services activities provided by the HHCS department through regular senior staff meetings and other specific coordination meetings. City staff also participates in the implementation of EveryOne Home, the countywide plan to end homelessness. EveryOne Home, which is also the name of the agency – a private non-profit entity, coordinates Alameda County’s Continuum of Care. City of Berkeley staff will continue to participate in the EveryOne Home’s Leadership Board, which includes most public funders of housing and homeless services in the county, as well as leadership from key community based organizations. Leadership Board membership helps to coordinate efforts across the county. Staff also participates in other committees composed of other funders (such as Alameda County Behavioral Health Care Services and the Social Services Agency) as well as many community based organizations. Recent countywide collaboration efforts include the implementation of Alameda County’s Coordinated Entry System and Whole Person Care Project, the adoption of countywide homeless program outcomes that align with HUD’s System Performance Measures, the 2019 homeless survey and count, and the ongoing implementation of Home Stretch, the centralized process that matches prioritized chronically homeless individuals to permanent supportive housing opportunities.

**Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness**

The City of Berkeley, in coordination with the City of Oakland, Alameda County Housing and Community Services Department, and EveryOne Home, participates in Alameda Countywide Continuum of Care (OC) efforts. City of Berkeley staff participate in many COC subcommittees, including the Continuum of Care Committee and Systems Coordination Committee. These Committees meet monthly and are responsible for the ongoing design and implementation of Alameda County’s Coordinated Entry System, including the establishment of regional Housing Resource Centers (HRCs), a standardized assessment tool, the Alameda County Housing Crisis Response System Manual, and the permanent supportive housing (PSH) matching process called HomeStretch. The HRCs utilize the standardized assessment tool to determine which resources to offer unhoused residents including housing navigation services, rapid



rehousing financial assistance, shelter and transitional housing, and, for the chronically homeless, permanent supportive housing.

**Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards and evaluate outcomes, and develop funding, policies and procedures for the administration of HMIS**

City staff will continue to participate in the implementation of EveryOne Home, the countywide plan to end homelessness. EveryOne Home, the agency, spearheads Alameda County's Continuum of Care. Staff will continue to participate in the initiative's Leadership Board, which includes most public funders of housing and homeless services in the county, as well as leadership from key community based organizations. Leadership Board membership helps coordinate efforts across the county. Specific activities will include:

- Membership in the Leadership Board, which guides the organization's activities;
- Continued participation in reviewing county-wide outcomes; and
- Involvement in the committee charged with oversight of research, evaluation, and compliance with HUD requirements for the Continuum of Care.

City of Berkeley staff also participate in the HMIS Oversight and Result Based Accounting Committees. These committees established new system performance measures (SPM) based on HUD priorities. These SPMs have been incorporated in City of Berkeley contracts that govern Berkeley funding homeless services.

**2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdictions consultations with housing, social service agencies and other entities**

|   |                                                                                                                                                      |                                                                                                                                                                                                                                                                                             |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | <b>Agency/Group/Organization</b>                                                                                                                     | City of Berkeley Housing Advisory Commission                                                                                                                                                                                                                                                |
|   | <b>Agency/Group/Organization Type</b>                                                                                                                | Other government - Local                                                                                                                                                                                                                                                                    |
|   | <b>What section of the Plan was addressed by Consultation?</b>                                                                                       | Housing Need Assessment<br>Homelessness Strategy<br>Homeless Needs - Chronically homeless<br>Homeless Needs - Families with children<br>Homelessness Needs - Veterans<br>Homelessness Needs - Unaccompanied youth<br>Non-Homeless Special Needs<br>Market Analysis<br>Anti-poverty Strategy |
|   | <b>How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?</b> | Draft copies of the plan were presented to the Housing Advisory Commission (HAC) at their January and February 2020 meetings for comments.                                                                                                                                                  |
| 3 | <b>Agency/Group/Organization</b>                                                                                                                     | Homeless Commission                                                                                                                                                                                                                                                                         |
|   | <b>Agency/Group/Organization Type</b>                                                                                                                | Other government - Local                                                                                                                                                                                                                                                                    |
|   | <b>What section of the Plan was addressed by Consultation?</b>                                                                                       | Homelessness Strategy<br>Homeless Needs - Chronically homeless<br>Homeless Needs - Families with children<br>Homelessness Needs - Veterans<br>Homelessness Needs - Unaccompanied youth                                                                                                      |
|   | <b>How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?</b> | The Homeless Commission provides their expertise and recommendations for funding for community agencies including the portion of CDBG public services funding that supports the homeless population.                                                                                        |

Table 2 – Agencies, groups, organizations who participated

**Identify any Agency Types not consulted and provide rationale for not consulting**

No Agency Types were knowingly excluded.

## Other local/regional/state/federal planning efforts considered when preparing the Plan

| Name of Plan                 | Lead Organization                                               | How do the goals of your Strategic Plan overlap with the goals of each plan?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------|-----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EveryOne Home Plan           | EveryOne Home (Alameda County's Continuum of Care)              | The <a href="#">EveryOne Home Strategic Update Report</a> , the countywide plan to end homelessness, was adopted by the City in 2019. Berkeley's activities to end homelessness, including those supported by federal monies as articulated in this plan, align with the EveryOne Home Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Housing Element 2015-2023    | City of Berkeley                                                | The <a href="#">Housing Element</a> addresses housing production and preservation in the City of Berkeley and includes issues related to affordable housing that overlap with this report's goal to increase affordable housing supply and quality.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Health Status Report of 2018 | Health, Housing, and Community Services; Public Health Division | The goal of the <a href="#">Health Status Report</a> is to provide a picture of the health status of people living in Berkeley. The report helps define goals and objectives for improving Berkeley's healthy by reducing and eliminating health inequities in Berkeley, which includes assessing and addressing the social determinants of health. The Health Status Report highlights overlapping health and housing needs for low-income individuals that are addressed in the Consolidated Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 2020 Vision                  | Collaboration between various local agencies                    | <a href="#">Berkeley's 2020 Vision</a> : Equity in Education is a collective impact initiative that strives to eliminate racial disparities in academic achievement in Berkeley's public schools. This citywide partnerships seeks to close Berkeley's educational "opportunity gap" through a shared community commitment to this goal: that <u>all</u> young people in Berkeley grow up with equitable opportunities to achieve high outcomes and realize their full potential. Four core institutional partners oversee Berkeley's 2020 Vision: the <a href="#">City of Berkeley</a> , <a href="#">BUSD</a> , <a href="#">Berkeley City College (BCC)</a> , and the <a href="#">University of California at Berkeley (UC Berkeley)</a> . Public agency, education, nonprofit, and other partners lend content expertise, shape the direction of this initiative, and represent the students and families they serve. This is consistent with goals of reducing inequities and increasing economic opportunities for Berkeley residents. The Consolidated Plan works toward these shared goals by supporting housing and public services for low-income residents. |

| Name of Plan                      | Lead Organization                                       | How do the goals of your Strategic Plan overlap with the goals of each plan?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Age-Friendly Berkeley Action Plan | Health, Housing, and Community Services; Aging Division | This report focuses on the aging population in Berkeley and the fact that the vast majority of older adults want to age in their homes and local Berkeley community. The <a href="#">Age-Friendly Berkeley</a> initiative helps prepare Berkeley for its rapidly aging population by gathering input from the community and pulling together public and private leaders, resources, ideas, and strategies to address the issues raised. Age-Friendly Berkeley is a collective effort whose goal is to ensure that all Berkeley residents are connected, healthy, and engaged in their environments. The Consolidated Plan speaks directly to affordable housing goals that support low-income persons, specifically including seniors and persons with disabilities. |

Table 3 – Other local / regional / federal planning efforts

**Describe cooperation and coordination with other public entities, including the State and any adjacent units of general local government, in the implementation of the Consolidated Plan (91.215(I))**

EveryOne Home, described above under the Continuum of Care question, is an important venue for coordination with other units of local government in Alameda County on the issue of homelessness. Most affordable housing developments in Berkeley receive other public funding, most typically Low Income Housing Tax Credits, but also other County and State programs, such as No Place Like Home funding for affordable housing for mentally disabled residents. The Housing & Community Services Division works with both the City’s Mental Health Division and the Alameda County Health Care Services Agency to take advantage of No Place Like Home funding to support the creation of additional permanently affordable units for unhoused residents on the Home Stretch list.

**Narrative (optional):**

N/A.

## PR-15 Citizen Participation

### 1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

This plan was developed with citizen participation consistent with the City's adopted [Citizen Participation Plan](https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/CitizenParticipationPlan_5_12_2012_FINAL.pdf) (available at: [https://www.cityofberkeley.info/uploadedFiles/Housing/Level\\_3 - General/CitizenParticipationPlan\\_5\\_12\\_2012\\_FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/CitizenParticipationPlan_5_12_2012_FINAL.pdf)).

Two public hearings were held on November 7, 2019 before the Housing Advisory Commission to receive input from Berkeley residents on 1) the Draft *Regional Analysis of Impediments* to Fair Housing Choice, and 2) Berkeley's housing and community development needs.

The public hearing on the *Regional Analysis of Impediments* to Fair Housing Choice began with a presentation summarizing the draft report. Three members of the public were present, and one spoke, at the November 7, 2019 public hearing on the Draft Analysis of Impediments. Comments from the public and commissioners included dedicating additional City staff resources to monitor and enforce Berkeley's ordinance regarding source of income discrimination and to administer the City's fair housing efforts, consider supporting countywide or state efforts to develop and implement just cause eviction regulations, vacancy rates for new housing developments, and community input on development plans in Berkeley's R/ECAPs. During the Draft *Regional Analysis of Impediments* public comment period of October 28, 2019 through December 12, 2019 no written comments were received by the City of Berkeley.

The community needs hearing began with a presentation summarizing the use of federal funds in PY18. Four members of the public were present, and none spoke, at the November 7, 2019 public hearing on community needs. There were no comments from the public but a commission comment addressed additional in-house City-supported enforcement of both Fair Housing and source of income discrimination.

The draft Consolidated Plan was shared with the Housing Advisory Commission on January 9, and February 6, 2020. Comments during these two meetings included the chosen paper of publication for the public hearings, possible Council considerations for ordinances that may impact affordable housing units, protections should be put into place, homeless being expensive and additional non-HUD funded strategies may have more success locally, current affordable housing fees and requirements do not support the demand for affordable housing, ensure outreach to the South West Berkeley community.

A public comment period was opened on March 27, 2020 and concluded on May 1<sup>st</sup>, 2020 after the public hearing at the April 28, 2020 City Council meeting. An announcement regarding the public hearing and public comment period were published in the Berkeley Voice on March 27,

2020. The announcement stated where to locate the publically available Plan, the dates of the public comment period, and a summary of key elements of the Plan. The announcement also included information in Spanish and Chinese languages regarding how to obtain information about the Plan.

Additional outreach for the draft Plan comment period and public hearing was accomplished via mailings to interested parties on the Health, Housing and Community Services Department outreach lists, which include interested individuals, a mailing to Berkeley Housing Authority consumers, community agencies serving low-income people, public buildings such as recreation centers, senior centers, libraries and other government buildings. The draft Plan was available on the City's website, in the Department office and at the Main Library. The final plan, once adopted and accepted by HUD, will be posted on the City's website.

TBD members of the public spoke at the April 28, 2020 public hearing on TBD. During the Plan's public comment period of March 27, 2020 through May 1, 2020, TBD written comments were received and included ideas on TBD.

Citizen Participation Outreach

| Sort Order | Mode of Outreach | Target of Outreach           | Summary of response/attendance                                                                                                               | Summary of comments received                              | Summary of comments not accepted and reasons                                                                                                                                                                                                  | URL (If applicable)                                                                                                                     |
|------------|------------------|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 1          | Public Meeting   | Non-targeted/broad community | One member of the public spoke at the November 7, 2019 public hearing on <b>community needs</b> in front of the Housing Advisory Commission. | City-supported enforcement of source of income is needed. | All comments were accepted. Additional resources could enhance City-administered programs as noted in the summary of public comments above. It would take additional federal or location funding, however, which are currently not available. | <a href="https://www.cityofberkeley.info/Housing_Advisory_Commission/">https://www.cityofberkeley.info/Housing_Advisory_Commission/</a> |

| Sort Order | Mode of Outreach | Target of Outreach           | Summary of response/attendance                                                                                                                                          | Summary of comments received                                                                                                                                                                                                                                                                | Summary of comments not accepted and reasons                                                                                                                                                                                                  | URL (If applicable)                                                                                                                     |
|------------|------------------|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 2          | Public Meeting   | Non-targeted/broad community | No members of the public spoke at the November 7, 2019 public hearing on the <b>Draft Regional Analysis of Impediments</b> in front of the Housing Advisory Commission. | Comments and discussion from the commissioners focused on additional enforcement needs for Fair Housing and source of income discrimination, concerns about vacancy rate of new developments in Berkeley, and alignment with development plans and community input within the R/ECAP areas. | All comments were accepted. Additional resources could enhance City-administered programs as noted in the summary of public comments above. It would take additional federal or location funding, however, which are currently not available. | <a href="https://www.cityofberkeley.info/Housing_Advisory_Commission/">https://www.cityofberkeley.info/Housing_Advisory_Commission/</a> |



| Sort Order | Mode of Outreach | Target of Outreach           | Summary of response/attendance                                                                                              | Summary of comments received                                | Summary of comments not accepted and reasons                                                                       | URL (If applicable)                                                                                                                     |
|------------|------------------|------------------------------|-----------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 3          | Public Meeting   | Non-targeted/broad community | No members of the public spoke on the Consolidated Plan at the January 9, 2020 in front of the Housing Advisory Commission. | One question was raised regarding the paper of publication. | Berkeley Voice, the paper of publication for notices is the newspaper of general circulation for the jurisdiction. | <a href="https://www.cityofberkeley.info/Housing_Advisory_Commission/">https://www.cityofberkeley.info/Housing_Advisory_Commission/</a> |

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| Sort Order | Mode of Outreach | Target of Outreach           | Summary of response/attendance                                                                                               | Summary of comments received                                                                                                                                                                                                                                                                                                                                                                                                | Summary of comments not accepted and reasons | URL (If applicable)                                                                                                                     |
|------------|------------------|------------------------------|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 4          | Public Meeting   | Non-targeted/broad community | No members of the public spoke on the Consolidated Plan at the February 6, 2020 in front of the Housing Advisory Commission. | Discussion from the commissioners included possible Council considerations for ordinances that may impact affordable housing units, protections should be put into place, homeless is expensive and other non-HUD funded strategies may have more success locally, current affordable housing fees and requirements do not support the demand for affordable housing, ensure outreach to the South West Berkeley community. | All comments were accepted.                  | <a href="https://www.cityofberkeley.info/Housing_Advisory_Commission/">https://www.cityofberkeley.info/Housing_Advisory_Commission/</a> |

| Sort Order | Mode of Outreach | Target of Outreach           | Summary of response/attendance                                                                                | Summary of comments received | Summary of comments not accepted and reasons | URL (If applicable)                                                                                                                                                               |
|------------|------------------|------------------------------|---------------------------------------------------------------------------------------------------------------|------------------------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5          | Public Meeting   | Non-targeted/broad community | TBD<br>members of the public spoke at the Aril 28, 2020 public hearing in front of the Berkeley City Council. | TBD                          | TBD                                          | <a href="https://www.cityofberkeley.info/Clerk/City_Council/City_Council_Agenda_Index.aspx">https://www.cityofberkeley.info/Clerk/City_Council/City_Council_Agenda_Index.aspx</a> |

Table 4 – Citizen Participation Outreach

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## Needs Assessment

### NA-05 Overview

#### Needs Assessment Overview

The Needs Assessment of the Consolidated Plan, in conjunction with information gathered through consultations and the citizen participation process, provides a clear picture of the jurisdiction's needs related to affordable housing, special needs housing, community development, and homelessness. The Needs Assessment includes the following sections:

- Housing Needs Assessment
- Disproportionately Greater Need
- Public Housing
- Homeless Needs Assessment
- Non-Homeless Special Needs Assessment
- Non-Housing Community Development Needs

The Needs Assessment identifies those needs with the highest priorities which form the basis for the Strategic Plan section and the programs and projects to be administered throughout the Plan period. Most of the data tables in this section are populated with default data from the Comprehensive Housing Affordability Strategy (CHAS) developed by the Census Bureau for HUD based on 2011-2015 American Community Survey (ACS) Census. Other sources are noted throughout the Plan.

## NA-10 Housing Needs Assessment - 24 CFR 91.205 (a,b,c)

### Summary of Housing Needs

As defined by HUD, housing problems include:

- Units lacking a complete kitchen or plumbing facilities;
- Housing cost burden of more than 30 percent of the household income (for renters, housing costs include rent paid by the tenant plus utilities and for owners, housing costs include mortgage payments, taxes, insurance, and utilities);
- Severe housing cost burden of more than 50 percent of gross income; and
- Overcrowding which is defined as more than one person per room, not including bathrooms, porches, foyers, halls, or half-rooms.

The following income categories are used throughout the Plan:

- Extremely low: households with income less than 30 percent of area median income (AMI)
- Very low: households with income between 30 and 50 percent of AMI
- Low: households with income between 51 and 80 percent of AMI
- Moderate: households with income between 81 and 120 percent of AMI
- Above moderate: households with income above 120 percent of AMI

Based on the data presented in tables below from CHAS, there are 117,385 people residing in the City of Berkeley comprising 45,915 households. Of these households, 20,175 households (or 43.9 percent) are considered “low income” per HUD definitions (under 80 percent of Area Median Income). According to the 2013-2017 American Community Survey (ACS) 5-year Estimates, which counts 45,515 households and a population of 120,179, 42.9 percent of occupied housing units are owner-occupied and 57.1 percent are renter-occupied. The CHAS data below shows that approximately 13,984 renter-households and 3,520 owner-households have some type of housing problem. That is equivalent to 38.1 percent of the households in the City of Berkeley. The vast majority of households in Berkeley with a housing problem have a housing affordability problem. According to the ACS, of the occupied units paying rent, 56.1 percent are paying 30 percent or more of their income in gross rent. Overcrowding and substandard units are far less common, according to Census data.

| Demographics  | Base Year: 2009 | Most Recent Year: 2015 | % Change |
|---------------|-----------------|------------------------|----------|
| Population    | 112,580         | 117,385                | 4%       |
| Households    | 40,079          | 45,915                 | 15%      |
| Median Income | \$59,097.00     | \$66,237.00            | 12%      |

**Table 5 - Housing Needs Assessment Demographics**

**Data Source:** 2005-2009 ACS (Base Year), 2011-2015 ACS (Most Recent Year)

## Number of Households Table – HUD Area Median Family Income (HAMFI)

|                                                             | 0-30%<br>HAMFI | >30-50%<br>HAMFI | >50-80%<br>HAMFI | >80-100%<br>HAMFI | >100%<br>HAMFI |
|-------------------------------------------------------------|----------------|------------------|------------------|-------------------|----------------|
| Total Households                                            | 10,865         | 4,575            | 4,735            | 4,015             | 21,730         |
| Small Family Households*                                    | 1,490          | 980              | 1,165            | 980               | 9,500          |
| Large Family Households**                                   | 95             | 140              | 65               | 145               | 720            |
| Household contains at least one person 62-74 years of age   | 1,790          | 905              | 785              | 550               | 5,605          |
| Household contains at least one person age 75 or older      | 1,134          | 565              | 520              | 400               | 2,025          |
| Households with one or more children 6 years old or younger | 430            | 205              | 184              | 329               | 2,440          |

Table 6 - Total Households Table

Data Source: 2011-2015 CHAS  
 \*4 persons or less  
 \*\*5 persons or more  
 Source: "Chas Table Summary" Page 2  
<https://www.huduser.gov/portal/datasets/cp/CHAS/2007Data/CHAS%20table%20summary.doc>

## Housing Needs Summary Tables

## 1. Housing Problems (Households with one of the listed needs)

|                                                                                       | Renter       |                    |                    |                     |       | Owner        |                    |                    |                     |       |
|---------------------------------------------------------------------------------------|--------------|--------------------|--------------------|---------------------|-------|--------------|--------------------|--------------------|---------------------|-------|
|                                                                                       | 0-30%<br>AMI | >30-<br>50%<br>AMI | >50-<br>80%<br>AMI | >80-<br>100%<br>AMI | Total | 0-30%<br>AMI | >30-<br>50%<br>AMI | >50-<br>80%<br>AMI | >80-<br>100%<br>AMI | Total |
| NUMBER OF HOUSEHOLDS                                                                  |              |                    |                    |                     |       |              |                    |                    |                     |       |
| Substandard Housing - Lacking complete plumbing or kitchen facilities                 | 185          | 75                 | 75                 | 15                  | 350   | 20           | 0                  | 0                  | 0                   | 20    |
| Severely Overcrowded - With >1.51 people per room (and complete kitchen and plumbing) | 245          | 55                 | 45                 | 35                  | 380   | 0            | 0                  | 10                 | 0                   | 10    |
| Overcrowded - With 1.01-1.5 people per room (and none of the above problems)          | 275          | 120                | 55                 | 10                  | 460   | 0            | 10                 | 15                 | 20                  | 45    |
| Housing cost burden greater than 50% of income (and none of the above problems)       | 5,785        | 1,320              | 480                | 60                  | 7,645 | 860          | 615                | 455                | 340                 | 2,270 |

|                                                                                 | Renter    |             |             |              |       | Owner     |             |             |              |       |
|---------------------------------------------------------------------------------|-----------|-------------|-------------|--------------|-------|-----------|-------------|-------------|--------------|-------|
|                                                                                 | 0-30% AMI | >30-50% AMI | >50-80% AMI | >80-100% AMI | Total | 0-30% AMI | >30-50% AMI | >50-80% AMI | >80-100% AMI | Total |
| Housing cost burden greater than 30% of income (and none of the above problems) | 865       | 1,135       | 1,400       | 680          | 4,080 | 175       | 210         | 325         | 350          | 1,060 |
| Zero/negative Income (and none of the above problems)                           | 1,050     | 0           | 0           | 0            | 1,050 | 115       | 0           | 0           | 0            | 115   |

Table 7 – Housing Problems Table

Data Source: 2011-2015 CHAS

2. Housing Problems 2 (Households with one or more Severe Housing Problems: Lacks kitchen or complete plumbing, severe overcrowding, severe cost burden)

|                                                                       | Renter    |             |             |              |       | Owner     |             |             |              |       |
|-----------------------------------------------------------------------|-----------|-------------|-------------|--------------|-------|-----------|-------------|-------------|--------------|-------|
|                                                                       | 0-30% AMI | >30-50% AMI | >50-80% AMI | >80-100% AMI | Total | 0-30% AMI | >30-50% AMI | >50-80% AMI | >80-100% AMI | Total |
| <b>NUMBER OF HOUSEHOLDS</b>                                           |           |             |             |              |       |           |             |             |              |       |
| Having 1 or more of four housing problems                             | 6,485     | 1,570       | 655         | 120          | 8,830 | 875       | 625         | 475         | 360          | 2,335 |
| Having none of four housing problems                                  | 2,045     | 1,830       | 2,535       | 2,435        | 8,845 | 290       | 545         | 1,070       | 1,100        | 3,005 |
| Household has negative income, but none of the other housing problems | 1,050     | 0           | 0           | 0            | 1,050 | 115       | 0           | 0           | 0            | 115   |

Table 8 – Housing Problems 2

Data Source: 2011-2015 CHAS



## 3. Cost Burden &gt; 30%

|                      | Renter    |             |             |        | Owner     |             |             |       |
|----------------------|-----------|-------------|-------------|--------|-----------|-------------|-------------|-------|
|                      | 0-30% AMI | >30-50% AMI | >50-80% AMI | Total  | 0-30% AMI | >30-50% AMI | >50-80% AMI | Total |
| NUMBER OF HOUSEHOLDS |           |             |             |        |           |             |             |       |
| Small Related        | 1,040     | 630         | 365         | 2,035  | 190       | 195         | 300         | 685   |
| Large Related        | 75        | 105         | 10          | 190    | 0         | 10          | 15          | 25    |
| Elderly              | 1,375     | 269         | 165         | 1,809  | 610       | 485         | 350         | 1,445 |
| Other                | 4,705     | 1,625       | 1,435       | 7,765  | 235       | 130         | 120         | 485   |
| Total need by income | 7,195     | 2,629       | 1,975       | 11,799 | 1,035     | 820         | 785         | 2,640 |

Table 9 – Cost Burden &gt; 30%

Data Source: 2011-2015 CHAS

## 4. Cost Burden &gt; 50%

|                      | Renter    |             |             |       | Owner     |             |             |       |
|----------------------|-----------|-------------|-------------|-------|-----------|-------------|-------------|-------|
|                      | 0-30% AMI | >30-50% AMI | >50-80% AMI | Total | 0-30% AMI | >30-50% AMI | >50-80% AMI | Total |
| NUMBER OF HOUSEHOLDS |           |             |             |       |           |             |             |       |
| Small Related        | 860       | 300         | 60          | 1,220 | 180       | 165         | 190         | 535   |
| Large Related        | 50        | 30          | 10          | 90    | 0         | 10          | 0           | 10    |
| Elderly              | 950       | 95          | 45          | 1,090 | 465       | 320         | 190         | 975   |
| Other                | 4,350     | 950         | 375         | 5,675 | 215       | 120         | 75          | 410   |
| Total need by income | 6,210     | 1,375       | 490         | 8,075 | 860       | 615         | 455         | 1,930 |

Table 10 – Cost Burden &gt; 50%

Data Source: 2011-2015 CHAS

## 5. Crowding (More than one person per room)

|                                       | Renter    |             |             |              |       | Owner     |             |             |              |       |
|---------------------------------------|-----------|-------------|-------------|--------------|-------|-----------|-------------|-------------|--------------|-------|
|                                       | 0-30% AMI | >30-50% AMI | >50-80% AMI | >80-100% AMI | Total | 0-30% AMI | >30-50% AMI | >50-80% AMI | >80-100% AMI | Total |
| NUMBER OF HOUSEHOLDS                  |           |             |             |              |       |           |             |             |              |       |
| Single family households              | 175       | 125         | 60          | 45           | 405   | 0         | 10          | 20          | 20           | 50    |
| Multiple, unrelated family households | 0         | 0           | 0           | 0            | 0     | 0         | 0           | 4           | 0            | 4     |

|                              | Renter    |             |             |              |       | Owner     |             |             |              |       |
|------------------------------|-----------|-------------|-------------|--------------|-------|-----------|-------------|-------------|--------------|-------|
|                              | 0-30% AMI | >30-50% AMI | >50-80% AMI | >80-100% AMI | Total | 0-30% AMI | >30-50% AMI | >50-80% AMI | >80-100% AMI | Total |
| Other, non-family households | 380       | 50          | 50          | 0            | 480   | 0         | 0           | 0           | 0            | 0     |
| Total need by income         | 555       | 175         | 110         | 45           | 885   | 0         | 10          | 24          | 20           | 54    |

Table 11 – Crowding Information – 1/2

Data Source: 2011-2015 CHAS

|                                  | Renter        |               |               |               | Owner         |               |               |               |
|----------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
|                                  | 0-30% AMI     | >30-50% AMI   | >50-80% AMI   | Total         | 0-30% AMI     | >30-50% AMI   | >50-80% AMI   | Total         |
| Households with Children Present | Not Available | Not Available | Not Available | Not Available | Not Available | Not Available | Not Available | Not Available |

Table 12 – Crowding Information – 2/2

Data Source Comments: No data available.

**Describe the number and type of single person households in need of housing assistance.**

The 2013-2017 ACS showed that of 45,515 households, 34.2 percent (or 15,571 households) are single-person households. Among all households over 65 years old, 45.6 percent are living alone. Among all renters, householders living alone make up 41.7 percent, with single householders 65 years and older making up nearly nine percent (8.8%) of renters. Within owner occupied housing units, 24.2 percent are single person households with single householders 65 years and older making up 13.5 percent of owner occupied housing units.

Compared to the average household (in Berkeley it is 2.5 people), a single-person household will likely pay a larger portion of their income on housing. This is not surprising given the high cost of housing in Berkeley and in the Bay Area generally. According to the January 2019 *Homeless Count and Survey* conducted by Applied Survey Research on behalf of the City, as a part of Alameda County’s EveryOne Home effort ([http://everyonehome.org/wp-content/uploads/2019/09/2019HIRDRReport\\_Berkeley\\_2019-Final.pdf](http://everyonehome.org/wp-content/uploads/2019/09/2019HIRDRReport_Berkeley_2019-Final.pdf)), there were 1,057 individuals who were single households and experiencing homelessness out of the total count of 1,108 individuals.

**Estimate the number and type of families in need of housing assistance who are disabled or victims of domestic violence, dating violence, sexual assault and stalking.**

The Berkeley Housing Authority (BHA) currently has 1,495 Housing Choice Vouchers with a HAP contract and according to the BHA, 60 percent of the vouchers are utilized by families with disabilities (see NA-35

below). When the waiting list for the Housing Choice Voucher program was opened in 2010, approximately 37,000 people applied. Twenty percent of applicants, or 7,400 people, indicated on their application that they had a disability. The percentage of current voucher holders with disabilities and the number of applicants with disabilities underscore the large demand of affordable housing for families with disabilities. Annually, approximately 2-4 victims of domestic violence, dating violence, sexual assault or stalking victims are assisted by BHA staff, by implementation of the VAWA Plan.

According to the previously referenced Berkeley *Homeless Count and Survey*, a history of domestic violence and partner abuse can be the primary cause of homelessness. Victims of domestic violence have a great risk of becoming homeless and experiencing poverty. According to the Family and Youth Services Bureau (<https://www.acf.hhs.gov/fysb/resource/dv-homelessness-stats-2016>), this is likely tied to a high need for services, including housing and financial support, and the lack of commensurate housing and financial resources available. The lack of affordable housing in the City likely makes it difficult for victims of domestic violence to leave their violent homes, so it is plausible that they are more likely to move to an overcrowded unit or into a homeless shelter than those not experiencing domestic violence. Five percent of the 2019 *Homeless Count and Survey* respondents in Berkeley reported currently experiencing domestic violence or abuse, compared to six percent of respondents in Alameda County. Twenty-five percent of the 2019 *Homeless Count and Survey* respondents in Berkeley reported a history of experiencing physical, emotional or sexual abuse by a relative or by a person with whom they have lived. The City has seen an increase in domestic violence-related calls for assistance to the Berkeley Police Department. From 2009-2016, there was an average of 169 domestic violence-related calls per year while the most recent data (2017-2018) shows an average of 224 domestic violence-related calls per year (State of California Department of Justice, <http://oag.ca.gov/crime/cjsc/stats/domestic-violence>). The recent increase likely means more families will require housing assistance in order to safely relocate.

### **What are the most common housing problems?**

The most common housing problems are cost burdens for both renters and homeowners. According to the data above, a housing cost burden of greater than 50 percent of income affects 5,785 of renter households in the lowest income range (0-30 percent AMI). In total, housing cost burden greater than 50 percent of income affects 10,005 households (8,075 rental and 1,930 homeowner).

### **Are any populations/household types more affected than others by these problems?**

Renters, in most income categories, are more affected by housing cost burdens than homeowners and thus, have the greatest needs. The 2013-2017 ACS data shows that 56.8 percent of renters are paying 30 percent or more of household income on housing compared to 35.1 percent of homeowners. The largest renter group experiencing housing cost burdens are unrelated and non-elderly households while the owner group most burdened by housing costs are elderly households.

**Describe the characteristics and needs of Low-income individuals and families with children (especially extremely low-income) who are currently housed but are at imminent risk of either residing in shelters or becoming unsheltered 91.205(c)/91.305(c)). Also discuss the needs of formerly homeless families and individuals who are receiving rapid re-housing assistance and are nearing the termination of that assistance**

According to the CHAS data, there are 430 households with one or more children 6 years or younger in the extremely low income category, 205 households in the very low income category, and 184 households in the low income category. These numbers represent declines in those populations from the last Consolidated Plan, with 83 fewer in the extremely low income category, 119 fewer in the very low income category, and 196 fewer in the low income category. These households, while in decline, are at higher risks of homelessness, especially the extremely low income group, due to their limited income and the City's high housing cost burden. Low income families with children need affordable homes that are large enough to accommodate them. The City funds a variety of social services for low income families, such as health care, child care, and programs serving children and youth. In addition, in 2014, the City adopted its own Minimum Wage Ordinance. Starting in July of 2019 the Berkeley minimum wage was raised to \$15.59 and will continue to increase annually with the Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose metropolitan statistical area. Raising the minimum wage helps low income individuals and families. The National Low Income Housing Coalition publishes an annual report, called *Out of Reach* (<https://reports.nlihc.org/oor/zip?code=94704&=Go>), to show how much a household must earn to afford a decent rental home at HUD-estimated Fair Market Rent (FMR) while spending no more than 30 percent of their income on housing costs. Unfortunately, according to the 2019 *Out of Reach* report and available data, a person would need to make over \$30.00 per hour even to be able to afford a one bedroom unit anywhere in Berkeley.

The City of Berkeley targets City homeless financial resources to households who will be most successful with the intervention offered, whether it be one-time flex funds or longer term rapid rehousing. The City provides rapid rehousing financial assistance to households that are literally homeless who can sustain their rent overtime, and who are expected to "graduate" from the rental assistance within the 24 month period ESG requirement.

Between PY14 – PY18 (July 1, 2015 through June 30, 2019), the City of Berkeley's Priority Home Partnership (PHP) Rapid Re-Housing Program served 106 people in 80 households. Fifteen percent of the rapid re-housing households were families with varying forms of employment or other incomes. Fifty-five percent of the people housed through PHP were chronically homeless individuals or families who eventually received a permanent supportive housing or Section 8 voucher to remain housed. Twenty-six percent of the people maintained their housing by assuming the full rent. The remaining households left the program to temporary destinations.

To help alleviate the lack of permanent housing subsidy, Berkeley has experimented with prioritizing rapid rehousing for its highest-needs individuals as determined through the City's Coordinated Entry System. However, the City has found that rapid rehousing can be used as a bridge to permanent housing

subsidies, but, used alone, cannot prevent some of the highest needs people from returning to homelessness. Overreliance on rapid rehousing with high needs individuals in a tight housing market is a strategy that is tenuous in the long-run.

**If a jurisdiction provides estimates of the at-risk population(s), it should also include a description of the operational definition of the at-risk group and the methodology used to generate the estimates:**

N/A

**Specify particular housing characteristics that have been linked with instability and an increased risk of homelessness**

In the City of Berkeley, the high cost burden is a housing characteristic strongly linked with instability and an increased risk of homelessness. According to the 2019 *Out of Reach* report, the hourly wage needed to afford a two-bedroom at FMR (\$2,790) in downtown Berkeley is \$53.65. According to the report, the same downtown zip code (94704) also has a poverty rate of 51.4 percent with a median household income of \$26,758 and an unemployment rate of just over nine percent (9.1%). The urbanized downtown area of Berkeley sits in stark contrast with the more suburban neighboring zip code (94705), which has an unemployment rate of just over five percent (5.3%), a 10.1 percent poverty rate, an \$116,250 median household income and where the hourly wage needed to afford a two-bedroom at FMR (\$2,370) is \$45.58. Proximity to social services and regional job centers via public transit makes Berkeley's urban downtown appealing, but its higher housing prices make it difficult for low income, transit dependent residents (without cars) to retain housing.

While the lower income households within the downtown core of Berkeley is of particular note, the numbers also reflect the impact of the University of California at Berkeley's (UC Berkeley) student population many of whom have little or no income. Students compete with nonstudent residents for housing, creating elevated pricing conditions for existing low income households, especially in those geographic areas surrounding the UC Berkeley campus.

### Discussion

Housing affordability persists as a critical housing issue in Berkeley as well as the whole San Francisco Bay Area. Low-income renters and homeless persons are exceptionally impacted by limited affordable housing in Berkeley. The City continues to fund a variety of programs to support homeless persons and low income renters and homeowners with federal and local funds. The housing shortage and rapid rent increases in Berkeley are exacerbated by the growing student population associated with the University of California's Berkeley campus. As reported by the news publication, [Berkeleyside](https://www.berkeleyside.com/2019/06/17/city-sues-uc-berkeley-for-not-studying-impacts-of-34-student-enrollment-increase) on June 17, 2019 (<https://www.berkeleyside.com/2019/06/17/city-sues-uc-berkeley-for-not-studying-impacts-of-34-student-enrollment-increase>), the City filed a lawsuit against UC Berkeley on June 14, 2019, contending that the university did not analyze the impacts of a more than 30 percent enrollment increase on City

services. The City contends that UC Berkeley should complete an environmental review of their projected student increase (from 33,450 to 44,735 students by 2022-2023). At the time of this document's drafting, supplemental funds had not been allocated to directly address the impact on the city of the estimated 11,000 student increase. Low income students experiencing homelessness remain a concern.

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## NA-15 Disproportionately Greater Need: Housing Problems – 91.205 (b)(2)

Assess the need of any racial or ethnic group that has disproportionately greater need in comparison to the needs of that category of need as a whole.

### Introduction

A disproportionately greater need exists when the members of racial or ethnic group at a given income level experience housing problems at a greater rate (10 percentage points or more) than the income level of the jurisdiction as a whole. The four housing problems are: 1) the lack of complete kitchen facilities, 2) the lack of complete plumbing facilities, 3) more than one person per room, and 4) a cost burden greater than 30 percent.

### 0%-30% of Area Median Income

| Housing Problems*              | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|
| Jurisdiction as a whole        | 8,400                                    | 1,295                                 | 1,165                                                                    |
| White                          | 3,945                                    | 600                                   | 345                                                                      |
| Black / African American       | 1,325                                    | 370                                   | 85                                                                       |
| Asian                          | 1,855                                    | 245                                   | 574                                                                      |
| American Indian, Alaska Native | 95                                       | 0                                     | 0                                                                        |
| Pacific Islander               | 55                                       | 0                                     | 0                                                                        |
| Hispanic                       | 750                                      | 40                                    | 100                                                                      |

**Table 13 - Disproportionally Greater Need 0 - 30% AMI**

Data Source:

2011-2015 CHAS

\*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost burden greater than 30 percent

## 30%-50% of Area Median Income

| Housing Problems*              | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|
| Jurisdiction as a whole        | 3,540                                    | 1,035                                 | 0                                                                        |
| White                          | 2,015                                    | 525                                   | 0                                                                        |
| Black / African American       | 390                                      | 235                                   | 0                                                                        |
| Asian                          | 585                                      | 170                                   | 0                                                                        |
| American Indian, Alaska Native | 15                                       | 0                                     | 0                                                                        |
| Pacific Islander               | 0                                        | 0                                     | 0                                                                        |
| Hispanic                       | 430                                      | 64                                    | 0                                                                        |

Table 14 - Disproportionally Greater Need 30 - 50% AMI

Data Source:

2011-2015 CHAS

\*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost burden greater than 30 percent

## 50%-80% of Area Median Income

| Housing Problems*              | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|
| Jurisdiction as a whole        | 2,855                                    | 1,880                                 | 0                                                                        |
| White                          | 1,695                                    | 1,140                                 | 0                                                                        |
| Black / African American       | 275                                      | 175                                   | 0                                                                        |
| Asian                          | 425                                      | 245                                   | 0                                                                        |
| American Indian, Alaska Native | 20                                       | 4                                     | 0                                                                        |
| Pacific Islander               | 40                                       | 10                                    | 0                                                                        |
| Hispanic                       | 260                                      | 195                                   | 0                                                                        |

Table 15 - Disproportionally Greater Need 50 - 80% AMI

Data Source:

2011-2015 CHAS

\*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost burden greater than 30 percent



## 80%-100% of Area Median Income

| Housing Problems*              | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|
| Jurisdiction as a whole        | 1,510                                    | 2,505                                 | 0                                                                        |
| White                          | 890                                      | 1,310                                 | 0                                                                        |
| Black / African American       | 100                                      | 305                                   | 0                                                                        |
| Asian                          | 300                                      | 490                                   | 0                                                                        |
| American Indian, Alaska Native | 4                                        | 0                                     | 0                                                                        |
| Pacific Islander               | 0                                        | 0                                     | 0                                                                        |
| Hispanic                       | 180                                      | 250                                   | 0                                                                        |

Table 16 - Disproportionally Greater Need 80 - 100% AMI

## Data Source:

2011-2015 CHAS

\*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost burden greater than 30 percent

## Discussion

Generally speaking, those in lower income categories in Berkeley have higher rates of housing problems. For example, 77.3 percent of people in the 0-30 percent of Area Median Income have one of the four housing problems, as do to 77.3 percent of the 30-50 percent of Area Median Income category, while 60.2 percent of the 50-80 percent of Area Median Income category, and 37.6 percent of the 80-100 percent of Area Median Income category have one of the four housing problems (in the 0-30 percent, there are an additional 1,165 households which have no or negative income as their sole housing problem). As income drops, chances of having housing problems increase.

The following groups have disproportionately greater needs (10 percent higher than the percentage experiencing one of four housing problems of the jurisdiction's income level as a whole), as demonstrated by the modified tables below (originally tables 13-16, now labeled as "Edited" and located in this discussion section) that include expanded data to reflect the percent experiencing one of four housing problems:

- American Indians/Alaska Natives in the 0-30 percent of Area Median Income category are at 100 percent of 95 households experiencing one or more of four housing problems. In the 30-50 percent of Area Median Income category, 100 percent of the 15 households have one or more of four housing problems. In the 50-80 percent of Area Median Income category, 83.3 percent of the 24 households have one or more of four housing problems. In the 80-100 percent of Area Median Income category, 100 percent of the 4 households have one or more of four housing problems.

- Pacific Islanders in the 0-30 percent of Area Median Income category, have 100 percent of 55 households with one or more of four housing problems. In the 50-80 percent of Area Median Income category, 80 percent of the 50 households have one or more of four housing problems.
- Hispanics in the 30-50 percent of Area Median Income category experience one or more of four housing problems, at 87 percent.

According to the 2020 Alameda County *Regional Analysis of Impediments to Fair Housing Choice* (<https://www.cityofberkeley.info/ContentDisplay.aspx?id=36278>), across the county, minority households, especially black and Hispanic households, have the highest rate of disproportionate housing needs.

**0%-30% of Area Median Income (Edited - including percent with one or more of four housing problems)**

| Housing Problems*              | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems | TOTAL  | Percent with one or more of four housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|--------|---------------------------------------------------|
| Jurisdiction as a whole        | 8,400                                    | 1,295                                 | 1,165                                                                    | 10,860 | 77.3                                              |
| White                          | 3,945                                    | 600                                   | 345                                                                      | 4,890  | 80.6                                              |
| Black / African American       | 1,325                                    | 370                                   | 85                                                                       | 1,780  | 74.4                                              |
| Asian                          | 1,855                                    | 245                                   | 574                                                                      | 2,674  | 69.3                                              |
| American Indian, Alaska Native | 95                                       | 0                                     | 0                                                                        | 95     | 100                                               |
| Pacific Islander               | 55                                       | 0                                     | 0                                                                        | 55     | 100                                               |
| Hispanic                       | 750                                      | 40                                    | 100                                                                      | 890    | 84.2                                              |

**Edited Table 17 - Disproportionally Greater Need 0 - 30% AMI**

Data Source: 2011-2015 CHAS

\*The four housing problems are:

1. Lacks complete kitchen facilities,
2. Lacks complete plumbing facilities,
3. More than one person per room,
4. Cost burden greater than 30 percent

**30%-50% of Area Median Income (Edited - including percent with one or more of four housing problems)**

| Housing Problems*              | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems | TOTAL | Percent with one or more of four housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|-------|---------------------------------------------------|
| Jurisdiction as a whole        | 3,540                                    | 1,035                                 | 0                                                                        | 4,575 | 77.3                                              |
| White                          | 2,015                                    | 525                                   | 0                                                                        | 2,540 | 79.3                                              |
| Black / African American       | 390                                      | 235                                   | 0                                                                        | 625   | 62.4                                              |
| Asian                          | 585                                      | 170                                   | 0                                                                        | 755   | 77.4                                              |
| American Indian, Alaska Native | 15                                       | 0                                     | 0                                                                        | 15    | 100                                               |
| Pacific Islander               | 0                                        | 0                                     | 0                                                                        | 0     | 0                                                 |
| Hispanic                       | 430                                      | 64                                    | 0                                                                        | 494   | 87                                                |

**Edited Table 18 - Disproportionally Greater Need 30 - 50% AMI**

Data Source: 2011-2015 CHAS

\*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost burden greater than 30 percent

**50%-80% of Area Median Income (Edited - including percent with one or more of four housing problems)**

| Housing Problems*              | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems | TOTAL | Percent with one or more of four housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|-------|---------------------------------------------------|
| Jurisdiction as a whole        | 2,855                                    | 1,880                                 | 0                                                                        | 4,735 | 60.2                                              |
| White                          | 1,695                                    | 1,140                                 | 0                                                                        | 2,835 | 59.7                                              |
| Black / African American       | 275                                      | 175                                   | 0                                                                        | 450   | 61.1                                              |
| Asian                          | 425                                      | 245                                   | 0                                                                        | 670   | 63.4                                              |
| American Indian, Alaska Native | 20                                       | 4                                     | 0                                                                        | 24    | 83.3                                              |
| Pacific Islander               | 40                                       | 10                                    | 0                                                                        | 50    | 80                                                |
| Hispanic                       | 260                                      | 195                                   | 0                                                                        | 455   | 57.1                                              |

**Edited Table 19 - Disproportionally Greater Need 50 - 80% AMI**

Data Source: 2011-2015 CHAS

\*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost burden greater than 30 percent

**80%-100% of Area Median Income (Edited - including percent with one or more of four housing problems)**

| Housing Problems*              | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems | TOTAL | Percent with one or more of four housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|-------|---------------------------------------------------|
| Jurisdiction as a whole        | 1,510                                    | 2,505                                 | 0                                                                        | 4,015 | 37.6                                              |
| White                          | 890                                      | 1,310                                 | 0                                                                        | 2,200 | 40.4                                              |
| Black / African American       | 100                                      | 305                                   | 0                                                                        | 405   | 24.6                                              |
| Asian                          | 300                                      | 490                                   | 0                                                                        | 790   | 37.9                                              |
| American Indian, Alaska Native | 4                                        | 0                                     | 0                                                                        | 4     | 100                                               |
| Pacific Islander               | 0                                        | 0                                     | 0                                                                        | 0     | 0                                                 |
| Hispanic                       | 180                                      | 250                                   | 0                                                                        | 430   | 41.8                                              |

**(Edited) Table 20 - Disproportionally Greater Need 80 - 100% AMI**

Data Source:

2011-2015 CHAS

\*The four housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than one person per room, 4. Cost burden greater than 30 percent

## NA-20 Disproportionately Greater Need: Severe Housing Problems – 91.205 (b)(2)

Assess the need of any racial or ethnic group that has disproportionately greater need in comparison to the needs of that category of need as a whole.

### Introduction

The four severe housing problems are: 1) the lack of complete kitchen facilities, 2) the lack of complete plumbing facilities, 3) more than 1.5 persons per room, and 4) a cost burden greater than 50 percent.

### 0%-30% of Area Median Income

| Severe Housing Problems*       | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|
| Jurisdiction as a whole        | 7,360                                    | 2,335                                 | 1,165                                                                    |
| White                          | 3,585                                    | 960                                   | 345                                                                      |
| Black / African American       | 1,025                                    | 670                                   | 85                                                                       |
| Asian                          | 1,740                                    | 355                                   | 574                                                                      |
| American Indian, Alaska Native | 60                                       | 35                                    | 0                                                                        |
| Pacific Islander               | 55                                       | 0                                     | 0                                                                        |
| Hispanic                       | 575                                      | 215                                   | 100                                                                      |

**Table 21 – Severe Housing Problems 0 - 30% AMI**

Data Source: 2011-2015 CHAS

\*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost burden over 50 percent

### 30%-50% of Area Median Income

| Severe Housing Problems*       | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|
| Jurisdiction as a whole        | 2,195                                    | 2,375                                 | 0                                                                        |
| White                          | 1,225                                    | 1,315                                 | 0                                                                        |
| Black / African American       | 225                                      | 410                                   | 0                                                                        |
| Asian                          | 340                                      | 415                                   | 0                                                                        |
| American Indian, Alaska Native | 15                                       | 0                                     | 0                                                                        |
| Pacific Islander               | 0                                        | 0                                     | 0                                                                        |
| Hispanic                       | 310                                      | 190                                   | 0                                                                        |

**Table 22 – Severe Housing Problems 30 - 50% AMI**

Data Source: 2011-2015 CHAS

\*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost burden over 50 percent

### 50%-80% of Area Median Income

| Severe Housing Problems*       | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|
| Jurisdiction as a whole        | 1,130                                    | 3,605                                 | 0                                                                        |
| White                          | 775                                      | 2,060                                 | 0                                                                        |
| Black / African American       | 120                                      | 330                                   | 0                                                                        |
| Asian                          | 190                                      | 475                                   | 0                                                                        |
| American Indian, Alaska Native | 4                                        | 15                                    | 0                                                                        |
| Pacific Islander               | 0                                        | 50                                    | 0                                                                        |
| Hispanic                       | 24                                       | 425                                   | 0                                                                        |

**Table 23 – Severe Housing Problems 50 - 80% AMI**

Data Source: 2011-2015 CHAS

\*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost burden over 50 percent

### 80%-100% of Area Median Income

| Severe Housing Problems*       | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|
| Jurisdiction as a whole        | 480                                      | 3,535                                 | 0                                                                        |
| White                          | 295                                      | 1,905                                 | 0                                                                        |
| Black / African American       | 60                                       | 350                                   | 0                                                                        |
| Asian                          | 40                                       | 750                                   | 0                                                                        |
| American Indian, Alaska Native | 0                                        | 4                                     | 0                                                                        |
| Pacific Islander               | 0                                        | 0                                     | 0                                                                        |
| Hispanic                       | 85                                       | 340                                   | 0                                                                        |

**Table 24 – Severe Housing Problems 80 - 100% AMI**

Data Source: 2011-2015 CHAS

\*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost burden over 50 percent

## Discussion

There are two problems that distinguish “severe housing problems” from “housing problems”:

- Overcrowded households with more than 1.5 persons per room instead of 1 person per room, not including bathrooms, porches foyers, halls, or half-rooms.
- Households with cost burdens of more than 50 percent of income instead of 30 percent.

The following groups have disproportionately greater needs (10 percent higher than the percentage experiencing one of four severe housing problems of the jurisdiction’s income level as a whole), as demonstrated by the modified tables below (originally tables 17-20, marked “Edited”), which include the percent experiencing one of four severe housing problems:

- In the 0-30 percent of Area Median Income category 67.7 percent overall have one or more severe housing problem. Pacific Islanders had disproportionately greater need in comparison to the needs of that category of need as a whole, with 100 percent of 55 households experiencing have one or more of four severe housing problems.
- In the 30-50 percent of Area Median Income category 48 percent overall have one or more of four severe housing problems. American Indian, Alaska Natives had disproportionately greater need in comparison to the needs of that category of need as a whole, with 100 percent of 15 households experiencing one or more of four severe housing problems. Hispanics also had disproportionately greater need in comparison to the needs of that category of need as a whole, with 62 percent of 500 households experiencing one or more of four severe housing problems.

When applicable to fair housing law, Berkeley is working to address disproportionately severe housing problems when they can be addressed by landlords through continuing to fund fair housing outreach, education, investigation, and enforcement. Alameda County’s Draft 2020 *Regional Analysis of Impediments* catalogues Berkeley’s efforts with limited resources. In FY17, a city funded community agency provided fair housing services and a majority of tenants served had housing-related issues related to their disabled status; however, gender, family status, national origin, race, and age discrimination were also reported.

**0%-30% of Area Median Income (Edited - including percent with one or more of four housing problems)**

| Severe Housing Problems*       | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems | TOTAL  | Percent with one or more of four housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|--------|---------------------------------------------------|
| Jurisdiction as a whole        | 7,360                                    | 2,335                                 | 1,165                                                                    | 10,860 | 67.7                                              |
| White                          | 3,585                                    | 960                                   | 345                                                                      | 4,890  | 73.3                                              |
| Black / African American       | 1,025                                    | 670                                   | 85                                                                       | 1,780  | 57.5                                              |
| Asian                          | 1,740                                    | 355                                   | 574                                                                      | 2,669  | 65.1                                              |
| American Indian, Alaska Native | 60                                       | 35                                    | 0                                                                        | 95     | 63.1                                              |
| Pacific Islander               | 55                                       | 0                                     | 0                                                                        | 55     | 100                                               |
| Hispanic                       | 575                                      | 215                                   | 100                                                                      | 890    | 64.6                                              |

**Edited Table 25 – Severe Housing Problems 0 - 30% AMI**

Data Source: 2011-2015 CHAS

\*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost burden over 50 percent

**30%-50% of Area Median Income (Edited - including percent with one or more of four housing problems)**

| Severe Housing Problems*       | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems | TOTAL | Percent with one or more of four housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|-------|---------------------------------------------------|
| Jurisdiction as a whole        | 2,195                                    | 2,375                                 | 0                                                                        | 4,570 | 48                                                |
| White                          | 1,225                                    | 1,315                                 | 0                                                                        | 2,540 | 48.2                                              |
| Black / African American       | 225                                      | 410                                   | 0                                                                        | 635   | 35.4                                              |
| Asian                          | 340                                      | 415                                   | 0                                                                        | 755   | 45                                                |
| American Indian, Alaska Native | 15                                       | 0                                     | 0                                                                        | 15    | 100                                               |
| Pacific Islander               | 0                                        | 0                                     | 0                                                                        | 0     | 0                                                 |
| Hispanic                       | 310                                      | 190                                   | 0                                                                        | 500   | 62                                                |



**Edited Table 26 – Severe Housing Problems 30 - 50% AMI**

Data Source: 2011-2015 CHAS

\*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost burden over 50 percent

**50%-80% of Area Median Income (Edited - including percent with one or more of four housing problems)**

| Severe Housing Problems*       | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems | TOTAL | Percent with one or more of four housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|-------|---------------------------------------------------|
| Jurisdiction as a whole        | 1,130                                    | 3,605                                 | 0                                                                        | 4,735 | 23.8                                              |
| White                          | 775                                      | 2,060                                 | 0                                                                        | 2,835 | 2                                                 |
| Black / African American       | 120                                      | 330                                   | 0                                                                        | 450   | 26.6                                              |
| Asian                          | 190                                      | 475                                   | 0                                                                        | 665   | 28.5                                              |
| American Indian, Alaska Native | 4                                        | 15                                    | 0                                                                        | 19    | 21                                                |
| Pacific Islander               | 0                                        | 50                                    | 0                                                                        | 50    | 0                                                 |
| Hispanic                       | 24                                       | 425                                   | 0                                                                        | 449   | 5                                                 |

**Edited Table 27 – Severe Housing Problems 50 - 80% AMI**

Data Source: 2011-2015 CHAS

\*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost burden over 50 percent

**80%-100% of Area Median Income (Edited - including percent with one or more of four housing problems)**

| Severe Housing Problems*       | Has one or more of four housing problems | Has none of the four housing problems | Household has no/negative income, but none of the other housing problems | TOTAL | Percent with one or more of four housing problems |
|--------------------------------|------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|-------|---------------------------------------------------|
| Jurisdiction as a whole        | 480                                      | 3,535                                 | 0                                                                        | 4,015 | 11.9                                              |
| White                          | 295                                      | 1,905                                 | 0                                                                        | 2,200 | 13.4                                              |
| Black / African American       | 60                                       | 350                                   | 0                                                                        | 410   | 14.6                                              |
| Asian                          | 40                                       | 750                                   | 0                                                                        | 790   | 5                                                 |
| American Indian, Alaska Native | 0                                        | 4                                     | 0                                                                        | 4     | 0                                                 |
| Pacific Islander               | 0                                        | 0                                     | 0                                                                        | 0     | 0                                                 |
| Hispanic                       | 85                                       | 340                                   | 0                                                                        | 425   | 20                                                |

**Edited Table 28 – Severe Housing Problems 80 - 100% AMI**

Data Source: 2011-2015 CHAS

\*The four severe housing problems are:

1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room, 4. Cost burden over 50 percent

## NA-25 Disproportionately Greater Need: Housing Cost Burdens – 91.205 (b)(2)

Assess the need of any racial or ethnic group that has disproportionately greater need in comparison to the needs of that category of need as a whole.

### Introduction:

The following table displays cost burden information for the jurisdiction and each racial and ethnic group, including no cost burden (less than or equal to 30 percent), cost burden (greater than 30 to 50 percent), severe cost burden (more than 50 percent), and no/negative income.

### Housing Cost Burden

| Housing Cost Burden            | <=30%  | >30-50% | >50%   | No / negative income (not computed) |
|--------------------------------|--------|---------|--------|-------------------------------------|
| Jurisdiction as a whole        | 25,875 | 8,065   | 10,705 | 1,265                               |
| White                          | 18,100 | 4,750   | 5,890  | 360                                 |
| Black / African American       | 1,825  | 775     | 1,340  | 85                                  |
| Asian                          | 3,415  | 1,180   | 2,140  | 644                                 |
| American Indian, Alaska Native | 35     | 55      | 70     | 4                                   |
| Pacific Islander               | 10     | 40      | 55     | 0                                   |
| Hispanic                       | 1,650  | 935     | 840    | 105                                 |

**Table 29 – Greater Need: Housing Cost Burdens AMI**

Data Source: 2011-2015 CHAS

### Discussion:

When individuals of all incomes are combined by race or ethnicity, based on a housing cost burden of 30-50 percent or >50 percent of Area Median Income, the disproportionately greater needs compared to the needs of the jurisdiction as a whole are evident and described below (as demonstrated in the table below based on Table 21):

- For Black/African Americans: A cost burden of 50 percent or more of their income impacts 33.5 percent of Black / African Americans, compared to 23.3 percent of the City as a whole.
- For American Indian, Alaska Native: A cost burden of 30 percent up to 50 percent impacts 33.5 percent of American Indian, Alaska Native, compared to 17.5 percent of the City as a whole. A cost burden of 50 percent or more of their income impacts 42.6 percent of American Indian, Alaska Native, compared to 23.3 percent of the City as a whole.
- For Pacific Islanders: A cost burden of 30-50 percent impacts 38 percent Pacific Islanders, compared to 17.5 percent of the City as a whole. A cost burden of 50 percent or more of their

income impacts 52.3 percent of Pacific Islanders, compared to 23.3 percent of the City as a whole.

### Housing Cost Burden (Edited- including percent of total group within each burden category)

| Housing Cost Burden            | <=30%  | Percent of total with <=30% | 30-50% | Percent of total with 30-50% | >50%   | Percent of total with >50% | No / negative income (not computed) | TOTAL  |
|--------------------------------|--------|-----------------------------|--------|------------------------------|--------|----------------------------|-------------------------------------|--------|
| Jurisdiction as a whole        | 25,875 | 56.3                        | 8,065  | 17.5                         | 10,705 | 23.3                       | 1,265                               | 45,910 |
| White                          | 18,100 | 62.1                        | 4,750  | 16.3                         | 5,890  | 20.2                       | 360                                 | 29,100 |
| Black / African American       | 1,825  | 45.3                        | 775    | 19.2                         | 1,340  | 33.2                       | 85                                  | 4,025  |
| Asian                          | 3,415  | 46.2                        | 1,180  | 15.9                         | 2,140  | 29                         | 644                                 | 7,379  |
| American Indian, Alaska Native | 35     | 21.3                        | 55     | 33.5                         | 70     | 42.6                       | 4                                   | 164    |
| Pacific Islander               | 10     | 9                           | 40     | 38                           | 55     | 52.3                       | 0                                   | 105    |
| Hispanic                       | 1,650  | 46.7                        | 935    | 26.4                         | 840    | 23.7                       | 105                                 | 3,530  |

**Edited Table 30 – Greater Need: Housing Cost Burdens AMI**

Data Source: 2011-2015 CHAS

As previously mentioned in NA-20, Berkeley, in partnership with a community based agency, works to address fair housing with a partner community based agency. Efforts include housing and income discrimination through housing outreach, education, investigation, and enforcement. Alameda County's 2020 *Regional Analysis of Impediments* catalogues Berkeley's efforts with limited resources.

## **NA-30 Disproportionately Greater Need: Discussion – 91.205(b)(2)**

### **Are there any income categories in which a racial or ethnic group has disproportionately greater need than the needs of that income category as a whole?**

At the 0-30 percent of Area Median Income category, among those with one or more of four severe housing problems, Pacific Islanders have a disproportionately greater need than the needs of the income category as a whole. At the 0-30 percent of Area Median Income category, among those with one or more of four housing problems, American Indian, Alaska Natives and Pacific Islanders have disproportionately greater needs than the needs of the income category as a whole.

In the 30-50 percent of Area Median Income range, among those with one or more of four severe housing problems, American Indian, Alaska Natives and Hispanics are experiencing a disproportionate need. At the 30-50 percent of Area Median Income category, among those with one or more of four housing problems, American Indian, Alaska Natives and Hispanics also face a disproportionate need.

At the 50-80 percent of Area Median Income category, among those with one or more of four severe housing problems, no one group has a significant need above the percent impacted within the jurisdiction as a whole. At the 50-80 percent of Area Median Income category, among those with one or more of four housing problems, American Indian, Alaska Natives and Pacific Islanders have disproportionately greater needs than the needs of the income category as a whole.

At the 80-100 percent of Area Median Income category, among those with one or more of four severe housing problems, no one group has a significant need above the percent impacted within the jurisdiction as a whole. At the 80-100 percent of Area Median Income category, among those with one or more of four housing problems, only American Indian, Alaska Natives had a significant need at 100 percent, however that was with only four households as a total in that category.

Across all income categories, among those with one or more of four housing problems, American Indian, Alaska Natives consistently have disproportionately greater needs than their income categories as a whole.

### **If they have needs not identified above, what are those needs?**

No additional needs have been identified.

### **Are any of those racial or ethnic groups located in specific areas or neighborhoods in your community?**

The 2010 Census data shows that most of the Hispanic populations are located in the census tracts in the central, southern and western parts of the City along with the area around the University. The strongest concentration occurred in the western quadrant of the City. The American Indian and Alaskan

Native populations are scattered throughout the City, but the number of American Indian and Alaskan Native households are too small to determine whether they're concentrated in a specific area.

According to Alameda County's 2020 *Regional Analysis of Impediments*, segregation between white and non-white residents has increased for every jurisdiction since 1990 except for Oakland, Berkeley, and Union City. Segregation between black and white residents has increased for every jurisdiction except for Alameda and Oakland. Segregation between white and Hispanic residents has increased for every jurisdiction. Segregation for white and Asian or Pacific Islander residents has increased for every jurisdiction except Fremont and Union City. In general, participating jurisdictions, except for the County, Berkeley, and Oakland, have low levels of segregation.

A Racially or Ethnically Concentrated Area of Poverty (R/ECAP) is a neighborhood (census tract) with a poverty rate of 40 percent or more and a racial or ethnic concentration (50 percent or more of the tract is minority). The *Regional Analysis of Impediments* identifies the Berkeley's R/ECAPs. In Berkeley, 40 percent of R/ECAP residents are white, 39 percent are Asian, and 11 percent are Hispanic. By comparison, in Oakland, 37 percent of R/ECAP residents are Hispanic, 37 percent are black, and 15 percent are Asian or Pacific Islander.

DRAFT

**NA-35 Public Housing – 91.205(b)**

**Introduction**

The Berkeley Housing Authority (BHA) no longer owns public housing units, as they were transitioned to Project-based Section 8 via a disposition process in 2014. The BHA Board is appointed by the Mayor of the City of Berkeley and confirmed by the City Council. BHA updated the following data for inclusion in this Plan from PIC (PIH Information Center) since the populated data from HUD was outdated.

**Totals in Use**

|                            | Program Type |           |                |          |                 |                |                                     |                            |            |
|----------------------------|--------------|-----------|----------------|----------|-----------------|----------------|-------------------------------------|----------------------------|------------|
|                            | Certificate  | Mod-Rehab | Public Housing | Vouchers |                 |                | Special Purpose Voucher             |                            |            |
|                            |              |           |                | Total    | Project - based | Tenant - based | Veterans Affairs Supportive Housing | Family Unification Program | Disabled * |
| # of units vouchers in use | 0            | 93        | 0              | 1,495    | 300             | 1,195          | 20                                  | 0                          | 20         |

**Table 31 - Public Housing by Program Type**

\*includes Non-Elderly Disabled, Mainstream One-Year, Mainstream Five-year, and Nursing Home Transition

**Data Source:** PIC (PIH Information Center)

**Note:** There is no Consolidated Plan generated Table 23 for Berkeley.

**Characteristics of Residents**

|                                                 | Program Type |           |                |          |               |              |                                     |                            |
|-------------------------------------------------|--------------|-----------|----------------|----------|---------------|--------------|-------------------------------------|----------------------------|
|                                                 | Certificate  | Mod-Rehab | Public Housing | Vouchers |               |              | Special Purpose Voucher             |                            |
|                                                 |              |           |                | Total    | Project-based | Tenant-based | Veterans Affairs Supportive Housing | Family Unification Program |
| Average Annual Income                           | 0            | \$8,843   | 0              | \$16,981 | \$17,991      | \$15,971     | \$20,943                            | N/A                        |
| Average length of stay                          | 0            | 11        | 0              | 7.5      | 7             | 8            | 7                                   | N/A                        |
| Average Household size                          | 0            | 1         | 0              | 1.5      | 1.5           | 1.5          | 1.5                                 | N/A                        |
| # Homeless at admission                         | 0            | All       | 0              | 33       | 6             | 27           | 20                                  | N/A                        |
| # of Elderly Program Participants (>62)         | 0            | 45        | 0              | 691      | 138           | 553          | 0                                   | N/A                        |
| # of Disabled Families                          | 0            | 98        | 0              | 900      | 180           | 720          | 20                                  | N/A                        |
| # of Families requesting accessibility features | N/A          | N/A       | N/A            | N/A      | N/A           | N/A          | N/A                                 | N/A                        |
| # of HIV/AIDS program participants              | 0            | 0         | 0              | 15       | 15            | 0            | 0                                   | 0                          |
| # of DV victims                                 | 0            | 0         | 0              | 3        | 1             | 2            | 0                                   | 0                          |

**Table 32 – Characteristics of Public Housing Residents by Program Type**

**Data Source:** PIC (PIH Information Center)



**Race of Residents**

| Race                          | Program Type |           |                |          |                |               |                                     |                            |            |
|-------------------------------|--------------|-----------|----------------|----------|----------------|---------------|-------------------------------------|----------------------------|------------|
|                               | Certificate  | Mod-Rehab | Public Housing | Vouchers |                |               | Special Purpose Voucher             |                            |            |
|                               |              |           |                | Total    | Project -based | Tenant -based | Veterans Affairs Supportive Housing | Family Unification Program | Disabled * |
| White                         | 0            | 26        | 0              | 404      | 81             | 323           | 8                                   | 0                          | 14         |
| Black/African American        | 0            | 64        | 0              | 978      | 196            | 781           | 8                                   | 0                          | 10         |
| Asian                         | 0            | 4         | 0              | 76       | 15             | 60            | 0                                   | 0                          | 0          |
| American Indian/Alaska Native | 0            | 1         | 0              | 16       | 3              | 12            | 1                                   | 0                          | 1          |
| Pacific Islander              | 0            | 1         | 0              | 21       | 4              | 16            | 0                                   | 0                          | 2          |
| Other                         | 0            | 0         | 0              | 0        | 0              | 0             | 0                                   | 0                          | 0          |

**\*includes Non-Elderly Disabled, Mainstream One-Year, Mainstream Five-year, and Nursing Home Transition**

**Table 33 – Race of Public Housing Residents by Program Type**

Data Source: PIC (PIH Information Center)

**Ethnicity of Residents**

| Ethnicity    | Program Type |           |                |          |                |               |                                     |                            |            |
|--------------|--------------|-----------|----------------|----------|----------------|---------------|-------------------------------------|----------------------------|------------|
|              | Certificate  | Mod-Rehab | Public Housing | Vouchers |                |               | Special Purpose Voucher             |                            |            |
|              |              |           |                | Total    | Project -based | Tenant -based | Veterans Affairs Supportive Housing | Family Unification Program | Disabled * |
| Hispanic     | 0            | 19        | 0              | 136      | 58             | 78            | 2                                   | 0                          | 4          |
| Not Hispanic | 0            | 79        | 0              | 1,359    | 242            | 1,118         | 15                                  | 0                          | 23         |

**\*includes Non-Elderly Disabled, Mainstream One-Year, Mainstream Five-year, and Nursing Home Transition**

**Table 34 – Ethnicity of Public Housing Residents by Program Type**

Data Source: PIC (PIH Information Center)

### **Section 504 Needs Assessment: Describe the needs of public housing tenants and applicants on the waiting list for accessible units:**

Berkeley Housing Authority (BHA) disposed of its 61 units of low income public housing and is now a voucher-only Housing Authority. Related California acquired all of the public housing units and now operates them as affordable housing. Most of these units currently receive Project-based vouchers. In the Section 8 Program, the waitlist last opened in 2010, with over 37,000 applicants (1,500 were selected randomly for the Tenant-based waitlist; 1,500 were selected randomly for the Project-based waitlist). Twenty percent of applicants indicated on their application that they were disabled. There is a lack of affordable fully accessible units, specifically with roll in showers for wheelchair-reliant individuals and others with significant mobility impairments. The Center for Independent Living, located in Berkeley and funded by the City of Berkeley, has limited funds to offer minor remodeling of current homes including rentals (ramps, grab bars, hearing and visual impaired door bells and alarms), but the demand outweighs the supply.

### **Most immediate needs of residents of Public Housing and Housing Choice voucher holders**

The most immediate need of voucher holders is an adequate supply of affordable rental housing units for the demand of low income households that wish to participate in the Housing Choice Voucher Program in Berkeley. Even with a Payment Standard at the maximum allowable of 110 percent of the Fair Market Rent (FMR), there are still challenges with attracting landlords willing to rent to extremely low income households. For tenants needing accessible units, it is even more difficult. Finding those accessible units in the limited pool of affordable units limits options even further. BHA would like to implement a landlord retention program to attract new landlords and encourage currently participating landlords to work with BHA again. One option is piloting a damage claim program to provide funding to landlords to make repairs upon a vacancy. This would necessitate obtaining funding from outside sources, such as the City of Berkeley.

### **How do these needs compare to the housing needs of the population at large**

There is a significant shortage of accessible housing units for households of all income ranges. Professionals earning high salaries are better able to pay higher market rents, and this drives the rental market higher in Berkeley. Data from Zumper.com shows San Francisco has the most expensive rents in the country, averaging \$4,670 for a 2-bedroom unit (<https://www.zumper.com/>). BHA's Payment Standard for a 2-bedroom unit is \$2,336 (the 4-bedroom Payment Standard is \$3,945).

### **Discussion**

The extremely high cost rental market in Berkeley and the rest of the Bay Area poses challenges for all but the highest income households. Unfortunately, even having a Housing Choice Voucher no longer guarantees finding housing in Berkeley will be possible.

## NA-40 Homeless Needs Assessment – 91.205(c)

### Introduction:

The City of Berkeley adopted the EveryOne Home *Plan to End Homelessness: 2018 Strategic Update* (<http://everyonehome.org/about/the-plan/>) in 2019 with a goal of broadening the City's approach to services and housing to allow for better outcomes among people with long-term homeless histories and severe disabling conditions. As required by HUD, Alameda County conducts a countywide homeless count every other year but a city-level count occurs when resources permit. The most recent comprehensive data available on Berkeley's homeless population comes from the 2019 homeless count.

In 2019 the survey found that Berkeley has 1,108 literally homeless people on any given night. HUD defines literally homeless people as those who are residing on the streets, in places not meant for human habitation, in shelters or in transitional housing programs.

The data show:

- Berkeley's total homeless population in 2019 represents 14 percent of the County's homeless population, while Berkeley has seven percent of the County's overall population (2018).
- Berkeley's homeless are mostly adults in households with no children (95 percent), while adults with no children make up 93 percent of the homeless population countywide.
- 35 percent (387 people) of homeless people in Berkeley met HUD's definition of chronically homeless—a single adult with a disability, homeless for one year consecutively or 4 or more times in 3 years. In Berkeley chronically homeless adults make up a greater portion of the homeless population (35%) than chronically homeless adults do in Alameda County as a whole (28%).
- 42percent of Berkeley's homeless have a have psychiatric/emotional conditions, compared to 39 percent countywide.
- 32 percent of Berkeley's homeless have reported alcohol and drug use compared to 30 percent of Alameda County's homeless population.
- Seven percent of Berkeley's homeless population are veterans, compared to eight percent countywide.

## Homeless Needs Assessment

| Population                                         | Estimate the # of persons experiencing homelessness on a given night |             | Estimate the # experiencing homelessness each year | Estimate the # becoming homeless each year | Estimate the # exiting homelessness each year | Estimate the # of days persons experience homelessness |
|----------------------------------------------------|----------------------------------------------------------------------|-------------|----------------------------------------------------|--------------------------------------------|-----------------------------------------------|--------------------------------------------------------|
|                                                    | Sheltered                                                            | Unsheltered |                                                    |                                            |                                               |                                                        |
| Persons in Households with Adult(s) and Child(ren) | 51                                                                   |             | 104                                                | 47                                         | 20                                            | Not Available                                          |
| Persons in Households with Only Children           | 1                                                                    |             | 20                                                 | 1                                          | 10                                            | Not Available                                          |
| Persons in Households with Only Adults             | 243                                                                  | 813         | 2,154                                              | 896                                        | 376                                           | Not Available                                          |
| Chronically Homeless Individuals                   | 159                                                                  | 228         | 750                                                | 313                                        | 131                                           | Not Available                                          |
| Chronically Homeless Families                      | 0                                                                    | 0           | 0                                                  | 0                                          | 0                                             | Not Available                                          |
| Veterans                                           | 21                                                                   | 60          | 165                                                | 66                                         | 28                                            | Not Available                                          |
| Unaccompanied Child                                | 0                                                                    | 0           | 0                                                  | 0                                          | 0                                             | Not Available                                          |
| Persons with HIV                                   | 49                                                                   | 17          | 136                                                | 57                                         | 24                                            | Not Available                                          |

Table 35 - Homeless Needs Assessment

Data Source Comments: Alameda County 2019 Homeless Count and Survey and [City of Berkeley 1,000 Person Plan](#).

Indicate if the homeless population is rural:

Not Applicable. Jurisdiction has no rural homeless

If data is not available for the categories "number of persons becoming and exiting homelessness each year," and "number of days that persons experience homelessness," describe these categories for each homeless population type (including chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth):

Berkeley’s total homeless population represents 14 percent of the County’s homeless population, while Berkeley has seven percent of the County’s overall population (2018). Berkeley has a greater share of chronically homeless adults (35 percent). Berkeley’s homeless are mostly adults in households with no children (95 percent), while adults with no children make up only 93 percent of the homeless population countywide. Thirty-five percent (387 people) of homeless people in Berkeley met HUD’s definition of chronically homeless—a single adult with a disability, homeless for one year consecutively or 4 or more times in 3 years. Forty-two percent of Berkeley’s homeless have a psychiatric/emotional conditions, compared to 39 percent countywide. Thirty-two percent of Berkeley’s homeless report alcohol and drug use, compared to 30 percent of Alameda County’s homeless population. Seven percent of Berkeley’s homeless population are veterans, compared to nine percent countywide.

**Nature and Extent of Homelessness: (Optional)**

| <b>Race:</b>                     | <b>Sheltered:</b> | <b>Unsheltered (optional)</b> |
|----------------------------------|-------------------|-------------------------------|
| White                            | 104               | Not Available                 |
| Black or African American        | 269               | Not Available                 |
| Asian                            | 9                 | Not Available                 |
| American Indian or Alaska Native | 5                 | Not Available                 |
| Pacific Islander                 | 5                 | Not Available                 |
| <b>Ethnicity:</b>                | <b>Sheltered:</b> | <b>Unsheltered (optional)</b> |
| Hispanic                         | 63                | Not Available                 |
| Not Hispanic                     | 372               | Not Available                 |

**Figure 1 – Nature and Extent of Homelessness**

**Data Source Comments:** Homeless Management Information System (HMIS) Shelter and Emergency Shelter Demographic Report for PY 2018

**Estimate the number and type of families in need of housing assistance for families with children and the families of veterans.**

According to the 2019 count, there were 51 people in 19 households. Two-thirds of the families reported living with a health condition.

**Describe the Nature and Extent of Homelessness by Racial and Ethnic Group.**

Fifty-seven percent of the homeless service users during the 2019 *Homeless Count and Survey* were African-American even though they only make up nine percent of Berkeley’s general population. Twenty-nine percent were white, even though they made up 60 percent of the population

Berkeley had a much smaller percentage of Hispanic/Latino service users (12 percent) than the county as a whole (17 percent).

**Describe the Nature and Extent of Unsheltered and Sheltered Homelessness.**

The 2019 count found a total of 1,108 people homeless in Berkeley. This includes 813 people who were living on the streets, in abandoned buildings, storage structures, vehicles, encampments, or any other place unfit for human habitation and 295 who were living in a shelter or transitional housing.

Of the 1,108 literally homeless people, 813 or 73 percent, were living in unsheltered situations. The vast majority of unsheltered homeless are men. Seventy-three percent of the homeless population is between the ages of 25-59. Forty-nine percent of the unsheltered population had been homeless for more than a year. For more information see (add a link to the Berkeley Homeless Count Report).

**Discussion:**

N/A

## NA-45 Non-Homeless Special Needs Assessment - 91.205 (b,d)

### Introduction:

The special needs population consists of persons who are not homeless but requires supportive housing and services for various reasons. This population includes (but is not limited to) persons with mental, physical, and/or developmental disabilities; the elderly and frail elderly; persons with alcohol or other drug addiction; persons with HIV/AIDS and their families; victims of domestic violence, dating violence, sexual assault, and stalking; and transitional age youth.

### Describe the characteristics of special needs populations in your community:

#### *Persons with Mental, Physical, and/or Development Disabilities*

People with disabilities often have special housing requirements due to the need for accessibility, frequently fixed low incomes, and higher health care costs associated with a disability. According to the 2018 ACS population estimate, just over nine percent (9.1%) of the total Berkeley population had one or more disabilities, compared to just less than nine percent (8.6%) in Alameda County. The ACS identifies disability as having difficulty with one or more of four basic areas of functioning—hearing, vision, cognition, and ambulation—and/or difficulty performing everyday tasks such as, bathing, dressing and/or running errands.

#### *Elderly and Frail Elderly*

The 2013-17 ACS data reports that 13.5 percent of Berkeley's population is over 65, and that 23.7 percent of all Berkeley households are led by a senior householder. This is equivalent to 10,782 senior-headed households, 73.5 percent of which are owners 45.6 percent of seniors live alone and 22.2 percent of Berkeley households have one or more people over the age of 65 living in the home.

One of the main housing issues facing seniors is housing cost. From 2013-2017, more than 19 percent of senior-headed households had income levels below the federal poverty guidelines. Seniors often have fixed incomes so they have difficulty with increased rental and utility costs or housing maintenance costs. 27.4 percent of seniors in Berkeley received supplemental security income (SSI) and/or cash public assistance. According to the *Age-Friendly Berkeley* report and plan estimates from 2014 indicate that 23 percent of Berkeley residents 60 years of age and older were living under 200 percent of the federal poverty level (<https://www.agefriendlyberkeley.org/>).

According to the 2013-2017 ACS estimate, 73.5 percent of senior households owned homes, and 26.5 percent were renters. In terms of housing cost burden, 27.7 percent of senior homeowner households and 55.6 percent of senior renter households were overpaying for housing, which is defined as paying more than 30 percent of their income on housing costs. The *Age-Friendly Berkeley* plan, identifies housing as a specific area of importance with three of the top 10 concerns for Berkeley adults 60 years of age and older being 1) affordable housing, 2) being able to maintain their home, and 3) being able to stay in their home.

Also according to the ACS 2013-2017 data, seniors also have a higher rate of disability that increases as people age, with 16.7 percent of persons 65 to 74 years of age and 42.4 percent of persons 75 years and over having a disability, compared to the total population at nearly nine percent (8.6%). Ambulatory and independent living difficulties are most common within the senior population. Between 2013 and 2017, 15.5 percent of all elderly households had ambulatory difficulty and 13.2 percent had an independent living difficulty or limitation.

Among the goals that Berkeley identified in the Alameda County *Regional Analysis of Impediments to Fair Housing Choice* is to “support shared housing opportunities for seniors and other special needs populations.” To accomplish this, the City of Berkeley will consider programs to match seniors with underutilized living space with appropriate homeseekers on a voluntary basis. The *Age-Friendly Berkeley* webpage already notes that programs such as this are currently under consideration with UC Berkeley students and can serve a dual purpose of 1) providing seniors with minor non-medical assistance and supplemental income and 2) providing homeseekers with an affordable shared housing unit. In addition, shared rental housing can be an appropriate way to increase housing affordability for seniors and non-senior low-income single individuals or small households. Shared housing programs could be administered directly by the City of Berkeley or by contract with local fair housing service providers. While there are not currently resources available, this is an identified priority.

#### *Persons with Alcohol or Other Drug Addictions*

Comprehensive local data on the number of people with alcohol and other drug addiction is not available. However, the 2016 *National Survey on Drug Use and Health* (<https://nsduhweb.rti.org/respweb/homepage.cfm>) estimated that seven and a half percent of the American population ages 12 or older have substance use disorder. If this statistic is accurate for Berkeley, approximately 8,804 people (based on ACS 2015 population data) have substance use disorder. The survey also estimated that 47.8 percent of current alcohol drinkers participated in binge drinking of alcohol at least once in the 30 days prior to the survey and 24.9 percent of those binge alcohol users were heavy drinkers. Estimates of self-reported alcohol and other drug addictions among the homeless population are mentioned above.

#### *Victims of Domestic Violence, dating violence, sexual assault, and stalking*

The City has seen an increase in domestic violence-related calls for assistance to the Berkeley Police Department. From 2009-2016, there was an average of 169 domestic violence-related calls per year while the most recent data (2017-2018) shows an average of 224 domestic violence-related calls per year (State of California Department of Justice, <http://oag.ca.gov/crime/cjsc/stats/domestic-violence>). The increase likely means that more individuals and families will require housing assistance in order to safely relocate.

From the last comprehensive City of Berkeley *Homeless Count and Survey* from 2019, families were asked about their experience with domestic violence. Among homeless adults with minor children in



Berkeley, 40 percent reported family/domestic violence, compared to five percent of all survey respondents. Additionally, 25 percent of respondents in the city of Berkeley reported a history of ever experiencing physical, emotional, or sexual abuse by a relative or by a person with whom they have lived, such as a spouse, partner, sibling, parent, or roommate, compared to 26 percent of respondents countywide.

### **What are the housing and supportive service needs of these populations and how are these needs determined?**

The primary need for Non-Homeless Special Needs populations is for housing that is subsidized deeply enough to be affordable at extremely low income levels. Many seniors and people with disabilities have some form of income from the Social Services Administration, which, as described in the Housing Market Analysis, is simply not sufficient to pay for market-rate or much of the affordable housing in Berkeley. Despite Social Security Income increasing over one percent (1.6%) in January 2020 from 2019 levels (<https://www.ssa.gov/oact/cola/SSI.html>), the cost of living adjustment is not enough to match Berkeley's region. According to the Bureau of Labor Statistics ([https://www.bls.gov/regions/west/news-release/consumerpriceindex\\_sanfrancisco.htm](https://www.bls.gov/regions/west/news-release/consumerpriceindex_sanfrancisco.htm)), the consumer price index for the San Francisco-Oakland-Hayward area in October 2019 increased by three percent from 2018 and is anticipated to follow this trend in 2020. Even those who do not require supportive housing (meaning affordable housing with connected supportive services) need affordable housing.

Other needs include:

- Home rehabilitation for health and safety needs and accessibility;
- Supportive services that include enough flexibility in type, intensity, and duration to support people to stay stably housed;
- Services that help people who are eligible to access entitlements such as SSI and Medi-Cal, to increase their housing and service options; and
- Education and employment programs which help people increase their income.

These needs are evidenced by applications for funding from local non-profit agencies providing services to the special needs populations listed above. The City's last major planning initiative for homeless and special needs housing was the adoption of the update to the EveryOne Home Plan and an analysis of homeless needs presented to City Council in April 2019.

### **Discuss the size and characteristics of the population with HIV/AIDS and their families within the Eligible Metropolitan Statistical Area:**

Human Immunodeficiency Virus (HIV) is an infection that causes Acquired Immunodeficiency Syndrome (AIDS). According to the Center for Disease Control (<https://www.cdc.gov/hiv/statistics/overview/ataglance.html>) more than 1.1 million people in the United States over the age of 13 are currently living with HIV/AIDS. In general, HIV/AIDS is continuing to

increase in minorities, especially African Americans and Latino populations. Disproportionate rates of HIV in these minority groups leads to an even more disproportionate rate of AIDS for these same groups. HIV/AIDS primarily affects men who engage in male-to-male sexual contact and women who engage in heterosexual sex, and intravenous/injection drug use.

In Berkeley HIV/AIDS infections and death are decreasing. The rate of new AIDS cases occurring annually in Berkeley has fallen steadily over the last decade. The Berkeley *2018 Health Status Report* ([https://www.cityofberkeley.info/uploadedFiles/City\\_Manager/Press\\_Releases/2018/2018-health-status-report-berkeley.pdf](https://www.cityofberkeley.info/uploadedFiles/City_Manager/Press_Releases/2018/2018-health-status-report-berkeley.pdf)) indicates that Berkeley's rate of new cases continues to meet the Healthy People 2020 goal of fewer than 13 new cases per 100,000 population annually. Berkeley's 2018 Health Status Report states due to better treatment, people with HIV are living longer, and the overall number of people living with HIV is increasing. Berkeley has a higher rate of persons living with HIV than Alameda County and California. Antiretroviral drugs account for the reduction in number of HIV cases that progress to AIDS and for the decline in deaths attributable to AIDS.

**Discussion:**

Alameda County Housing and Community Development administers the allocation of Housing Opportunities for Persons with AIDS (HOPWA) funds on behalf of the City of Oakland for the metropolitan area which includes Berkeley. Over the years, Berkeley has provided Housing Trust Fund funding to projects which include HOPWA units targeted to people living with HIV/AIDS, including to the University Neighborhood Apartments, Oxford Plaza, UA Homes, and Grayson Street Apartments projects.

## NA-50 Non-Housing Community Development Needs – 91.215 (f)

### Describe the jurisdiction's need for Public Facilities:

The City of Berkeley's General Plan adopted several policies and actions which addressed the City's need for public facilities. Some of these policies and actions include the following:

- Ensure neighborhoods are well served by community services and facilities such as parks, schools, child-care facilities, and religious institutions;
- Establish a network of community centers including school sites, neighborhood resource centers, and City facilities that offer community services such as child care, health care, and recreational programs;
- Create new open space and recreational resources throughout Berkeley and preserve, maintain, and repair the City's existing open space and recreational resources and facilities; and
- Provide properly staffed and equipped fire stations and engine companies.

### How were these needs determined?

The City's General Plan was developed through many community meetings, public workshops, and the efforts of City Council, Planning Commission, and City staff. During the drafting of the Consolidated Plan, there were several community meetings in which the need for public facilities and their maintenance were discussed. For instance, the City's three senior centers were built in 1977, 1979, and 1980 and had not been renovated after 30 years of intensive use until recently using, in part, CDBG funding. These public facilities are critical infrastructure for the delivery of public services, and emergency shelter, and are therefore a high priority. Although the City prioritizes its CDBG resources to support public services, it has allocated funds for system upgrades at the senior centers along with the rehabilitation of community centers and the public health clinic.

### Describe the jurisdiction's need for Public Improvements:

The City's need for public improvements is described in the City's *Capital Improvement Program*, available online at <http://www.cityofberkeley.info/CIP/>. Capital improvements include streets, transportation, storm drains, sidewalks, sanitary sewer, parks and marina, information technology, City facilities, equipment, fleet and other infrastructure.

### How were these needs determined?

These needs were determined by the City Manager and adopted by City Council during the biennial budget process. The biennial budget cycle begins with the development of the Budget Development instructions, including policy directives. The City Manager reviews and evaluates the baseline budgets and supplemental requests to determine whether they fulfill City Council goals and objectives, improve management effectiveness and service delivery, or increase productivity.

The City Manager then develops a balanced budget proposal for submission to the Mayor and City Council. Copies of the proposed budget are distributed to all Boards, Commissions, City Departments, and made available to the general public. City Council then holds public meetings to discuss the proposed budget, including at least two formal public hearings.

**Describe the jurisdiction’s need for Public Services:**

The City has historically funded a wide variety of public services for Berkeley’s diverse population. Supporting public services will continue to be a high priority for the City. These services could include, but are not limited to, the following:

- Homeless services
- Senior services
- Disabled services
- Legal/advocacy services
- Youth services
- Transportation services
- Substance abuse services
- Services for battered/abused spouses
- Employment training
- Childcare services
- Health services
- Mental health services
- Fair housing related services

**How were these needs determined?**

The City has historically funded a wide array of public services based on community input. The vast majority of public services are funded with local sources, including General Fund, instead of federal funds. For public services funded with local sources, the needs are determined by the same process outlined above for public improvements. For public services funded with federal funding, the needs are determined by public hearings, commission review, consultation with local non-profit agencies providing the services, and client-level surveys.

## Housing Market Analysis

### MA-05 Overview

#### Housing Market Analysis Overview:

The purpose of the Market Analysis is to provide a clear picture of the environment in which the City will administer its CDBG, HOME, and ESG programs over the course of this Consolidated Plan. In conjunction with the Needs Assessment, this chapter will provide the basis for the Strategic Plan and the programs and projects to be administered. Most of the data tables in this section are populated with default data developed by the Census Bureau for HUD based on 2011 – 2015 American Community Survey (ACS) Census. Other sources are noted throughout the Plan.

The Market Analysis includes the following sections:

- Number of Housing Units
- Cost of Housing
- Condition of Housing
- Public and Assisted Housing
- Homeless Facilities and Services
- Special Needs Facilities and Services
- Barriers to Affordable Housing
- Non-Housing Community Development Assets
- Needs and Market Analysis Discussion

**Note:** There is no Consolidated Plan generated Table 28 – 30 for Berkeley.

## MA-10 Number of Housing Units – 91.210(a)&(b)(2)

### Introduction

Based on the 2013-2017 American Community Survey (ACS) data, there are 45,515 occupied households in the City with a total of 49,137 housing units. Single-units, both detached and attached structures, comprise 46.2 percent of the City’s housing units. Multi-unit structures of two to four units make up 20 percent of total households, while structures with five to 19 units comprise 18 percent, and structures of 20 or more make up 15.5 percent. At the time of the ACS data collection, less than half of one percent (0.3%) of households were mobile homes, however the City estimates that this number may have grown as a result of increasing housing instability. The 2019 *Homeless Count and Survey* conducted by Applied Survey Research on behalf of the City, as a part of Alameda County’s EveryOne Home effort, estimated that 20 percent of the unsheltered population is living in RVs (161 individuals).

According to Berkeley’s Planning Department annual reports to California’s Department of Finance, Berkeley’s new housing units completed since 2014 include the following:

| YEAR | SFH              | 2-4 units | 5+  | number of affordable units |
|------|------------------|-----------|-----|----------------------------|
| 2018 | 60 (53 are ADUs) | 10        | 161 | 13                         |
| 2017 | 45               | 11        | 502 | 167                        |
| 2016 | 17               | 4         | 226 | 14                         |
| 2015 | 5                | 2         | 138 | NA                         |
| 2014 | 20               | 4         | 139 | NA                         |

**Figure 2 - Projects with Building Permits Finaled in Reporting Year**

Source: CA Dept of Finance Annual Reports (2018)

Notes: Accessory Dwelling Units (ADUs) tracked in 2018, but not in previous years. Affordable Housing not tracked before 2016.

The recent increase in the construction of Accessory Dwelling Units (ADUs), which Berkeley first clearly tracked in 2018, may reflect state and local legislation that went into effect in 2017 to ease land use restrictions and encourage ADU development. Berkeley City Council is considering additional programmatic investment to encourage ADU construction, as well as an amnesty program to incentivize the legalization of existing but unpermitted ADUs to increase the supply of overall units.

Most of Berkeley’s buildings were constructed between 1875 and 1940. Densities are greatest in the areas close to the University campus and Downtown, where there are multi-unit apartment buildings and large single-family homes converted to rooming houses or apartments. Density can also be found along the main arterials of the city in both older and new apartment buildings. The majority of the city is characterized by small lots with one to four units.

According to the 2015-2023 Housing Element (<https://www.cityofberkeley.info/housingelement/>), the City of Berkeley has capacity for approximately 5,328 new units on underutilized parcels throughout the City. The City identified four main areas with the greatest potential for new units and a track record of units being built. These are the downtown area, the southside area, the commercial corridors, and vacant lots in the residential districts. For the period 2014-2022, the City estimates that the capacity for 997 units can be built in the downtown, 430 units in the Southside, 1,794 units in the commercial corridors, and 237 units in the residential districts.

**All residential properties by number of units**

| Property Type                   | Number        | %           |
|---------------------------------|---------------|-------------|
| 1-unit detached structure       | 21,585        | 43%         |
| 1-unit, attached structure      | 1,880         | 4%          |
| 2-4 units                       | 9,495         | 19%         |
| 5-19 units                      | 8,820         | 18%         |
| 20 or more units                | 7,765         | 16%         |
| Mobile Home, boat, RV, van, etc | 130           | 0%          |
| <b>Total</b>                    | <b>49,675</b> | <b>100%</b> |

**Table 36 – Residential Properties by Unit Number**

Data Source: 2011-2015 ACS

**Unit Size by Tenure**

|                    | Owners        |             | Renters       |             |
|--------------------|---------------|-------------|---------------|-------------|
|                    | Number        | %           | Number        | %           |
| No bedroom         | 135           | <1%         | 3,455         | 13%         |
| 1 bedroom          | 1,290         | 7%          | 10,485        | 40%         |
| 2 bedrooms         | 5,510         | 28%         | 8,440         | 32%         |
| 3 or more bedrooms | 12,640        | 65%         | 3,960         | 15%         |
| <b>Total</b>       | <b>19,575</b> | <b>100%</b> | <b>26,340</b> | <b>100%</b> |

**Table 37 – Unit Size by Tenure**

Data Source: 2011-2015 ACS

**Describe the number and targeting (income level/type of family served) of units assisted with federal, state, and local programs.**

Under the City of Berkeley’s Housing Trust Fund (HTF), the City of Berkeley has assisted the development of 54 properties consisting of 1,331 rental housing units and 107 homeownership units. Of the 1,331 rental housing units, 68 percent of the units serve extremely low and low income families and individuals; 35 percent are designated specifically for extremely low and low-income seniors; and 20 percent serve a targeted special needs population, including formerly homeless, people with physical and/or development disabilities, people with AIDS and Transition-Aged Youth. Of the 107

HTF-funded homeownership units, 71 must be occupied by low- to moderate-income families and individuals. Each homeownership unit is subject to a regulatory agreement which requires long-term affordability and restricts resale of the affordable unit to another low income first-time homebuyer during the affordability period.

Since the inception of the HTF in 1990, the City has invested over \$50 million, including the City's allocation of federal HOME and CDBG funds, former redevelopment funds, City general funds and other local sources of funding. The City's investment has enabled local nonprofit project sponsors to secure over \$208 million in other financing, including low income housing tax credits, state Multifamily Housing Program funds, and in a few projects, federal New Markets Tax Credits. The majority of the City-assisted housing projects is 100 percent affordable and meets the deepest affordability levels per the City's Housing Trust Fund guidelines. Under the City's guidelines, project sponsors are required to set aside at least 60 percent of all the units for extremely low and very low income households, including a 20 percent set-aside for families and individuals who are extremely low-income.

Berkeley has made significant strides in expanding local funds to address the needs of displaced residents and the region's increasingly unaffordable housing prices. Since the previous submission of the City's Consolidated Plan, Berkeley voters approved three new sources of revenue to focus on affordable housing and programs addressing homelessness. Alameda County also created new affordable housing funding programs through which Berkeley has access to additional funding.

Berkeley's Measure U1 was passed in 2016 as a business license tax ordinance to permanently increase the gross receipts tax on owners of five or more residential units from just over one percent (1.081%) to nearly three percent (2.880%). While tax proceeds are deposited in the City's general funds, the City is required to consider the Housing Advisory Commission's recommendations for the use of funds to increase affordable housing and protect Berkeley residents from homelessness. Since its passage, Measure U1 has resulted in nearly \$11 million in additional tax revenue. The City has committed funds to anti-displacement programs at community based organizations, the new Small Sites loan program, affordable housing predevelopment loans, and a housing planning grant for the Berkeley Unified School District.

With \$1 million set aside from Measure U1 funds collected in 2017, 2018 witnessed the start of Berkeley's Small Sites Program, focused on the acquisition and renovation of small, multifamily rental properties with up to 25 units. In 2019 the City awarded \$950,000 in Small Sites Program funds to the Bay Area Community Land Trust for the renovation of the eight unit Stuart Street Apartments, targeted for Berkeley Residents making up to 80 percent of Area Median Income.

In November 2018, Berkeley voters approved Measure O and Measure P. Measure O authorizes the issuance of \$135 million of general obligation bonds to finance the acquisition and improvement of real property for the purpose of constructing, rehabilitating, or preserving affordable housing for low-, very low-, median-, and middle- income individuals and working families, including teachers, seniors, veterans, homeless students, people of with disabilities, and other vulnerable populations. Measure P increases the tax on the transfer of real property from one and a half percent to two and a half percent



for property sales and transfers over \$1.5 million to fund general city purposes and the establishment of a homeless services panel. Measure P will likely yield \$6 to \$8 million per year and has stated goals that include funding the rehousing of homeless individuals, as well as mental health needs and other wrap around services.

The City is planning on an initial issuance of Measure O bonds totaling \$30 million in early 2020. The City Council decided to make those funds available through the Housing Trust Fund program guidelines. Measure O and other available funds, including the City's balance of HOME funds, will go to two affordable housing projects with existing fund reservations—2012 Berkeley Way and 1601 Oxford Street—and additional projects selected in a 2019 Request for Proposals process. When completed, 1601 Oxford Street will be a 37-unit rental housing facility primarily for low income seniors and homeless households and 2012 Berkeley Way will include 142 permanent affordable housing units, for very low-income and formerly homeless families and individuals, as well as 32 men's shelter beds and 12 beds for homeless veterans.

In the 2016 election Alameda County passed Measure A1, a \$580 million bond to expand and preserve affordable housing options for renters and homeowners. The bond allows expenditures for down payment assistance, housing preservation loans, homeowner development programs, and the development of new affordable housing. The City received an allocation of about \$15 million in A1 funds, which it awarded to Grayson Apartments (22 affordable units) and 2012 Berkeley Way (described above). Berkeley projects were also able to compete for funds in a North County pool, and the Berkeley Way and 1601 Oxford projects also received A1 funds.

**Provide an assessment of units expected to be lost from the affordable housing inventory for any reason, such as expiration of Section 8 contracts.**

No units are expected to be lost. As required by the State in its Housing Element, the City identified five developments containing 297 restricted units as being at risk since they are in annual renewals of their Section 8 contracts and have no other restrictions on their affordability. However, most of these properties are owned by mission-oriented non-profit organizations and the City does not have any evidence that the owners of any of these properties have any intention of converting to market rate. Of course, all of these properties would be at risk in the event of federal policy changes that reduced or eliminated Section 8 subsidies for these properties. The City informally monitors the status of these developments:

- Bonita House – 2 restricted units;
- Lawrence Moor Manor – 46 restricted units;
- Stuart Pratt Manor – 44 restricted units;
- Redwood Gardens – 169 restricted units; and
- Rosewood Manor – 36 restricted units.

## Does the availability of housing units meet the needs of the population?

Despite the City's commitment to investing in affordable housing, and the many projects and programs that the City has supported, there is not enough affordable housing to meet the needs of the population in Berkeley, throughout the Bay Area and in coastal California. In the November 2018 Measure O ballot language, the City set a goal of achieving 10 percent reserved affordable housing by 2030. The combined funds of Measures U1, O, P and the existing Housing Trust Fund seek to meet this new goal by leveraging county, state and federal funds.

The Bay Area, including Berkeley, has some of the highest housing costs in the country. Real estate website Zillow.com, using data from September 30, 2019, estimates the median rent price in Berkeley to be \$3,775, which is higher than the San Francisco-Oakland-Hayward Metro Median of \$3,400. Using additional data from that time period, Zillow.com lists Berkeley's median listing price for single family homes is at \$998,000, and the median purchase price is actually \$1,256,000. These prices do not reflect a market that includes homes easily within reach for those working minimum wage jobs or extremely low, very low, and low income households. The jump in price from the listing price to the purchase price reflects multiple bids and a competitive market.

Part of the challenge contributing to the high cost and housing demand is that the regional housing supply has not grown to meet the regional job economy. According to the San Francisco Planning Urban Research Association (SPUR), as of early 2016, the Bay Area economy had added 480,000 private-sector jobs over the previous five years, but only 50,000 housing units.

In addition to the ongoing needs for housing for extremely low, very low, and low income households, there is evidence that housing is becoming unaffordable for even households above low income levels. As one example of the local affordability issues, it is very difficult to find housing units for rent at HUD's Fair Market Rents (FMR) in Berkeley, impacting the City's Shelter Plus Care program and the Berkeley Housing Authority's (BHA) Housing Choice Voucher program. BHA reports a 49 percent success rate in leasing up. This means that only 49 percent of vouchers issued in the past 12 months were able to find a unit in Berkeley. The City has also heard from the BHA and social services providers that there are not enough accessible units which are affordable, even for Housing Choice Voucher holders.

New housing developments along the traditional downtown retail corridors are providing market rate housing for higher income residents. Several multi-unit housing projects have recently been entitled or begun construction, including the 12-story apartments at 1951 Shattuck Avenue with 156 units, the Logan Park Apartments at 2352 Shattuck Avenue (204 units), the 2067 University Avenue project with 99 units, and the Aquatic Shattuck at 2628 Shattuck Avenue with 78 units and 2,000 square feet of retail. Each of these projects are anticipated to lease up quickly, with strong demand driven by regional economic growth as well as the increasing student population at UC Berkeley. As of September 2019, there are 2,458 additional housing units (in 36 distinct projects) in the development pipeline (currently under construction, or seeking approval of building permits or land use permits). This represents an

eight percent increase from the number of units that were entitled or under construction as of December 2018 (2,268).

**Describe the need for specific types of housing:**

The 2013-2017 ACS data shows that 42.3 percent of all occupied households (of 45,515 households) in the City are paying too much for their housing costs. A closer look at the data shows the burden is greater for renters (56.1 percent) than owners with mortgages (35.1 percent). This shows the City has a large need for affordable rental units.

As mentioned above, affordable and accessible units have been identified as a need by the BHA. The vast majority of units housing current Section 8 program participant households are 1- and 2-BR units (approximately 80 percent). The remaining 20 percent of the housing stock utilized by our participating households are Studios (nine percent); 3-BRs (10 percent); and 4 BR units (two percent). This aligns with the City's current rental housing stock with about 53 percent of it consisting of studios and one-bedrooms, although many of them do not have rents affordable at HUD's FMR and thus not available to Housing Choice Voucher holders.

**Discussion**

Affordable housing units of all types are needed to meet local housing needs.

## MA-15 Housing Market Analysis: Cost of Housing - 91.210(a)

### Introduction

The very high cost of housing is Berkeley's most critical housing issue and creates the most pressing housing need. Data in this section below show that the median home value increased two percent from 2009 to 2015, and the median contract rent rose 23 percent during this same time period. While this data reflects valuations for those years, it does not reflect the current housing market, where market resale prices have far exceeded older home tax valuations. According to Zillow.com, the median sales price percent change from December 2013 to September 2019 actually demonstrated a 42 percent increase. Similarly, Zillow.com's December 2013 to September 2019 median rental data demonstrates an 18.1 percent increase in rent. These increases far outpace the cost of living.

While incomes have increased, they have not kept pace with housing costs. According to the National Housing Conference's 2018 *Paycheck to Paycheck* report ([https://www.nhc.org/wp-content/uploads/2019/04/P2P2018\\_Final.pdf](https://www.nhc.org/wp-content/uploads/2019/04/P2P2018_Final.pdf)) within Metro rankings, the San Francisco-Oakland-Hayward metropolitan area (which includes Berkeley) is now the most expensive rental market in the nation, and the most expensive ownership market. A 2019 study by the San Francisco Bay Area Planning and Urban Research Association (SPUR) with the Concord Group (<https://www.spur.org/news/2019-02-21/how-much-housing-should-bay-area-have-built-avoid-current-housing-crisis>) found that since 2000, the Bay Area should have added 1.05 million housing units. Instead, only 380,000 units were built during this time — 316,000 market rate and 42,000 subsidized affordable units. This means the region fell short by 700,000 housing units. The study additionally found that since the 1990s, the Bay Area's median income has grown rapidly from close to \$60,000 per year to close to \$90,000 (unadjusted for inflation in 2018). While the region became 50 percent wealthier, with the majority of those with higher incomes arrived from outside the region and wealthier new residents outcompeted existing residents in the constrained housing market. This fast paced competition has led to the conditions demonstrated in the Needs Assessment section of this document, particularly in regards to Housing Cost Burdens.

### Cost of Housing

|                      | Base Year: 2009 | Most Recent Year: 2015 | % Change |
|----------------------|-----------------|------------------------|----------|
| Median Home Value    | 724,100         | 741,900                | 2%       |
| Median Contract Rent | 1,058           | 1,303                  | 23%      |

Table 38 – Cost of Housing

Data Source: 2005-2009 ACS (Base Year), 2011-2015 ACS (Most Recent Year)

| Rent Paid       | Number        | %             |
|-----------------|---------------|---------------|
| Less than \$500 | 2,705         | 10.3%         |
| \$500-999       | 5,825         | 22.1%         |
| \$1,000-1,499   | 8,245         | 31.3%         |
| \$1,500-1,999   | 5,265         | 20.0%         |
| \$2,000 or more | 4,290         | 16.3%         |
| <b>Total</b>    | <b>26,330</b> | <b>100.0%</b> |

Table 39 - Rent Paid

Data Source: 2011-2015 ACS

### Housing Affordability

| % Units affordable to Households earning | Renter        | Owner        |
|------------------------------------------|---------------|--------------|
| 30% HAMFI                                | 2,340         | No Data      |
| 50% HAMFI                                | 5,590         | 225          |
| 80% HAMFI                                | 11,430        | 445          |
| 100% HAMFI                               | No Data       | 834          |
| <b>Total</b>                             | <b>19,360</b> | <b>1,504</b> |

Table 40 – Housing Affordability

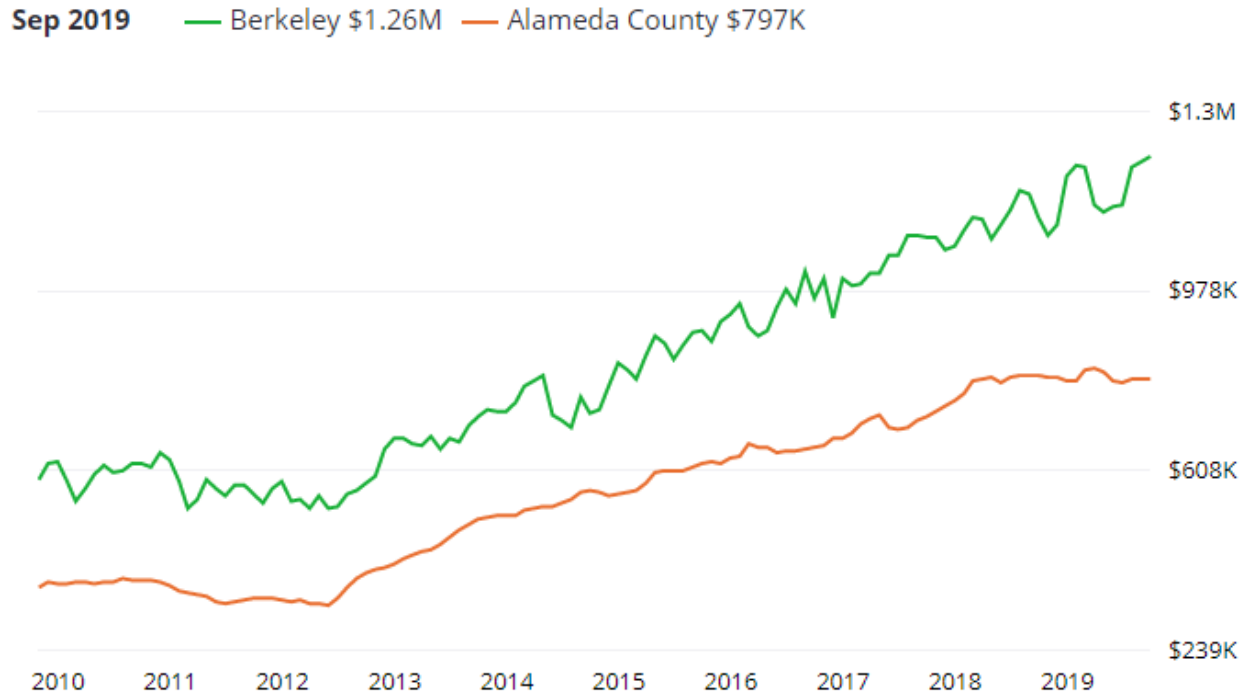
Data Source: 2011-2015 CHAS

### Monthly Rent

| Monthly Rent (\$) | Efficiency (no bedroom) | 1 Bedroom | 2 Bedroom | 3 Bedroom | 4 Bedroom |
|-------------------|-------------------------|-----------|-----------|-----------|-----------|
| Fair Market Rent  | 1,540                   | 1,855     | 2,329     | 3,219     | 3,946     |
| High HOME Rent    | 1,369                   | 1,468     | 1,763     | 2,028     | 2,243     |
| Low HOME Rent     | 1,017                   | 1,090     | 1,307     | 1,510     | 1,685     |

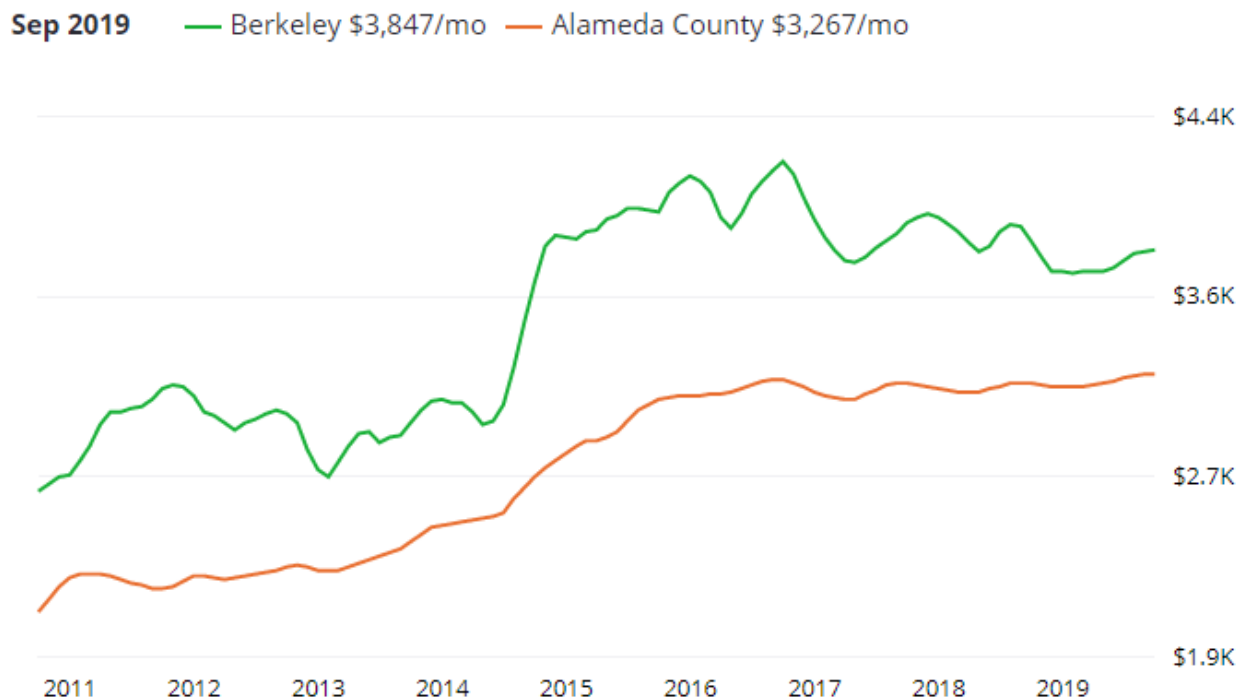
Table 41 – Monthly Rent

Data Source: HUD FMR and HOME Rents



**Figure 3 - Median Home Sales Price (all for sale home types), Berkeley and Alameda County, 2010-2019**

Source: <https://www.zillow.com/berkeley-ca/home-values/>



**Figure 4 - Median Rental Prices (all unit types), Berkeley and Alameda County, 2010-2019**

Source: <https://www.zillow.com/berkeley-ca/home-values/>

### **Is there sufficient housing for households at all income levels?**

There is probably not sufficient housing for households at all income levels, evidenced by Berkeley being situated within the metro area with the nation's highest rents and home prices combined with a historically low vacancy rate.

### **How is affordability of housing likely to change considering changes to home values and/or rents?**

Given recent trends in the Bay Area, it is likely that home values and rents will continue to increase. Berkeley's homeownership market remains particularly stable and attractive. Despite Zillow.com's 2019 predictions that foreclosures will be a factor impacting home values in the next several years, in Berkeley 0.0 homes are foreclosed per 10,000, which is lower than the San Francisco-Oakland-Hayward Metro value of 0.1 and lower than the national value of 1.2 (<https://www.zillow.com/berkeley-ca/home-values/>). Mortgage delinquency, a frequent indicator of potential foreclosure is a fraction of one percent (0.2%) in Berkeley, compared to the national value of just over one percent (1.1%). Nationally, as a result of the recession, home values fell by more than 20 percent from their peak in 2007 until their trough in late 2011, with many homeowners now underwater on their mortgages. Dips in home values adjusted relatively quickly after the recession in Berkeley and remain high. The percent of Berkeley homeowners underwater on their mortgage is less than one percent (0.9%), which is lower than San Francisco-Oakland-Hayward Metro at almost three percent (2.7%). This homeowner resiliency is a byproduct of high wage earners currently holding the recently sold market rate homes within Berkeley, with the continually increasing prices discussed in the prior section (\$1.26 million median sales price in September 2019).

Rental stock in Berkeley, both market rate and affordable, will significantly increase if currently entitled projects are occupied in the next two years, but the demand will remain high. As mentioned in the Needs Assessment, the University of California at Berkeley increased student enrollment by 11,000 students from original projections of enrollment from 2005-2020. The influx of students from 2005-2020, which is far greater in number than newly constructed university housing units, will continue to impact competition for rental units within the City.

Trends in regional job growth additionally point to sustained or increasing housing costs. According to the Center for the Continuing Study of the California Economy (<http://www.bayareaeconomy.org/bay-area-job-watch-33/>), a program of the Bay Area Council Economic Institute, 2018 Bay Area labor force participation rates were at record levels as residents who had previously dropped out of the workforce found eager employers. Job growth is continuing despite the lack of affordable housing, and the region has seen a notable increase in out migration (a result of the high housing costs) and an increase in high wage foreign migration.

## How do HOME rents / Fair Market Rent compare to Area Median Rent? How might this impact your strategy to produce or preserve affordable housing?

Berkeley's Area Median Rents are higher than the HOME rents and Fair Market Rents. Services providers have difficulty identifying units for Shelter Plus Care certificate holders within Berkeley. In addition, Area Median Rents are continuing to rise.

The annual Average Market Rents table produced by the City's Berkeley Rent Stabilization Board shows the average market rents for new tenancies in units subject to rent stabilization from 1998 to 2018. The table showing median rents for new tenancies for 2018 is below

([General/INFO\\_Market%20Medians%20Report%20for%20Q3%20and%20Q4%20of%202018.pdf](#)). The City's affordable housing strategy has and continues to emphasize producing and preserving affordable housing.

| 2018 (new tenancies) |                        |        |                        |        |                        |        |                        |        |                   |        |
|----------------------|------------------------|--------|------------------------|--------|------------------------|--------|------------------------|--------|-------------------|--------|
| #BR                  | 1 <sup>st</sup> Q 2018 |        | 2 <sup>nd</sup> Q 2018 |        | 3 <sup>rd</sup> Q 2018 |        | 4 <sup>th</sup> Q 2018 |        | 12/31/2018 (Year) |        |
|                      | Rent                   | #Units | Rent                   | #Units | Rent                   | #Units | Rent                   | #Units | Rent              | #Units |
| Studio               | \$1,600                | 135    | \$1,800                | 328    | \$1,895                | 344    | \$1,798                | 102    | \$1,800           | 999    |
| 1 BR                 | \$1,950                | 223    | \$2,295                | 592    | \$2,195                | 590    | \$2,150                | 171    | \$2,195           | 1,646  |
| 2 BR                 | \$2,504                | 116    | \$3,150                | 574    | \$2,900                | 401    | \$2,800                | 116    | \$2,990           | 1,287  |
| 3 BR                 | \$3,150                | 20     | \$4,066                | 113    | \$3,900                | 75     | \$3,438                | 16     | \$3,900           | 241    |

Figure 5 – 2018 New Tenancies

Source: Market Medians: January 1999 through December 2018, Berkeley Rent Stabilization Board Report, March 21, 2019

### Discussion

In addition to rising housing costs, Berkeley has experienced rising costs for producing affordable housing. According to the *2019 International Construction Market Survey* by Turner and Townsend (<http://www.turnerandtownsend.com/en/perspectives/international-construction-market-survey-2019/#>), the Bay Area currently has the most expensive construction costs in the nation, with the average construction cost per square foot at \$416. The next most expensive city is New York, at an average of \$368 per square foot. Especially given the limited amount of HOME funding the City now receives, these high development costs require developers to pursue multiple, highly competitive sources of funding which can take years to assemble. New State of California housing programs, new County funds, and new local funds have dramatically improved the affordable housing funding climate in the past few years, but high costs and assembling multiple sources still remain challenging for local affordable housing developers. Prior to the waiver of HOME commitment deadlines, using HOME was very challenging for the City. The City does not receive enough HOME funds to fund new construction at the needed levels, and smaller rehabilitation projects are often not feasible due to HOME rehab scope and affordability requirements. Federal waiver of commitment deadlines and having local bond funds



available for a pipeline of projects have helped greatly. When the deadlines are reinstated, the City may need to explore using HOME funds for Tenant Based Rental Assistance to avoid the risk of recapture.

## MA-20 Housing Market Analysis: Condition of Housing – 91.210(a)

### Introduction

As previously mentioned, most of Berkeley's buildings were constructed between 1875 and 1940 with almost half of all Berkeley's housing stock consisting of single-family units. Of the multi-family units, 7,765 units (or 16 percent) are in buildings with 20 or more units. The age of the housing stock in Berkeley is much older when compared to other areas. Ninety-four percent of Berkeley's housing stock was built before 1979, compared to 81.1 percent in neighboring Oakland (<http://www.acphd.org/media/500604/health,%20housing%20in%20oakland.pdf>). Despite the prevalence of older units in Berkeley, the City's housing stock is in very good condition. This is likely due to the amount of owner-occupied units, single-family units, and high property values.

Over time the City has implemented a variety of programs to upgrade the quality of housing units in the City, including home rehabilitation loan programs and the Rental Housing Safety Program. Based on the experience with these programs, the rapid increase in property values in Berkeley over the last decade coupled with the availability of home equity loans for home rehabilitation, the City believes a very small number of housing units in Berkeley have significant rehabilitation needs.

### Definitions

The City of Berkeley uses HUD's Housing Quality Standards (HQS) to define "standard condition" for units in the rental assistance programs. HQS consists of the following thirteen performance requirements: sanitary facilities; food preparation and refuse disposal; space and security; thermal environmental; structure and materials; interior air quality; water supply; lead-based paint; access; site and neighborhood; sanitary condition; and smoke detectors. For example, the dwelling unit must have suitable space and equipment to store, prepare, and serve food in a sanitary manner in order to satisfy the performance requirement for food preparation and refuse disposal.

This table displays the number of housing units, by tenure, based on the number of "conditions" the units has. Selected conditions are similar to housing problems in the Needs Assessment and are 1) lacks complete plumbing facilities, 2) lacks complete kitchen facilities, 3) more than one person per room, and 4) cost burden greater than 30 percent. The table also calculates the percentage of total units that the category represents.

## Condition of Units

| Condition of Units             | Owner-Occupied |            | Renter-Occupied |            |
|--------------------------------|----------------|------------|-----------------|------------|
|                                | Number         | %          | Number          | %          |
| With one selected Condition    | 5,720          | 29%        | 12,985          | 49%        |
| With two selected Conditions   | 75             | 0%         | 765             | 3%         |
| With three selected Conditions | 0              | 0%         | 120             | 0%         |
| With four selected Conditions  | 0              | 0%         | 0               | 0%         |
| No selected Conditions         | 13,790         | 70%        | 12,465          | 47%        |
| <b>Total</b>                   | <b>19,585</b>  | <b>99%</b> | <b>26,335</b>   | <b>99%</b> |

Table 42 - Condition of Units

Data Source: 2011-2015 ACS

## Year Unit Built

| Year Unit Built | Owner-Occupied |             | Renter-Occupied |             |
|-----------------|----------------|-------------|-----------------|-------------|
|                 | Number         | %           | Number          | %           |
| 2000 or later   | 325            | 2%          | 2,210           | 8%          |
| 1980-1999       | 895            | 5%          | 2,505           | 10%         |
| 1950-1979       | 2,905          | 15%         | 10,570          | 40%         |
| Before 1950     | 15,465         | 79%         | 11,055          | 42%         |
| <b>Total</b>    | <b>19,590</b>  | <b>101%</b> | <b>26,340</b>   | <b>100%</b> |

Table 43 – Year Unit Built

Data Source: 2011-2015 CHAS

## Risk of Lead-Based Paint Hazard

| Risk of Lead-Based Paint Hazard                       | Owner-Occupied |     | Renter-Occupied |     |
|-------------------------------------------------------|----------------|-----|-----------------|-----|
|                                                       | Number         | %   | Number          | %   |
| Total Number of Units Built Before 1980               | 18,370         | 94% | 21,625          | 82% |
| Housing Units build before 1980 with children present | 473            | 2%  | 159             | 1%  |

Table 44 – Risk of Lead-Based Paint

Data Source: 2011-2015 ACS (Total Units) 2011-2015 CHAS (Units with Children present)

## Vacant Units

|                          | Suitable for Rehabilitation | Not Suitable for Rehabilitation | Total         |
|--------------------------|-----------------------------|---------------------------------|---------------|
| Vacant Units             | Not Available               | Not Available                   | Not Available |
| Abandoned Vacant Units   | Not Available               | Not Available                   | Not Available |
| REO Properties           | Not Available               | Not Available                   | Not Available |
| Abandoned REO Properties | Not Available               | Not Available                   | Not Available |

Table 45 - Vacant Units

Data Source Comments: Data not available.

## Vacancy Rates

The original Vacant Units Table above generated by HUD using CHAS data does not include any information on vacancy rates. Information from the 2015 Housing Element including available data is represented below.

Because of the high cost of and high demand for housing in Berkeley, vacant and abandoned units have not been a common problem. The City does not track which units are suitable for rehabilitation and which are not. The Planning & Development Department reports anecdotally that virtually any property in Berkeley can be rehabilitated because of the demand and high market prices for housing. Vacancy rates in Berkeley were relatively level at around four percent from 1970-2000 and increased to seven percent in 2010 according to the decennial census.

Since the Bay Area's rapid recovery from the recession, vacancy rates have dropped throughout the region. According to the 2013-2017 ACS 5-year estimates, Berkeley has a homeowner vacancy rate of 0.3 percent and a rental vacancy rate of 2.8 percent. Another data source, The *Comprehensive Housing Market Analysis for Oakland-Hayward-Berkeley* by HUD, based on the end of 2016 (<https://www.huduser.gov/portal/publications/pdf/OaklandCA-comp-17.pdf>), estimated the rental vacancy rate to be at nearly three percent (2.7%) and the sales housing market with an overall estimated vacancy rate of just over half a percent (0.6%).

In many urban areas, a "normal" vacancy rate is about two percent for owner-occupied housing, six to seven percent for rental housing, and about five percent overall. Although it is difficult to pinpoint what an acceptable vacancy rate is, an internet search of "normal vacancy rate" finds numerous references in real estate reports, housing studies, academic research, and other documents to a "normal" vacancy rate for a housing market in balance as being about five percent overall, two percent for ownership housing, and six or seven percent for rental housing. Many ordinances use a five percent long-term vacancy rate as the measure of a healthy rental market.

| <b>Occupied Housing Units and Vacancy Rates, 1970 to 2010</b> |             |             |             |             |             |
|---------------------------------------------------------------|-------------|-------------|-------------|-------------|-------------|
|                                                               | <b>1970</b> | <b>1980</b> | <b>1990</b> | <b>2000</b> | <b>2010</b> |
| Number of Housing Units                                       | 46,160      | 46,334      | 45,735      | 46,875      | 49,454      |
| Occupied Housing Units or Households                          | 44,494      | 44,704      | 43,453      | 44,955      | 46,029      |
| Vacant Housing Units                                          | 1,666       | 1,630       | 2,282       | 1,920       | 3,425       |
| Vacancy Rate                                                  | 3.6%        | 3.5%        | 5.0%        | 4.1%        | 6.9%        |

**Figure 6 – Occupied Housing Units and Vacancy Rates**

Source: City of Berkeley 2015 Housing Element

## Need for Owner and Rental Rehabilitation

As shown by the data above, more than half of Berkeley's housing stock does not have any of the selected quality conditions. Among the housing units that do have any of the reported conditions, high cost compared to the resident's income (cost burden) is by far the most common problem. At the same time, the vast majority of Berkeley's housing stock is more than 30 years old. Due to the age of the housing stock, rehabilitation is often needed to bring the housing up to current standards, particularly in regard to accessibility features for people with disabilities. Because many Berkeley residents are housing cost-burdened, there is also a need for affordable rehabilitation opportunities.

The City supports the rehabilitation of ownership and rental units through a variety of efforts. For ownership units, the City administers the Senior and Disabled Rehabilitation Loan Program. This program provides a zero interest deferred loan to low- and moderate-income senior and disabled homeowners to improve their homes. The City also provides funding to several local non-profit agencies for minor rehabilitation of units owned or rented by low-income households. For rental housing in the Housing Choice Voucher and Shelter Plus Care programs, the units are routinely inspected to ensure they meet HUD's Housing Quality Standard requirements. All rental units in the City participate in the Rental Housing Safety Program. Part of the program is reactive/complaint-based where state-mandated housing code inspections are conducted in response to complaints. Another part of the program is proactive where inspections are performed on randomly selected residential rental properties. The program also has a Safety Certification Checklist which requires owners of rentals to annually inspect their units and certify that specific housing safety standards are being met.

Low income Berkeley residents can also take advantage of Alameda County's Lead Hazard Repair grants. Grants are available for owners of pre-1978 rental and owner-occupied residential properties throughout Alameda County. Income, occupancy and other eligibility requirements apply. Pre-1960 housing units are a priority. Service includes free lead testing, up to \$10,000 per unit for lead hazard repairs, and project assistance to help make your home or property lead-safe.

## Estimated Number of Housing Units Occupied by Low or Moderate Income Families with LBP Hazards

From the Number of Households Table (see Needs Assessment), there are 3,635 small family households at or below 80 percent HUD Area Median Family Income (HAMFI) income category and there are 300 large family households in the same income category. Therefore, approximately eight and a half percent of housing units are occupied by low income families. Applying that percentage to the total number of units built before 1980, an estimated 3,400 housing units occupied by low income families may contain Lead-Based Paint (LBP) hazards.

The table above (Table 39) indicates that three percent of housing units built before 1980 contains children in the household. However, the 2013-17 ACS shows there are approximately 8,478 households

with children in the City, or 18.6 percent of households. Therefore, the figures above appear to be too low and are likely incorrect.

The Alameda County Healthy Homes Department (ACHHD) administers HUD-funded lead hazard control grants in Alameda County and since July 1, 2015, has completed lead evaluations at 52 pre-1978 low-income housing units and has made 49 housing units lead-safe at 21 properties. Among the evaluated pre-1978 low-income housing it was found that 51 out of 52 units (98 percent) tested in Berkeley between 2015 and 2019 had lead hazards.

The ACHHD was recently awarded a new 42-month lead hazard control grant which is expected to begin January 1, 2020. The ACHHD will market to and expects to enroll eligible Berkeley properties into the program which will complete 144 units County-wide over the grant period.

### **Discussion**

Generally, Berkeley's housing stock is in very good condition. Needs for rehabilitation are for low income homeowners, rental housing affordable to people with low incomes, and in accessibility improvements.

**MA-25 Public and Assisted Housing – 91.210(b)**

**Introduction**

N/A

**Totals Number of Units**

|                               | Program Type |           |                |          |               |              |                                     |                            |            |
|-------------------------------|--------------|-----------|----------------|----------|---------------|--------------|-------------------------------------|----------------------------|------------|
|                               | Certificate  | Mod-Rehab | Public Housing | Vouchers |               |              |                                     |                            |            |
|                               |              |           |                | Total    | Project-based | Tenant-based | Special Purpose Voucher             |                            |            |
|                               |              |           |                |          |               |              | Veterans Affairs Supportive Housing | Family Unification Program | Disabled * |
| # of units vouchers available | 0            | 98        | 0              | 1995     | 300           | 1695         | 20                                  | 0                          | 40         |
| # of accessible units         |              |           |                |          |               |              |                                     |                            |            |

\*includes Non-Elderly Disabled, Mainstream One-Year, Mainstream Five-year, and Nursing Home Transition

**Table 46 – Total Number of Units by Program Type**

Data Source: PIC (PIH Information Center)

**Describe the supply of public housing developments:**

**Describe the number and physical condition of public housing units in the jurisdiction, including those that are participating in an approved Public Housing Agency Plan:**

Not applicable. BHA no longer owns the 61 units of former public housing. Via the disposition process, the units were sold to a private developer (Related California) that rehabilitated and will operate the units as permanently affordable housing under the Project-based Vouchers program.

**Public Housing Condition**

| Public Housing Development | Average Inspection Score |
|----------------------------|--------------------------|
| Not Applicable             | Not Applicable           |

**Table 47 - Public Housing Condition**

**Describe the restoration and revitalization needs of public housing units in the jurisdiction:**

N/A

**Describe the public housing agency's strategy for improving the living environment of low- and moderate-income families residing in public housing:**

N/A

**Discussion:**

The Berkeley Housing Authority administers a voucher program only.



## MA-30 Homeless Facilities and Services – 91.210(c)

### Introduction

The City funds a wide range of homeless programs including 298 year round shelter beds and 30 seasonal shelter beds. After working hours, unfilled beds are filled through an evening Centralized Shelter Reservation Hotline. BOSS Harrison House shelter has 10 beds reserved for Alameda County Behavioral Health Care Services Agency (BHCS). The remaining beds are available to literally homeless individuals and families who have been assessed by the North County Housing Resource Center or the Family Front Door, the Housing Resource Center for literally homeless families.

The City funds 27 transitional housing beds in two programs, and three other programs operate without City funding.

The City funds six programs which provide support services in permanent housing. Four are associated with specific sites, while the others serve tenants renting private apartments using rental subsidies.

### Facilities and Housing Targeted to Homeless Households

|                                         | Emergency Shelter Beds          |                                    | Transitional Housing Beds | Permanent Supportive Housing Beds |                   |
|-----------------------------------------|---------------------------------|------------------------------------|---------------------------|-----------------------------------|-------------------|
|                                         | Year Round Beds (Current & New) | Voucher / Seasonal / Overflow Beds | Current & New             | Current & New                     | Under Development |
| Households with Adult(s) and Child(ren) | 56                              |                                    | 15 beds (5 units)         | 35                                | 2                 |
| Households with Only Adults             | 242                             | 30                                 | 49                        | 224                               | 53                |
| Chronically Homeless Households         |                                 | 0                                  | 0                         | 206                               | 53                |
| Veterans                                | 0                               | 0                                  | 22                        | 10                                | 0                 |
| Unaccompanied Youth                     | 0                               |                                    | 12                        | 10                                | 0                 |

**Table 48 - Facilities and Housing Targeted to Homeless Households**

Data Source Comments: City of Berkeley

**Note:** There is no Consolidated Plan generated Table 44 for Berkeley.

| Provider Name                               | Address                        | Program Name               | Population                                 | Family Beds      | Individual Beds | Year Round | Seasonal Only |
|---------------------------------------------|--------------------------------|----------------------------|--------------------------------------------|------------------|-----------------|------------|---------------|
| Berkeley Food and Housing Project           | 2140 Dwight Way                | Men's Housing Program      | Single Males                               |                  | 32              | 32         | 0             |
| Berkeley Food and Housing Project           | 2140 Dwight Way                | Women's Housing Program    | Single Females                             |                  | 32              | 32         | 0             |
| Building Opportunities for Self Sufficiency | 711 Harrison House             | Harrison House             | Single Males and Females and Families      | 56 (18 families) | 50              | 106        | 0             |
| Dorothy Day House                           | 1931 Center Street             | Veteran's Building Shelter | Single Males and Females                   |                  | 53              | 53         | 0             |
| Dorothy Day House                           | 2134 Martin Luther King Jr Way | Emergency Storm Shelter    | Single Males and Females                   |                  | 30              | 0          | 30            |
| Covenant House                              | 1744 University                | YEAH!                      | Single Males and Females (18-25 year olds) |                  | 30              | 30         | 0             |
| Bay Area Community Services                 | 2nd and Cedar                  | Pathways Stair Center      | Single Males and Females                   |                  | 45              | 45         |               |
|                                             |                                |                            |                                            | 56               | 272             | 298        | 30            |

**Figure 7 – Current Inventory: Emergency Shelters**

Source: City of Berkeley, Housing and Community Services Division

| Provider Name                       | Address            | Program Name      | Population               | Family Beds       | Individual Beds | Year Round |
|-------------------------------------|--------------------|-------------------|--------------------------|-------------------|-----------------|------------|
| Berkeley Food and Housing Project   | 2140 Dwight Way    | Veteran's Program | Single Males             |                   | 12              | 12         |
| Bonita House                        | 1410 Bonita Street | Bonita House      | Single Males and Females |                   | 15              | 15         |
| Fred Finch Youth Center             | 3404 King Street   | Turning Point     | Single Males and Females |                   | 12              | 12         |
| Resources for Community Development | 1621 Ashby         | Ashby House       | Single Veterans          |                   | 10              | 10         |
| Women's Daytime Drop-in Center      | 2218 Acton Street  | Bridget House     | Families                 | 15 beds (5 units) |                 | 12         |
|                                     |                    |                   |                          | 15                | 49              | 61         |

**Figure 8 – Current Inventory: Transitional Housing**

Source: City of Berkeley, Housing and Community Services Division

| Provider Name                            | Address                              | Project Name                   | Population                            | Units | Beds/Rooms |
|------------------------------------------|--------------------------------------|--------------------------------|---------------------------------------|-------|------------|
| Satellite Affordable Housing Associates  | Berkeley                             | Peter Babcock House            | Single Males and Females              |       | 5          |
| Satellite Affordable Housing Associates  | Berkeley                             | Harmon Gardens                 | Single Males and Females              | 15    |            |
| Berkeley Food and Housing Project        | Berkeley                             | Russell Street Residence       | Single Males and Females              |       | 17         |
| Berkeley Food and Housing Project        | Berkeley                             | Russell Street Residence Annex | Single Males and Females              |       | 4          |
| Bonita House                             | Berkeley                             | Channing Way Apts              | Single Males and Females              |       | 4          |
| Bonita House                             | Berkeley                             | Pathways                       | Single Males and Females              |       | 7          |
| Bonita House                             | Oakland                              | Pathways                       | Single Males and Females              | 4     | 4          |
| Bonita House                             | Berkeley                             | SIL Hearst Apartments          | Single Males and Females              |       | 12         |
| City of Berkeley                         | Tenant Based Rental Assistance       | Square One                     | Single Males and Females              | 6     |            |
| City of Berkeley                         | Tenant Based Rental Assistance(TBRA) | Shelter Plus Care - TBRA       | Single Males and Females and Families | 150   |            |
| City of Berkeley                         | Tenant Based Rental Assistance(TBRA) | COACH Project                  | Single Males and Females              | 86    |            |
| City of Berkeley                         | Berkeley                             | McKinley House                 | Single Males and Females              | 7     |            |
| City of Berkeley - Berkeley Housing Auth | Tenant Based Rental Assistance       | Non-elderly Disabled (NED)     | Single Males and Females and Families | 30    |            |
| Northern California Land Trust           | Berkeley                             | Haste House                    | Single Males and Females              |       | 7          |
| Resources for Community Development      | Berkeley                             | Supportive Housing Network     | Single Males and Females              |       | 14         |
| Resources for Community Development      | Berkeley                             | Erna P. Harris Court           | Single Males and Females              | 35    |            |
| Resources for Community Development      | Berkeley                             | Oxford Plaza                   | Single Males and Females              | 4     |            |
| Resources for Community Development      | Berkeley                             | U.A. Homes                     | Single Males and Females              | 0     | 74         |
| Total                                    |                                      |                                |                                       | 337   | 148        |

Notes: Affordable rental housing is listed by the number of units. Developments providing congregate (shared kitchens, baths) housing are listed by the number of beds/rooms. There are other permanent housing developments in Berkeley that may be affordable to people who are homeless and offer some level of social services to residents which are not listed here. This table lists only developments/projects specifically targeted toward people who are homeless at entry. \*Shelter Plus Care households are 86% adults and 14% families as of PY19.

**Figure 9 – Current Inventory: Permanent Supportive Housing**

Source: City of Berkeley, Housing and Community Services Division

**Describe mainstream services, such as health, mental health, and employment services to the extent those services are used to complement services targeted to homeless persons**

All homeless agencies rely in part on mainstream services to meet the needs of their clients. Berkeley has its own Mental Health Division that accepts referrals from homeless providers and outreaches to homeless people living on the streets. Berkeley is also home to Lifelong Medical Care and provides funding for Lifelong to serve low-income residents, including those who are homeless. In addition, the City funds Lifelong to provide services to formerly homeless people living in permanent housing in Berkeley. The City also funds both benefits advocacy services. It also funds employment training and placement services that can be accessed by people who are homeless. More information about the mainstream services accessed by homeless services providers is provided in Section SP-60.

**List and describe services and facilities that meet the needs of homeless persons, particularly chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth. If the services and facilities are listed on screen SP-40 Institutional Delivery Structure or screen MA-35 Special Needs Facilities and Services, describe how these facilities and services specifically address the needs of these populations.**

All homeless housing and service programs in Berkeley may be serving people who are chronically homeless. In PY18, 56% of the people served by shelters and transitional housing programs were chronically homeless individuals. The 2019 homeless count (the last count from which Berkeley-specific data is available) found that chronically homeless people were 34 percent of the City's homeless population and most agencies have experience serving people who are chronically homeless.

Berkeley has five City-operated programs serving primarily people who are chronically homeless:

- The Shelter Plus Care Collaborative Opportunity to Address Chronic Homelessness (COACH) grant, provides tenant-based rental assistance to a minimum of 87 chronically homeless single adults who are frequent users of emergency services, or have repeated contacts with law enforcement.
- The Shelter Plus Care Housing Opportunity for Older Adults (HOAP) Project also specifically targets chronically homeless single adults. This grant provides a minimum of 14 tenant-based subsidies for chronically homeless adult aged 55 and older who receive services through the City's Aging Services Division. In FY19, the City received approval to consolidate its HOAP grant with the below Tenant Based Rental Assistance grant described below.
- The Shelter Plus Care Tenant-Based Rental Assistance provides rental assistance to a minimum of 129 households, either families or single adults, and prioritizes households that meet the HUD criteria for being chronically homeless, but the grant allows some flexibility to serve households who are homeless and disabled who may not meet the strict criteria for being chronically homeless. All newly referred participants must meet HUD's chronic homeless definition.

- The Shelter Plus Care Alameda County Collaborative grant is a tenant-based rental assistance grant in partnership with Alameda County that serves a minimum of 15 households with a disabling condition related to HIV/AIDS, and prioritizes people who are chronically homeless.
- The Shelter Plus Care Supportive Housing Network is a sponsor-based grant with Resources for Community Development as the project sponsor. The grant primarily serves 15 chronically homeless single adults who reside at one of two sites owned and managed by RCD.
- The Square One program, which combines a locally funded housing subsidy with services provided by Berkeley service providers. The City of Berkeley invests more than \$407,000 each year in services for transition age youth. The City has 30 year-round shelter beds for homeless TAY (YEAH! Shelter), 12 transitional housing beds (Fred Finch Youth Center) and 10 permanent supportive housing units (Harmon Gardens).

Through the Mental Health Division, the City has contracted with Youth Engagement, Advocacy, Housing (YEAH!) for \$101,978, to provide services, supports, and/or referrals to Transition Age Youth (TAY) with serious mental illness who are homeless or marginally housed and not currently receiving services in its TAY Support Services. This program is part of the City's Mental Health Services Act (MHSA) implementation.

The Berkeley Food and Housing Project has 12 transitional housing beds for single homeless male veterans and provides case management services during the day and shelter at night. In addition, Ashby House, owned by Resources for Community Development and operated by Operation Dignity provides 7 units of transitional housing for homeless veterans.

## MA-35 Special Needs Facilities and Services – 91.210(d)

### Introduction

As previously discussed in the Needs Assessment, the special needs population consists of persons who are not homeless but require supportive housing and services for various reasons. This population includes (but is not limited to) persons with mental, physical, and/or developmental disabilities; the elderly and frail elderly; persons with alcohol or other drug addiction; persons with HIV/AIDS and their families; victims of domestic violence, dating violence, sexual assault, and stalking; and transitional age youth.

### **Including the elderly, frail elderly, persons with disabilities (mental, physical, developmental), persons with alcohol or other drug addictions, persons with HIV/AIDS and their families, public housing residents and any other categories the jurisdiction may specify, and describe their supportive housing needs**

The City of Berkeley's Aging Services Division, part of the Health, Housing & Community Services (HHCS) Department, operates two senior centers and offers a variety of computer classes, seminars, and social events for adults 55 years of age and older. The Aging Services Division offers lunch at the two senior centers, delivers meals to homebound seniors through their Meals on Wheels Program, and provides consultation/referral services via the Social Services Unit. The City also funds the following programs:

- Japanese American Services of the East Bay, Senior Services
- Easy Does It Emergency Services, Senior Paratransit Services

The City of Berkeley's Mental Health Division (also part of HHCS) provides mental health prevention and intervention services with a focus on high-risk adult, youth, and families. Working closely with other City departments and community partners, the City's Mental Health Services Division provides programs for people in crisis, people with serious mental illnesses and disabilities, people in need of mental health or related social services, and children, teens, and families experiencing emotional difficulties. The division is also one of a number of agencies providing services for participants in Berkeley's Shelter Plus Care Program. Their assistance allows seriously mentally ill adults who are homeless, frequently chronically homeless, to become permanently housed with ongoing support.

In addition to the work of the Mental Health Division, the City has funded the following programs for people with disabilities using a combination of federal and local funds. These programs serve primarily non-homeless people but do not prohibit participation by people who are homeless. Programs include:

- Bay Area Outreach and Recreation Program: Recreational Services for Persons with Disabilities;
- Berkeley Place: Deaf Services;
- Bonita House: Creative Wellness Center;
- Center for Independent Living: Residential Access Project for Disabled;
- Easy Does It: Emergency Services for Severely Disabled Transportation Program; and

- Through the Looking Glass: Parenting and Education Programs.

The City funds the following programs for people with alcohol and drug addiction:

- Bonita House: Case Management Tied to Permanent Housing;
- Lifelong Medical Care: Acupuncture Detox Clinic; and
- Options Recovery Services: Transitional Housing.

The City funds the following program for victims of domestic violence:

- Family Violence Law Center: Family Violence and Homelessness Prevention

The City of Berkeley's Public Health Division provides HIV/AIDS services. The services at the public health clinic include HIV education, counseling, "opt-out" testing (conventional and Rapid HIV testing) and referral services to minimize the spread of HIV infection. For all newly positive HIV clients and for HIV + clients who have fallen out of medical care we provide a warm hand off to one of the HIV Care Clinics in the East Bay. The Public Health Division also conducts AIDS/HIV case surveillance.

### **Describe programs for ensuring that persons returning from mental and physical health institutions receive appropriate supportive housing**

The Alameda County-wide Continuum of Care (CoC) provides several programs to ensure persons returning from mental and physical health institutions receive appropriate supportive housing.

Persons are not routinely discharged from health care facilities into homelessness, and the CoC worked with a variety of health care institutions to reduce discharges into literal homelessness. California recently enacted Senate Bill (SB) 1152 that outlines requirements of hospitals and emergency departments related to the care and discharge of homeless patients. The Alameda County Health Care Services Agency (HCSA), a member of the HUD CoC, convened several work group sessions on the new legislation in partnership with the Northern California Hospital Council and its members. The sessions focused on improving collaboration and coordination among the CoC and community-based agencies including training and information sharing on coordinated entry processes. The County and hospitals have established several medical respite/recuperative care programs for homeless patients exiting emergency departments and hospitals with a large project in the planning phases on formal federal land. The County also established a locally funded housing subsidy pool to provide permanent housing subsidies for high priority homeless patients in Skilled Nursing Facilities and hospitals. Finally, Alameda County actively participates in a Medicaid waiver program focused on expanding resources and collaboration among health and housing providers to address homelessness.

The CoC works with Housing Services Office of Behavioral Health Care Services (BHCS) to improve discharge planning from mental health facilities. To that end, the Housing Services Office, with coordination by the CoC created a homelessness prevention/rapid re-housing fund, modeled after and



delivered in partnership with the Homeless Prevention and Rapid Re-Housing Program. The fund has been used to help hospitalized persons continue to pay rent so units are not lost, or to obtain units upon exit from the facility. The CoC worked with permanent supportive housing providers to develop protocols allowing tenants hospitalized for more than 30 days to retain their units. The CoC and the Housing Services Office trained staff on how to assess patients' housing needs and assist in resolving them as part of discharge planning, utilizing the Office's centralized housing resource database and webpage. BHCS also contracts for dedicated emergency hotel beds for use while ACT teams work on locating permanent housing. BHCS also pays subsidies for licensed residential care facilities to which people routinely exit and expanded this program over the past year. BHCS is also working on a new crisis and transitional residential program for homeless individuals with a serious mental illness.

**Specify the activities that the jurisdiction plans to undertake during the next year to address the housing and supportive services needs identified in accordance with 91.215(e) with respect to persons who are not homeless but have other special needs. Link to one-year goals. 91.315(e)**

The City of Berkeley will continue to fund public services, housing rehabilitation, public facility renovations and other housing services with federal funds in PY20. See the Strategic Plan and Annual Action Plan for more detail.

**For entitlement/consortia grantees: Specify the activities that the jurisdiction plans to undertake during the next year to address the housing and supportive services needs identified in accordance with 91.215(e) with respect to persons who are not homeless but have other special needs. Link to one-year goals. (91.220(2))**

N/A

## MA-40 Barriers to Affordable Housing – 91.210(e)

### Negative Effects of Public Policies on Affordable Housing and Residential Investment

To identify potential constraints to housing production, City staff analyzed the specific constraint categories as described in state law and discussed the City's regulations with local developers. Planning and zoning regulations establish rules for how land may be used, thereby limiting the amount of development in a city. Although local ordinances and policies are typically adopted to protect the health, safety, and welfare of residents, they may have the consequence of creating constraints to the development of housing. This consequence may be intentional (as is the case with growth control ordinances) or unintentional (such as with certain zoning requirements).

As described in detail below, most constraints have been addressed by existing City programs. The development record and densities of approved projects are the best evidence that there are not significant constraints to housing production. However, housing policies have been designed to minimize potential constraints including: identification and consideration of options to revise the zoning regulations in lower and medium-density areas for infill developments, consideration of revisions to the accessory dwelling unit regulations, and continued improvement to the development review process.

### Density and Development Standards

Density is a key factor in identifying potential constraints to development of housing. The more cities limit density, the fewer units are constructed and, in general, the more expensive they are on a per-unit basis. Most lots in Berkeley are developed and most zoning districts allow residential uses. Thus, housing is allowed in most of the City, except portions of West Berkeley that are developed with and planned for manufacturing uses.

For most zoning districts, residential development standards, such as lot size, setbacks, lot coverage, etc. are similar to standards in other nearby cities. There are not many vacant lots and construction of new single-family dwellings has been limited. Single-family development tends to provide above-moderate income housing, so to the extent that this is a constraint, it is not on the development of affordable units.

Berkeley has numerous medium and high density residential zoning districts. This type of infill development (adding units to developed lots) occurs throughout the City.

As previously indicated, residential growth has concentrated on commercial corridors, with recent development densities ranging from 69 to 202 dwelling units per acre. Since 2014 the state has increased development potential in the Telegraph Commercial district. The Planning Department is actively engaged in the Adeline Corridor Planning Process which is proposing new zoning incentives for on-site affordable housing. The plan and updated zoning are anticipated to be adopted in the first half of 2020. Additionally California Assembly Bill 2923, passed in 2019, requires adopting updated zoning on all BART properties. This will affect both Ashby BART station and North Berkeley BART Station.

While the flexibility of Berkeley's zoning ordinance and the lack of specific density standards may be seen as providing less certainty than more traditional zoning, it is clear from the record of development that specific density standards are not needed to produce housing of sufficient density to be financially feasible and attractive to developers. However, while the zoning ordinance includes five multi-family zoning districts and the City has seen numerous medium density multi-family development projects, Housing Policy H-34 of the City's *Housing Element* encourages the review the regulation of medium density infill development and to identify and change possible constraints.

### **Parking**

The City's residential parking requirements are generally low and are not a constraint to development. The zoning regulations for mixed-use projects also provide flexibility to the parking standards. For example, the City allows deep parking reductions for projects located Downtown and along major transit corridors. Many mixed-use projects have been built with less than one parking space per dwelling unit. Some have been approved with no parking for the residential component and several Downtown projects that were allowed a parking reduction have discovered that there is less tenant demand than expected.

In addition, Berkeley was one of the first cities in the country to allow double and triple stacks lifts to satisfy the City's residential parking requirements. This can eliminate the need for expensive below-grade parking and/or leave more leasable ground floor area by minimizing the space needed for parking.

In January 2020, new California state legislation, Assembly Bill 881, takes effect, and as noted below, removes parking requirements when near public transportation or when physically replacing an existing garage, car port or covered parking structure. This may continue to ease building restrictions.

### **Second Residential Units**

Provision of small, accessory dwelling units (ADUs) in low density areas can be a good way to add housing units outside of the commercial corridors and higher density residential districts, while also meeting personal or financial needs of property owners. For example, a second unit on a single-family property can provide an opportunity for an older owner to remain at home, either with a caretaker in the second unit or by renting the house to a family and the owner moving into the smaller unit. A 2012 study by UC Berkeley's Center for Community Innovation, *Yes in My Backyard: Mobilizing the Market for Secondary Units* (<http://www.bayareaeconomy.org/files/pdf/AlamedaHousing.pdf>) estimated that 3,628 single family housing units in Berkeley would be eligible for ADUs under existing zoning and that with recommended land use changes 6,040 units would be possible. Due to updates in Berkeley's code we estimate that the number may now be closer to 6,040.

While the City adopted new ADU rules which took effect June 29, 2018, the state of California also recently passed legislation in 2018 and 2019 to ease restrictions to further streamline the building and permitting process. Key changes brought about by the new 2019 state laws, which will be fully

implemented by 2020, include prohibiting parking requirements (when half a mile from transit stops) and impact fees on units smaller than 750 square feet and limiting the permit fees that can be charged to larger ADUs, removing owner-occupancy requirements and allowing for two ADUs on the same property. Berkeley's City Council is currently considering an ADU amnesty program that would assist owners in bringing existing ADUs to code, hoping to encourage new, updated units to come to market.

### **Demolition Controls**

The City regulates demolition of dwelling units to protect the affordable housing supply and existing tenants. In general, the Zoning Adjustments Board (ZAB) may approve a use permit to demolish dwelling units only if the units are replaced by new construction or if the structure is hazardous, unusable or infeasible to repair. However, if elimination of a rent-controlled unit is proposed, the requirements are more stringent.

In 2016 there was an amendment to the municipal code regulating the demolition and elimination of Dwelling Units. The ZAB may allow demolition of a building constructed prior to June 1980 (essentially a controlled rental unit) on a property containing two or more dwelling units if it makes the following findings: 1) the building containing the units is hazardous or unusable and is infeasible to repair; or 2) the building containing the units will be moved to a different location within the City of Berkeley with no net loss of units and no change in the affordability levels of the units; or 3) the demolition is necessary to permit construction of special housing needs facilities such as, but not limited to, childcare centers and affordable housing developments that serve the greater good of the entire community; or 4) the demolition is necessary to permit construction approved.

If this demolition allowance is made by the ZAB, applicants must pay a fee, but the City Council, as of 2019, has not yet determined the amount of that fee. In lieu of a fee, the applicant may provide a unit in the new project at below market rate to a qualifying household in perpetuity. The rate would be set by City Council and would be governed by a regulatory agreement with the City.

The issue is complicated by interpretation of other ordinances, including the Rent Stabilization and Eviction for Good Cause Ordinance, the Relocation Ordinance, and the Ellis Act. Due to the restrictive nature of these exceptions and their interaction with other City ordinances, the controls on demolition of rent-controlled units can be a constraint to development. The afore mentioned update to the code includes a provision to require that if a building is removed from the rental market under the Ellis Act, there must be a 5 year waiting period prior to demolition and the property cannot have verified cases of harassment or illegal eviction in the preceding 3 years. If those conditions are not met, hearing may be heard by the rent Board Hearing Examiner and the Zoning Adjustment Board.

Regarding occupied units under consideration for demolition, the following requirements apply: 1) the applicant provides all sitting tenants notice of the application to demolish the building no later than the date it is submitted to the City; 2) The applicant shall provide assistance with moving expenses 3); the

applicant shall subsidize the rent differential (in a manner approved by the City) for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy.

If a demolition applicant proposes to construct a 100 percent affordable housing project, applicants shall provide relocation benefits that conform to state laws. Sitting tenants who are displaced as a result of demolition shall be provided the right of refusal to move into the new building; and tenants of units that are demolished shall have the right of first refusal to rent new below market rate units designated to replace the units that were demolished, at the rent that would have applied if they had remained in place, as long as their tenancy continues. Income restrictions shall not apply to displaced tenants. First right of refusal would also apply to 100 percent affordable units that were not designated to replace displaced tenants' demolished units, but income and other restrictions would apply when the units were ready for occupancy. Demolition regulations regarding Accessory Dwelling Units may be reviewed by City staff in 2020 to ensure compliance with new state legislation.

Berkeley's demolition regulations are not a constraint to housing development, as demolition of units is permissible upon replacement of at least the same number of dwelling units as the demolished structure.

### **Affordable Housing Incentive Programs**

Inclusionary housing was originally adopted as City policy as part of the Neighborhood Preservation Ordinance in 1973 and it was codified in the zoning ordinance in 1987. In 2009, the *Palmer/Sixth Street Properties vs. City of Los Angeles* court ruling found that inclusionary housing requirements on rental developments violate the Costa-Hawkins Rental Act of 1995, thereby invalidating the City's inclusionary requirements for rental housing. In order to continue to provide income-restricted units in Berkeley, Council adopted an affordable housing mitigation fee (AHMF) on new market-rate rental units (Ordinance 7,192-N.S.) on June 28, 2011. The fee was established by an impact fee nexus study, which quantified the need for affordable housing created by the development of new market rate rental housing.

On October 16, 2012, the City Council adopted Resolution 65,920-N.S. setting the fee at \$28,000 and establishing criteria for applying the fee. On February 19, 2013, City Council adopted Resolution 66,015-N.S. which reduced the fee for projects meeting certain benchmarks within the first two years of the program. On October 7, 2014, Council adopted Resolution No. 66,809-N.S. amending Resolution No. 66,015-N.S. to extend the affordable housing mitigation fee discount of \$8,000 for six months to April 16, 2015, requiring projects receiving the discount to obtain needed approval of the Zoning Adjustments Board by April 16, 2017, and directing staff to work with the Planning Commission and the Housing Advisory Commission to complete the new nexus study for possible revisions to the fee.

An updated nexus study for the AHMF which was completed March 25, 2015, found a nexus supporting maximum possible fee of \$84,400 per market rate unit. On July 12, 2016, Council raised the fee to 34,000 per new unit of rental housing. June 27, 2017, Council increased the fee to 37,000 per new unit

of rental housing with a 3,000 discount if paid in full before issuance of building permit. Effective July 1, 2018, the AHMF is \$37,962 per new unit of rental housing, payable at the issuance of Certificate of Occupancy. If the AHMF is paid in its entirety no later than issuance of the building permit, the fee is \$34,884 per new unit of rental housing.

The inclusionary housing ordinance includes both rental and ownership housing, but there has not been an ownership project since 2007. The City is exploring the ownership project with a developer that may be interested in an ownership project.

The AHMF is deposited in the City's Housing Trust Fund. The AHMF applies to new rental housing projects of 5 or more dwelling units (certain types of projects are exempt). An applicant for a development project that is subject to the AHMF may elect to avoid the fee completely by providing 20 percent of the units in the development to qualified households at rental rates affordable to Low-Income and Very Low-Income households (<https://www.cityofberkeley.info/ContentDisplay.aspx?id=74682>). Half of the affordable units must be provided to households with rents and incomes no greater than Low Income (80 percent of Area Median for the household and unit size) and half at Very Low- Income (50 percent of Area Median). If an odd number of affordable units are provided, the majority must be Very Low-Income. In addition, of the total Very Low-Income units, 40 percent of the units must be reserved for holders of Berkeley Housing Authority Section 8 vouchers and 40 percent must be reserved for holders of City of Berkeley Shelter + Care certificates. For projects designating fewer than 20 percent of their total units as affordable, the AHMF will be reduced proportionally.

Between 2015 and 2018, the City's policy led to the construction of a total of 194 below market rate units, including 86 Very Low Income and 17 Low Income units. As mentioned in previous sections, the Housing Trust Fund has recently expanded as a result of voter approved measures, expanding the City's ability to leverage funds to create additional below market rate units.

As demonstrated by development activity in Berkeley, the zoning standards, including density, parking and affordable housing requirements, have not constrained approval of housing projects or development of affordable units. According to a Berkeleyside news publication on March 26, 2019 (<https://www.berkeleyside.com/2019/03/26/the-2019-berkeley-housing-pipeline-map-a-berkeleyside-special-report>), nearly 1,300 units have been built since about 2012, about 90 of which were below-market-rate units; 1,047 are under construction (including 81 below market rate units); 1,444 units have been approved (with about 84 below market rate units); and another 1,252 (with 102 below market rate units) have been submitted. In 2019, an additional 519 units have been approved, are under construction or have been built for seniors, artists, persons with special needs, those who have been homeless and other specialized categories. The residential zoning standards are appropriate for residential areas and flexibility is provided for high density projects on commercial corridors. The affordable housing mitigation fee (AHMF), or provision of on-site units available to Very Low Income Households, has not deterred new residential development as can be seen with the number of applications the City has received and the continued interest in new multi-family construction.

## MA-45 Non-Housing Community Development Assets – 91.215 (f)

### Introduction

This section covers the economic development needs of the City and provides data regarding the local economic condition.

### Economic Development Market Analysis

#### Business Activity

| Business by Sector                            | Number of Workers | Number of Jobs | Share of Workers % | Share of Jobs % | Jobs less workers % |
|-----------------------------------------------|-------------------|----------------|--------------------|-----------------|---------------------|
| Agriculture, Mining, Oil & Gas Extraction     | 348               | 41             | 1                  | 0               | -1                  |
| Arts, Entertainment, Accommodations           | 5,166             | 8,264          | 14                 | 18              | 4                   |
| Construction                                  | 1,147             | 1,432          | 3                  | 3               | 0                   |
| Education and Health Care Services            | 7,147             | 11,341         | 20                 | 24              | 5                   |
| Finance, Insurance, and Real Estate           | 2,413             | 1,717          | 7                  | 4               | -3                  |
| Information                                   | 2,092             | 1,566          | 6                  | 3               | -2                  |
| Manufacturing                                 | 1,776             | 4,043          | 5                  | 9               | 4                   |
| Other Services                                | 1,877             | 3,251          | 5                  | 7               | 2                   |
| Professional, Scientific, Management Services | 6,965             | 6,037          | 19                 | 13              | -6                  |
| Public Administration                         | 0                 | 0              | 0                  | 0               | 0                   |
| Retail Trade                                  | 3,169             | 6,163          | 9                  | 13              | 5                   |
| Transportation and Warehousing                | 635               | 185            | 2                  | 0               | -1                  |
| Wholesale Trade                               | 1,035             | 1,259          | 3                  | 3               | 0                   |
| Total                                         | 33,770            | 45,299         | --                 | --              | --                  |

**Table 49 - Business Activity**

**Data Source:** 2011-2015 ACS (Workers), 2015 Longitudinal Employer-Household Dynamics (Jobs)

## Labor Force

|                                                |        |
|------------------------------------------------|--------|
| Total Population in the Civilian Labor Force   | 64,085 |
| Civilian Employed Population 16 years and over | 58,830 |
| Unemployment Rate                              | 8.19   |
| Unemployment Rate for Ages 16-24               | 15.25  |
| Unemployment Rate for Ages 25-65               | 5.71   |

Table 50 - Labor Force

Data Source: 2011-2015 ACS

| Employer                                         | Number of Employees | Rank | Percentage of Total City Employment |
|--------------------------------------------------|---------------------|------|-------------------------------------|
| University of California Berkeley                | 13,396              | 1    | 20.14                               |
| Lawrence Berkeley National Laboratory            | 3,350               | 2    | 5.04                                |
| Sutter East Bay Medical Foundation/Hospitals     | 2,344               | 3    | 3.52                                |
| Berkeley Unified School District                 | 1,642               | 4    | 2.47                                |
| Bayer Corporation                                | 1,576               | 5    | 2.37                                |
| City of Berkeley                                 | 1,572               | 6    | 2.36                                |
| Siemens Corporation/Healthcare Diagnostics, Inc. | 877                 | 7    | 1.32                                |
| Kaiser Permanente Medical Group                  | 800                 | 8    | 1.20                                |
| Berkeley Bowl Produce                            | 616                 | 9    | 0.93                                |
| Whole Foods Market California Inc.               | 383                 | 10   | 0.58                                |
| <b>Total</b>                                     | <b>26,556</b>       |      | <b>39.92</b>                        |

Figure 10 – Principal Employers in Berkeley, FY 2018

Data Source: City of Berkeley's FY 2018 Comprehensive Annual Financial Report (CAFR), available at: <https://www.cityofberkeley.info/uploadedFiles/Finance/Home/Reports/BerkeleyCAFRReport2018.pdf>

## Top 10 Berkeley Employers, 4th Quarter, 2013

| Occupations by Sector                            | Number of People |
|--------------------------------------------------|------------------|
| Management, business and financial               | 25,475           |
| Farming, fisheries and forestry occupations      | 1,990            |
| Service                                          | 3,860            |
| Sales and office                                 | 9,875            |
| Construction, extraction, maintenance and repair | 1,320            |
| Production, transportation and material moving   | 805              |

Table 51 – Occupations by Sector

Data Source: 2011-2015 ACS



**Travel Time**

| Travel Time        | Number        | Percentage  |
|--------------------|---------------|-------------|
| < 30 Minutes       | 29,830        | 58%         |
| 30-59 Minutes      | 15,540        | 30%         |
| 60 or More Minutes | 5,720         | 11%         |
| <b>Total</b>       | <b>51,090</b> | <b>100%</b> |

**Table 52 - Travel Time**

Data Source: 2011-2015 ACS

**Education:**

## Educational Attainment by Employment Status (Population 16 and Older)

| Educational Attainment                      | In Labor Force    |            | Not in Labor Force |
|---------------------------------------------|-------------------|------------|--------------------|
|                                             | Civilian Employed | Unemployed |                    |
| Less than high school graduate              | 1,195             | 260        | 955                |
| High school graduate (includes equivalency) | 2,470             | 205        | 1,090              |
| Some college or Associate's degree          | 6,360             | 895        | 2,485              |
| Bachelor's degree or higher                 | 33,155            | 1,890      | 5,965              |

**Table 53 - Educational Attainment by Employment Status**

Data Source: 2011-2015 ACS

## Educational Attainment by Age

|                                           | Age       |           |           |           |         |
|-------------------------------------------|-----------|-----------|-----------|-----------|---------|
|                                           | 18–24 yrs | 25–34 yrs | 35–44 yrs | 45–65 yrs | 65+ yrs |
| Less than 9th grade                       | 14        | 315       | 355       | 580       | 395     |
| 9th to 12th grade, no diploma             | 505       | 230       | 380       | 550       | 350     |
| High school graduate, GED, or alternative | 4,675     | 1,175     | 600       | 2,000     | 1,590   |
| Some college, no degree                   | 18,055    | 2,470     | 1,465     | 3,365     | 2,215   |
| Associate's degree                        | 675       | 780       | 585       | 1,130     | 700     |
| Bachelor's degree                         | 5,545     | 8,700     | 4,310     | 7,260     | 3,720   |
| Graduate or professional degree           | 300       | 6,405     | 5,330     | 9,025     | 7,040   |

**Table 54 - Educational Attainment by Age**

Data Source: 2011-2015 ACS

## Educational Attainment – Median Earnings in the Past 12 Months

| <b>Educational Attainment</b>               | <b>Median Earnings in the Past 12 Months</b> |
|---------------------------------------------|----------------------------------------------|
| Less than high school graduate              | 21,442                                       |
| High school graduate (includes equivalency) | 28,484                                       |
| Some college or Associate's degree          | 30,316                                       |
| Bachelor's degree                           | 45,112                                       |
| Graduate or professional degree             | 62,483                                       |

**Table 55 – Median Earnings in the Past 12 Months**

Data Source: 2011-2015 ACS

**Based on the Business Activity table above, what are the major employment sectors within your jurisdiction?**

According to the data above, the top employment sectors in the City of Berkeley are education and health care services with 24 percent share of the jobs. The arts, entertainment, and accommodations sector follow with 18 percent share.

**Describe the workforce and infrastructure needs of the business community:**

The workforce and infrastructure needs of the business community are broad. As in most Bay Area cities, Berkeley's businesses require an educated and skilled workforce, a robust transportation system, public safety and health, a business-friendly policy climate and workforce housing.

According to the City's Office of Economic Development, some of Berkeley's emerging growth sectors include biotech/life sciences, information technology, health care, food production, food services, and small-scale manufacturing. Specific needs include:

- Workers with Science, Technology, Engineering and Mathematics (STEM) education;
- Transportation infrastructure, particularly linking to Berkeley's west side;
- More connections/access to training, job and career opportunities for people from low income or limited English-speaking households;
- And workforce housing near transit centers.

In FY 2019, federal, state and private sources have provided nearly 1.8 billion dollars in new funding for research at UC Berkeley and Lawrence Berkeley National Laboratory in areas that are national priorities such as biofuels, energy conservation, advanced telecommunications, and biomedical engineering. Berkeley is working closely with the tech transfer staff of both UC Berkeley and the Berkeley Lab to retain local startups that are commercializing new technology as well as attract national companies to set up research centers in Berkeley. This collaboration is productive; the companies benefit from the City's entrepreneurial climate and from interaction with UC faculty and graduate

students. For this and other reasons—including the overall quality of life in Berkeley, access to a highly educated workforce, the central and accessible location within the Bay Area, and access to investment opportunities—many early-stage founders want to locate their businesses in Berkeley. As companies get established and grow, however, they often seek larger spaces than are available. The Berkeley Startup Cluster is attempting to address these real estate shortages by increasing founders’ awareness of their options for securing suitable office space in Berkeley. This also includes encouraging property owners to upgrade their existing buildings to create more high-quality office space in Berkeley, and working with property owners and community partners to explore the entitlement of a new office tower in Downtown Berkeley.

**Describe any major changes that may have an economic impact, such as planned local or regional public or private sector investments or initiatives that have affected or may affect job and business growth opportunities during the planning period. Describe any needs for workforce development, business support or infrastructure these changes may create.**

Some specific developments that will likely have a notable economic impact in Berkeley include:

- Increased investment and real estate activity from University of California (UC), Berkeley. UC Berkeley has been active in Downtown area development, opening a new student center in late 2015, and opening an office/education building on Berkeley Way. The 320,000 square foot Berkeley Way West project adjacent to the Energy Biosciences Building is now housing the Graduate School of Education, the School of Public Health, and the Department of Psychology. The project includes more than 7,000 square feet of retail space on the ground floor, and classrooms, offices, open workstations, on the seven floors above. The Legends Aquatic Center on Bancroft Way was completed in late 2016, and a 783 bed-dorm project (Blackwell Residence Hall) at Bancroft and Dana (Stiles Hall) was completed and occupied by students in August of 2018. UC is currently undertaking planning work on a new student transfer center at 1990 Oxford Street, and a housing project at 2556 Haste Street. According to a Berkeleyside article published on February 21, 2019 (<https://www.berkeleyside.com/2019/02/21/uc-berkeleys-student-enrollment-projected-to-reach-44735-in-next-3-years>), UC Berkeley has increased their student population, with 44,735 students expected on campus by 2022-23, a 33.7 percent increase over original projections. In 2019 there are 41,000 students on campus. The number of employees on campus is decreasing. UC Berkeley had projected there would be 15,810 employees on campus by 2020. The number projected for 2022-23 is now 15,355, according to a report by the publication, Berkeleyside. Currently, there are 14,682 employees on campus, including faculty and staff. The City of Berkeley must plan to support the ancillary companies and economic activities that may result from shifts in the UC Berkeley employee and student populations.
- Recent and pending land use planning activities (the Downtown Plan, the Adeline Corridor Specific Plan) spur new mixed-use development in key corridors. The City must attract and support neighborhood serving businesses to fill spaces.

- The pending construction of a new highway interchange at Route 80 and Gilman Street could spur economic growth on the west side. This project is currently in its preliminary engineering and environmental review phase.
- Berkeley benefits from a very high concentration of incubators and co-working spaces that facilitate new business starts. It is anticipated that demand for co-working spaces, wet labs, and other high quality office space near in Downtown Berkeley will continue in the future, based on 2019 feedback from individual founders, accelerator leaders, and real estate brokers serving Berkeley's innovation sector.
- Recent major investments in the art are focused on the Downtown Berkeley BART Plaza, currently showcasing contemporary sound pieces (Sam Whiting, San Francisco Chronicle, [Strange Sounds Mix with Street Noise at Berkeley BART Art Installation](https://datebook.sfchronicle.com/art-exhibits/strange-sounds-mix-with-street-noise-at-berkeley-bart-art-installation), October 25, 2018, available at <https://datebook.sfchronicle.com/art-exhibits/strange-sounds-mix-with-street-noise-at-berkeley-bart-art-installation>) and outdoor performances; a rotating sculpture installation; and ongoing arts and cultural event programming. The \$7.6 million transportation improvement project, funded by a grant from the Metropolitan Transportation Commission, is bolstered by an additional \$400,000 of investment in infrastructure and programming for the arts in FY2019. Investments in the arts at the most prominent public plaza by the City and its partners will continue annually.
- In FY 2019, the Office of Economic Development (OED) launched new economic development initiatives to better support small, independently-owned businesses. These include: improving OED's outreach & communications with small businesses, increasing support for businesses navigating the permitting process, modifying the zoning ordinance to support small local businesses, piloting new small business assistance and retention programs, and increasing marketing, technical assistance, and networking opportunities for locally-owned retail and services businesses. OED will continue its support of these and other initiatives in FY 2020 and beyond.

Taken together, these projects may make Berkeley a more attractive location for business, catalyze more development activity, and ultimately generate new business activity and employment opportunity in the growing economic sectors mentioned above.

### **How do the skills and education of the current workforce correspond to employment opportunities in the jurisdiction?**

The City of Berkeley features a population that is exceptionally well-educated. Seventy-two percent of Berkeley's population (age 25 and up) has a bachelor's degree or more education, compared to just 32.5 percent for California overall (2013-2017 ACS). That said, there are certainly unmet needs among the City's unemployed, underemployed and low income populations. There is still a strong need to provide relevant job skills training and employment opportunities for these populations.

**Describe any current workforce training initiatives, including those supported by Workforce Investment Boards, community colleges and other organizations. Describe how these efforts will support the jurisdiction's Consolidated Plan.**

The City has contracted with workforce development programs to provide training, education and job placement for low income, under-employed, and unemployed residents in addition to administering local hire policies and a youth employment program:

- Inter-City Services provides employment, training, and education and continues to serve veterans as funded under the Governor's 15 percent Discretionary pool of Workforce Investment Act (WIOA) funds.
- Biotech Partners operates the Biotech Academy at Berkeley High School, targeting youth from under-represented populations in the fields of science and technology (African American, Latino, South East Asian, female and low income youth) and who may be at risk of not graduating from high school.
- The Bread Project provides training in culinary arts and bakery production, and includes the formerly incarcerated as their target population. They operate a social enterprise (wholesale bakery) that creates opportunities for trainees to obtain crucial on-the-job experience.
- Rising Sun Center for Opportunity (formerly known as Rising Sun Energy Center) Green Energy Training Services (GETS) provides pre-apprenticeship classroom and hands-on training in the Building and Construction trades which serves as a pathway for careers in construction including green and clean technologies. Rising Sun also operates the California Youth Energy Services (CYES) program funded by the CA Public Utilities Commission, providing summer jobs for youth conducting residential energy audits.
- Berkeley Youth Alternatives (BYA) receives WIOA funding through Alameda County Workforce Development Board (ACWDB) to provide workforce development services to in-school and out-of-school youth. The area of workforce development is a focus area for increased coordination, including establishing methods to maximize and leverage resources. BYA, utilizing city funds, provides training to disadvantaged youth in all aspects of park and landscape maintenance in addition to summer and after-school programs for children and youth.
- UC Theatre Concert Careers Pathways (UCCCP) is a nine-month program for young people ages 17-25, providing workshops and paid internships for participants to learn all aspects of live music venue production.
- Continuing the City's Local Hire policies which include the Community Workforce Agreement (CWA) between the City of Berkeley and the Building trades (created in 2011) which applies to publicly funded construction projects estimated at \$500,000 or above, and, the First Source local hiring policy which applies to both public infrastructure projects estimated between \$100,000 - \$499,999 and private development over 7,500 square feet. develop the
- The YouthWorks employment program continued its partnerships with City and nonprofit agencies. YouthWorks targets low income, at-risk youth and provides all youth with workplace

skills training. City of Berkeley departments and local community agencies serve as worksites providing valuable work experience to Berkeley youth 14-25 years old.

- The City's Recreation Division of the Park, Recreation & Waterfront Department partners with the Berkeley Unified School District and YouthWorks on the Achievers Program, which provides leadership development, career exploration and peer-led tutoring. This program is also used as a stepping stone for entry into the City's YouthWorks program.
- Funded through the City's Public Works Department, the Downtown Streets Team, a non-profit organization, homeless and low-income persons volunteer to beautify commercial districts while engaging in case management and employment services.

**Does your jurisdiction participate in a Comprehensive Economic Development Strategy (CEDS)?**

No

**If so, what economic development initiatives are you undertaking that may be coordinated with the Consolidated Plan? If not, describe other local/regional plans or initiatives that impact economic growth.**

The City participates in a number of regional economic development initiatives and strategies:

- East Bay Economic Development Alliance is a next-generation, cross-sector membership organization dedicated to growing the economy from the inside out. Working with the world-class companies, leading research institutions, passionate community organizations, small business leaders, and forward thinking local government agencies that constitute the membership, East Bay EDA represents the collective identity of the East Bay and the special power of a fully functional regional partnership. The organization conducts research, advocacy, and marketing to attract business investment to the region.
- Berkeley-Emeryville Bio is a collaboration of Berkeley and Emeryville to support and grow the cities' biotechnology and medical research business cluster. The efforts have paid off: Berkeley is experiencing substantial development of new programs and buildings that support the local bioscience industry. In addition to the QB3 Garage and EBI<sup>2</sup> incubators on UC Berkeley's campus (as well as the planned QB3 Bakar BioEnginuity hub, at Woo Hon Fai Hall, 2625 Durant Avenue), West Berkeley, near Emeryville, is becoming a second nexus of biotech innovation. The result of a unique public-private sector partnership between UC Berkeley, UCSF, Lawrence Berkeley National Laboratory, Wareham Development, and the cities of Berkeley and Emeryville, the QB3 East Bay Innovation Center (EBIC) offers top-quality wet-laboratories, along with office space for support functions, a common lunch and break area, and a formal conference room. Nearby, the nearby Bonneville Labs offers co-working facilities for life sciences entrepreneurs and others who require lab space for R&D. Both see continuous demand for their facilities and rarely have space available.

**Discussion**

N/A

## **MA-50 Needs and Market Analysis Discussion**

### **Are there areas where households with multiple housing problems are concentrated? (include a definition of "concentration")**

The City of Berkeley does not currently allocate funds on a geographic basis and does not have a HUD approved Neighborhood Revitalization Strategy Area. Funds are allocated to organizations that provide services to low income households and the homeless population.

### **Are there any areas in the jurisdiction where racial or ethnic minorities or low-income families are concentrated? (include a definition of "concentration")**

HUD regulations stipulate that the City should not allocate funds to an area of minority concentration unless certain conditions are met. Minority concentration is defined as when “the percentage of households in a particular racial or ethnic minority group is at least 20 percentage points higher than the percentage of that minority group for the housing market area, i.e. the Metropolitan Statistical Area (MSA) in which the proposed housing is to be located.”

The City of Berkeley is divided into the following neighborhoods: Central, Greater Downtown, North East, South, South East, and West (see “Berkeley Neighborhoods” map). Each neighborhood consists of several census tracts which is more reflective of the City’s areas for market purposes. When the neighborhoods are compared to the City as a whole, none meets the “concentrated” standard for Asian, African American, or Latino residents. Based on the 2010 Census data, the areas closest to concentrated are African Americans in South Berkeley and Latinos in West Berkeley but they do not meet the definition of “concentration.”



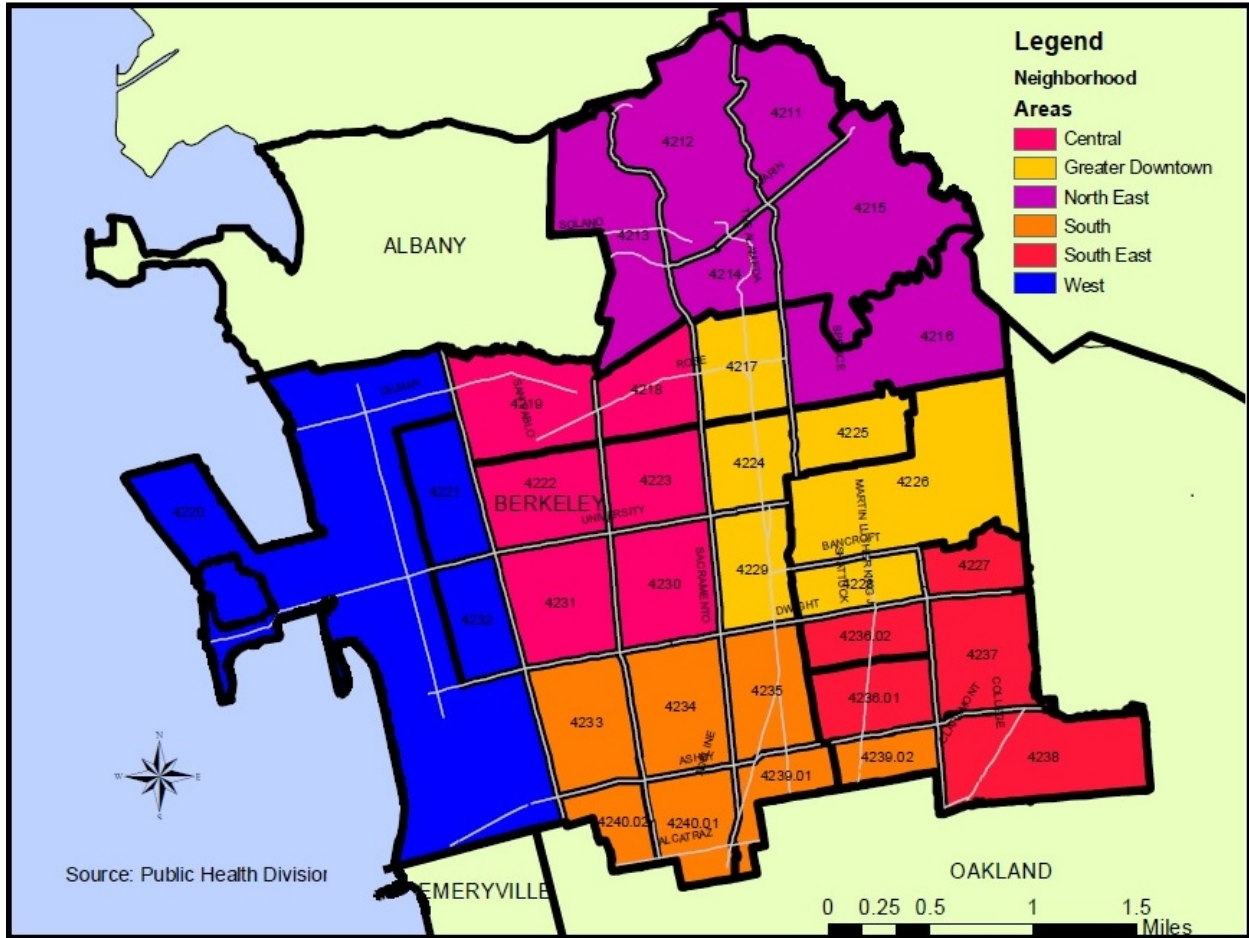


Figure 11 – Berkeley Neighborhoods

**What are the characteristics of the market in these areas/neighborhoods?**

N/A

**Are there any community assets in these areas/neighborhoods?**

N/A

**Are there other strategic opportunities in any of these areas?**

N/A

## Strategic Plan

### SP-05 Overview

#### Strategic Plan Overview

The purpose of the Strategic Plan is to identify the priority needs of the City and describe strategies that the City will undertake to serve the priority needs. The Strategic Plan includes the following sections:

- Geographic Priorities
- Priority Needs
- Influence of Market Conditions
- Anticipated Resources
- Institutional Delivery Structure
- Goals
- Public Housing Accessibility and Involvement
- Barriers to Affordable Housing
- Homelessness Strategy
- Lead-based Paint Hazards
- Anti-Poverty Strategy
- Monitoring

## SP-10 Geographic Priorities – 91.215 (a)(1)

## Geographic Area

|   |                                                                                                                      |          |
|---|----------------------------------------------------------------------------------------------------------------------|----------|
| 1 | Area Name:                                                                                                           | BERKELEY |
|   | Area Type:                                                                                                           | N/A      |
|   | Other Target Area Description:                                                                                       | N/A      |
|   | HUD Approval Date:                                                                                                   | N/A      |
|   | % of Low/ Mod:                                                                                                       | N/A      |
|   | Revital Type:                                                                                                        | N/A      |
|   | Other Revital Description:                                                                                           | N/A      |
|   | Identify the neighborhood boundaries for this target area.                                                           | N/A      |
|   | Include specific housing and commercial characteristics of this target area.                                         | N/A      |
|   | How did your consultation and citizen participation process help you to identify this neighborhood as a target area? | N/A      |
|   | Identify the needs in this target area.                                                                              | N/A      |
|   | What are the opportunities for improvement in this target area?                                                      | N/A      |
|   | Are there barriers to improvement in this target area?                                                               | N/A      |

Table 56 - Geographic Priority Areas

## General Allocation Priorities

**Describe the basis for allocating investments geographically within the jurisdiction (or within the EMSA for HOPWA)**

The City of Berkeley is divided into the following neighborhoods: Central, Greater Downtown, North East, South, South East, and West (see "Berkeley Neighborhoods" map in section MA-50). However, the City does not allocate federal funds based on geography. It funds a variety of services targeting low income and homeless people that are located in all parts of the jurisdiction.

## SP-25 Priority Needs - 91.215(a)(2)

## Priority Needs

|                    |                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1</b>           | <b>Priority Need Name</b>                                                                                                                                                                                                                                                                                    | Affordable Housing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                    | <b>Priority Level</b>                                                                                                                                                                                                                                                                                        | High                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                    | <b>Population</b>                                                                                                                                                                                                                                                                                            | Extremely Low Income<br>Low Income<br>Moderate Income<br>Large Families<br>Families with Children<br>Elderly<br>Chronic Homelessness<br>Individuals<br>Families with Children<br>Mentally Ill<br>Chronic Substance Abuse<br>Veterans<br>Persons with HIV/AIDS<br>Victims of Domestic Violence<br>Unaccompanied Youth<br>Elderly<br>Frail Elderly<br>Persons with Mental Disabilities<br>Persons with Physical Disabilities<br>Persons with Developmental Disabilities<br>Persons with Alcohol or Other Addictions<br>Persons with HIV/AIDS and their Families<br>Victims of Domestic Violence |
|                    | <b>Geographic Areas Affected</b>                                                                                                                                                                                                                                                                             | BERKELEY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                    | <b>Associated Goals</b>                                                                                                                                                                                                                                                                                      | Increase Affordable Housing Supply and Quality                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Description</b> | Approximately 90 percent of the HOME funds and 54 percent of CDBG funding will be utilized for the affordable housing development and rehabilitation. This includes affordable multi-family housing funded through the City's Housing Trust Fund and single family rehabilitation programs funded with CDBG. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

|   |                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---|------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | <b>Basis for Relative Priority</b> | <p>As mentioned in the Needs Assessment Section, 43.9 percent of Berkeley households are considered "low income" per HUD definitions and 23.3 percent of the City as a whole has a severe cost burden of 50 percent or more of their income for housing.</p> <p>There is a strong need for more affordable housing options in the City. It is expected that federal funding will be allocated to these activities during the period covered by the consolidated plan.</p> |
| 2 | <b>Priority Need Name</b>          | Homelessness                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|   | <b>Priority Level</b>              | High                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|   | <b>Population</b>                  | <p>Extremely Low Income</p> <p>Low Income</p> <p>Families with Children</p> <p>Elderly</p> <p>Chronic Homelessness</p> <p>Individuals</p> <p>Families with Children</p> <p>Mentally Ill</p> <p>Chronic Substance Abuse</p> <p>Veterans</p> <p>Persons with HIV/AIDS</p> <p>Victims of Domestic Violence</p> <p>Unaccompanied Youth</p>                                                                                                                                    |
|   | <b>Geographic Areas Affected</b>   | BERKELEY                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|   | <b>Associated Goals</b>            | Provide Homeless Prevention, Emergency Shelter, Outreach and Rapid Re-Housing services                                                                                                                                                                                                                                                                                                                                                                                    |
|   | <b>Description</b>                 | Approximately 90 percent of the ESG funds will be used for Rapid Re-Housing, Emergency Shelter, Outreach and Homeless Prevention activities. The remainder will be used to fund the Homeless Management Information System and for the administration of the program.                                                                                                                                                                                                     |
|   | <b>Basis for Relative Priority</b> | ESG funds are expected to be allocated to these activities during the period of the consolidated plan.                                                                                                                                                                                                                                                                                                                                                                    |
|   | <b>Priority Need Name</b>          | Non-Housing Community Development                                                                                                                                                                                                                                                                                                                                                                                                                                         |

|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Priority Level</b>              | High                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Population</b>                  | Extremely Low Income<br>Low Income<br>Large Families<br>Families with Children<br>Elderly<br>Chronic Homelessness<br>Individuals<br>Mentally Ill<br>Chronic Substance Abuse<br>Veterans<br>Elderly<br>Frail Elderly<br>Persons with Mental Disabilities<br>Persons with Physical Disabilities<br>Persons with Developmental Disabilities<br>Persons with Alcohol or Other Addictions<br>Persons with HIV/AIDS and their Families<br>Victims of Domestic Violence<br>Non-housing Community Development |
| <b>Geographic Areas Affected</b>   | BERKELEY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Associated Goals</b>            | Improve Public Facilities and Public Services                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Description</b>                 | CDBG funds will be used for public facility improvements and public services. Approximately 42 percent of CDBG funding available each year will be used for 1) renovations to facilities operated by non-profits for homeless and other low-income populations and 2) public services such as homeless and fair housing services for low-income populations.                                                                                                                                          |
| <b>Basis for Relative Priority</b> | Federal funds are expected to be allocated to these resources during the period of the consolidated plan.                                                                                                                                                                                                                                                                                                                                                                                             |

Table 57 – Priority Needs Summary

**Narrative (Optional)**

The Consolidated Plan Section NA-05 through NA-50 provides detail on the priority needs in Berkeley.

## SP-30 Influence of Market Conditions – 91.215 (b)

### Influence of Market Conditions

| Affordable Housing Type               | Market Characteristics that will influence the use of funds available for housing type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Tenant Based Rental Assistance (TBRA) | The City currently does not use HOME funds for TBRA but the City may consider it as an increasing number of Berkeley residents face a housing cost burden. As previously discussed, in total, a housing cost burden greater than 50 percent of income affects 10,005 households, with the majority of those comprised of rental households (8,075 rental and 1,930 homeowner).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| TBRA for Non-Homeless Special Needs   | The City does not currently use HOME funds for TBRA.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| New Unit Production                   | The characteristics of Berkeley’s market that would substantiate the need for funding new affordable unit production include the cost of land, pre-development costs, cost of construction, and economic conditions including income/employment levels. HOME funds can be used in the development of new unit production for projects offering affordable housing at various levels.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Rehabilitation                        | The City contains an old housing stock with more than 90 percent of all housing constructed before 1980. As the housing stock continues to age, the need for rehabilitation will increase. Other factors influencing the use of funds include economic conditions since it would affect whether property owners have the funds for repair. The expense of construction is also continuing to increase. Labor shortages continue, as documented annually by the National Association of Homebuilders, and recently increasing prices for imported materials make the Bay Area an expensive place to renovate. The region has many older homes and much demand for contractor services. According to the June of 2019 San Jose Mercury News report, “Planning to Renovate in the Bay Area? Be Prepared to Wait,” year long waiting lists for contractor services are not uncommon for those seeking renovations ( <a href="https://www.mercurynews.com/2019/06/19/planning-to-remodel-in-the-bay-area-be-prepared-to-wait/">https://www.mercurynews.com/2019/06/19/planning-to-remodel-in-the-bay-area-be-prepared-to-wait/</a> ). |
| Acquisition, including preservation   | As economic conditions change and housing cost burdens increase, HOME and CDBG funds continue to be a possible source of gap financing for acquisition and preservation projects. Increasingly, the City is unable to use federal funds for these projects because affordable housing developers cannot take the time required to complete a NEPA prior to site acquisition due to intense market competition for sites. Three of the four sites proposed in the 2019 Housing Trust Fund Request for Proposal had been acquired prior to City funding application or would be acquired prior to fund award. The local HUD office has advised that HOME funds cannot be used for any of these projects.                                                                                                                                                                                                                                                                                                                                                                                                                           |

**Table 58 – Influence of Market Conditions**

**Note:** There is no Consolidated Plan generated Table 55 Berkeley. Tables 56, 57 and 58 show up after Table 59.

**SP-35 Anticipated Resources - 91.215(a)(4), 91.220(c)(1,2)**

**Introduction**

**Anticipated Resources**

| Program | Source of Funds  | Uses of Funds                                                                                                                                                       | Expected Amount Available Year 1 |                    |                          |           | Expected Amount Available Remainder of ConPlan \$ | Narrative Description |
|---------|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|--------------------|--------------------------|-----------|---------------------------------------------------|-----------------------|
|         |                  |                                                                                                                                                                     | Annual Allocation: \$            | Program Income: \$ | Prior Year Resources: \$ | Total: \$ |                                                   |                       |
| CDBG    | public - federal | Acquisition<br>Admin and Planning<br>Economic Development<br>Housing<br>Public Improvements<br>Public Services                                                      | 2,738,258                        | 255,925            | 222,352                  | 3,216,536 | 16,082,678                                        | See below             |
| HOME    | public - federal | Acquisition<br>Homebuyer assistance<br>Homeowner rehab<br>Multifamily rental new construction<br>Multifamily rental rehab<br>New construction for ownership<br>TBRA | 778,383                          | 20,000             | 0                        | 798,383   | 3,991,915                                         | See below             |



| Program | Source of Funds  | Uses of Funds                                                                                                                                                                               | Expected Amount Available Year 1 |                    |                          |           | Expected Amount Available Remainder of ConPlan \$ | Narrative Description |
|---------|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|--------------------|--------------------------|-----------|---------------------------------------------------|-----------------------|
|         |                  |                                                                                                                                                                                             | Annual Allocation: \$            | Program Income: \$ | Prior Year Resources: \$ | Total: \$ |                                                   |                       |
| ESG     | public - federal | Conversion and rehab for transitional housing<br>Financial Assistance<br>Overnight shelter<br>Rapid re-housing (rental assistance)<br>Rental Assistance<br>Services<br>Transitional housing | 234,354                          | 0                  | 0                        | 234,354   | 1,171,770                                         | See below             |

Table 59 - Anticipated Resources

**Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied**

Many of the housing and community services programs described in the Consolidated Plan will continue to be delivered by nonprofit community based organizations. The City contracts with a wide range of housing and service providers using CDBG, HOME, ESG, Community Services Block Grant (CSBG), General Fund, and other sources of funding. These organizations leverage significant financial and in-kind support from individual community members, foundations, and private organizations that help meet the needs identified in this plan.

In addition to leveraging at the individual agency level, the City has historically matched the investment of CDBG, HOME, and ESG dollars with the investment of General Funds. In PY18 over three quarters of the funding for community agency programs came from General Funds. The City anticipates using all of its HOME funds for multifamily residential new construction and rehabilitation. These types of projects virtually always require multiple sources of federal, state and other funding, which project sponsors are able to leverage with a commitment of local funds, including HOME. The City will use local funds, such as those from the City’s Measure O housing bond and mitigation fee revenue in the Housing Trust Fund, to ensure continued compliance with the HOME match requirements.

The City meets the dollar for dollar match requirements for the ESG program by allocating General Funds to various homeless services providers. Shelter programs alone receive over \$348,489 in City General Funds each year.

**If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan**

The City has long-term leases of City-owned property with non-profit organizations that address the needs identified. Programs operating in leased City-owned properties include:

- Dorothy Day House –Year-round and Emergency Winter Shelters and Community Resource Center;
- BOSS’ Harrison House Shelter for Homeless men, women and families;
- BOSS’ Sankofa House – emergency shelter for homeless families;
- Women’s Daytime Drop-In Center’s Bridget House – transitional housing for homeless families; and
- Bay Area Community Services Pathways Stair Center.

The City also has long-term leases for affordable permanent housing at:

- Ocean View Gardens;
- UA Cooperative Housing; and
- William Byron Rumford Senior Plaza.

The City has committed more than \$27 million in local funding for the development of the City-owned Berkeley Way parking lot to address the needs identified in the plan. On September 9, 2014, after a Request for Qualifications process, the City Council approved the selection of a development team consisting of Bridge Housing, the Berkeley Food and Housing Project, and Leddy Maytum Stacy Architects (LMSA) as the preferred development team for the site. Since then the City has been working closely with the project team on a three-part project including homeless services and meal space, emergency shelter, permanent supportive housing, and affordable apartments. The project sponsors have secured all required funding and construction will begin in spring 2020.

The City is currently exploring the possible use of the City-owned Ashby BART station area are rights as well as the West Berkeley Services Center

as possible future housing sites.

**Discussion**

N/A

**SP-40 Institutional Delivery Structure – 91.215(k)**

Explain the institutional structure through which the jurisdiction will carry out its consolidated plan including private industry, non-profit organizations, and public institutions.

| <b>Responsible Entity</b>                    | <b>Responsible Entity Type</b>      | <b>Role</b>                                                                                         | <b>Geographic Area Served</b> |
|----------------------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------------|-------------------------------|
| Resources for Community Development          | Non-profit organization (HOME CHDO) | Affordable rental housing development and management                                                | Region                        |
| Berkeley Housing Authority                   | PHA                                 | Public Housing                                                                                      | Jurisdiction                  |
| Berkeley Food & Housing Project              | Non-profit organizations            | Homelessness                                                                                        | Region                        |
| Center for Independent Living                | Non-profit organizations            | Affordable Housing <ul style="list-style-type: none"> <li>• Ownership</li> <li>• Rental</li> </ul>  | Jurisdiction                  |
| Eden Council for Hope and Opportunity (ECHO) | Non-profit organizations            | Non-homeless special needs <ul style="list-style-type: none"> <li>• Public Services</li> </ul>      | Region                        |
| Habitat for Humanity                         | Non-profit organizations            | Affordable Housing <ul style="list-style-type: none"> <li>• Ownership</li> </ul>                    | Jurisdiction                  |
| Satellite Affordable Housing Associates      | Non-profit organization (HOME CHDO) | Affordable rental housing development and management                                                | Region                        |
| City of Berkeley                             | Government                          | Non-homeless special needs <ul style="list-style-type: none"> <li>• Economic Development</li> </ul> | Jurisdiction                  |

**Table 60 - Institutional Delivery Structure**

### Assess of Strengths and Gaps in the Institutional Delivery System

Due to past and ongoing efforts, the City of Berkeley has strong working relationships with other jurisdictions and public agencies in the delivery system. Examples of coordination and collaboration include:

- Membership in the EveryOne Home Leadership board by City of Berkeley staff, Berkeley community agencies, and public agencies across the county;
- Countywide coordinated planning and implementation of the Coordinated Entry System;
- Monthly coordination meeting between Housing and Community Services Department and Planning Department staff; and
- Joint development of outcomes to use in homeless program contracts by the Cities of Berkeley and Oakland, and several Alameda County agencies, starting in 2019.

Although there are needs for additional services and housing, no specific gaps in the delivery system have been identified. Many of the housing and community services programs described in the Consolidated Plan are delivered by nonprofit community based organizations. The City contracts with a wide range of housing and service providers using CDBG, HOME, ESG, CSBG, General Fund, and other sources of funding. These organizations leverage significant financial and in-kind support from individual community members, foundations, and private organizations that help meet the needs identified in this plan.

Availability of services targeted to homeless persons and persons with HIV and mainstream services

| Homelessness Prevention Services        | Available in the Community | Targeted to Homeless | Targeted to People with HIV |
|-----------------------------------------|----------------------------|----------------------|-----------------------------|
| <b>Homelessness Prevention Services</b> |                            |                      |                             |
| Counseling/Advocacy                     | X                          | X                    |                             |
| Legal Assistance                        | X                          |                      |                             |
| Mortgage Assistance                     | X                          |                      |                             |
| Rental Assistance                       | X                          | X                    |                             |
| Utilities Assistance                    | X                          |                      |                             |
| <b>Street Outreach Services</b>         |                            |                      |                             |
| Law Enforcement                         | X                          | X                    |                             |
| Mobile Clinics                          | X                          | X                    |                             |
| Other Street Outreach Services          | X                          | X                    |                             |
| <b>Supportive Services</b>              |                            |                      |                             |
| Alcohol & Drug Abuse                    | X                          | X                    |                             |
| Child Care                              | X                          |                      |                             |
| Education                               | X                          |                      |                             |
| Employment and Employment Training      | X                          | X                    |                             |
| Healthcare                              | X                          |                      |                             |
| HIV/AIDS                                | X                          |                      |                             |
| Life Skills                             | X                          | X                    |                             |
| Mental Health Counseling                | X                          | X                    |                             |
| Transportation                          | X                          | X                    |                             |
| <b>Other</b>                            |                            |                      |                             |
|                                         |                            |                      |                             |

Table 61 - Homeless Prevention Services Summary

**Describe how the service delivery system including, but not limited to, the services listed above meet the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth)**

Alameda County’s Continuum of Care (CoC) is comprised of three Consolidated Plan jurisdictions: the Cities of Berkeley and Oakland, and the Alameda County HOME Consortium. The CoC held community-wide meetings and several focus groups to determine how best to prioritize the use of Emergency Shelter Grant (ESG) funds. All three jurisdictions’ Consolidated Plans include the goals of the EveryOne Home Plan (the CoC Strategic Plan). The goals are:

- Prevent homelessness and other housing crises;
- Increase permanent housing opportunities for homeless and high risk households;
- Provide wrap-around services to ensure housing stability and quality of life—no wrong door to help;
- Measure success and report outcomes; and

Develop long-term leadership and political will, which includes inter jurisdictional cooperation and participation in the CoC.

**Describe the strengths and gaps of the service delivery system for special needs population and persons experiencing homelessness, including, but not limited to, the services listed above**

The North County Coordinated Entry System Housing Resource Center (HRC) is located in Berkeley and serves people who are literally homeless in Berkeley, Albany and Emeryville. The HRC, operated by Bay Area Community Services (BACS), conducts assessments using the standardized assessment tool and matches homeless eligible people to available services and resources including shelters and transitional housing, , as well as a range of services listed in Table 57 to support people both before and after they are housed. City staff and BACS facilitate bimonthly case conferences with homeless service agency partners to discuss individual cases and coordinate care based on needs and available resources.

The City invests approximately \$3.5 million annually in homeless services through community agency contracts funded by City General Fund and federal funds. Starting in PY19, the City will allocate additional local funds collected pursuant to Measure P, a tax passed by voters in November 2018 funds. Funding for coordinated entry accounts for 37 percent of the City’s investment in homeless services while 29 percent goes to support drop in centers and emergency shelters. Supportive housing and case management account for 17 percent, transitional housing eight percent and rapid rehousing, rep payee and other services account for seven percent of the City’s homeless funding. City dollars are

overwhelmingly invested in emergency services that focus on addressing basic needs. With the implementation of the CES, HRCs prioritize serving people with the highest needs with the goal of placing people in permanent housing as quickly as possible but many more resources, particularly, permanent housing subsidies, are needed.

The North County HRC has assessed more than 1,200 people in the past two years, of which 53 percent are presumed to be chronically homeless based on self-report. The City of Berkeley administers approximately 260 Shelter Plus Care vouchers. However, only 25-30 vouchers turn over annually, meaning the vast majority of chronically homeless people will not have access to PSH vouchers when they need them. The City recently received approval to expand one of its Shelter Plus Care project to add 53 more vouchers for a total of 313. This expansion will allow for more permanent housing placements in PY19. However, in many cases the cost of rent exceeds HUD's rent ceilings making it challenging for people with vouchers to find eligible housing units

**Provide a summary of the strategy for overcoming gaps in the institutional structure and service delivery system for carrying out a strategy to address priority needs**

In November of 2018, Berkeley voters passed Measure P, which raises transfer taxes on high-value real estate transactions by an estimated \$6-8M annually. As of June 30, 2019, approximately \$3.4 million in proceeds had been realized from this tax. Berkeley City Council has allocated funds to expanding shelter, adding employment and health care services for homeless people, funding an RV parking program, and additional permanent subsidies for homeless families. Berkeley voters also passed a bond measure in November 2018 to raise \$135 million for affordable housing.



SP-45 Goals Summary – 91.215(a)(4)

Goals Summary Information

| Sort Order | Goal Name                                      | Start Year | End Year | Category                          | Geographic Area | Needs Addressed                   | Funding                                    | Goal Outcome Indicator                                                                                                                                                                                                      |
|------------|------------------------------------------------|------------|----------|-----------------------------------|-----------------|-----------------------------------|--------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1          | Increase Affordable Housing Supply and Quality | 2020       | 2024     | Affordable Housing                | BERKELEY        | Affordable Housing                | CDBG: \$7,380,285<br><br>HOME: \$3,352,149 | Rental units constructed:17 Household Housing Unit<br><br>Rental units rehabilitated: 80 Household Housing Unit<br><br>Homeowner Housing Rehabilitated: 165 Household Housing Unit                                          |
| 2          | Improve Public Facilities and Public Services  | 2020       | 2024     | Non-Housing Community Development | BERKELEY        | Non-Housing Community Development | CDBG: \$5,714,135                          | Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 2,000 Persons Assisted<br><br>Public service activities other than Low/Moderate Income Housing Benefit: 5,525 Persons Assisted |

| Sort Order | Goal Name                                                                     | Start Year | End Year | Category | Geographic Area | Needs Addressed | Funding             | Goal Outcome Indicator                                                                                                                                                                                         |
|------------|-------------------------------------------------------------------------------|------------|----------|----------|-----------------|-----------------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3          | Provide Homeless Prevention, Emergency Shelter, Outreach and Rapid Re-Housing | 2020       | 2024     | Homeless | BERKELEY        | Homelessness    | ESG:<br>\$1,171,770 | Tenant-based rental assistance / Rapid Rehousing: 50 Households Assisted<br><br>Emergency Shelter: TBD Households Assisted<br><br>Outreach: 500 Households Assisted<br><br>Prevention: TBD Households Assisted |

Table 62 – Goals Summary

**Goal Descriptions**

|   |                         |                                                                                                                                    |
|---|-------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| 1 | <b>Goal Name</b>        | Increase Affordable Housing Supply and Quality                                                                                     |
|   | <b>Goal Description</b> | CDBG and HOME funds will be used for affordable housing acquisition and rehabilitation, and single family rehabilitation programs. |
| 2 | <b>Goal Name</b>        | Improve Public Facilities and Public Services                                                                                      |
|   | <b>Goal Description</b> | CDBG funds will be used to rehabilitate public facilities and homeless and fair housing public services.                           |
| 3 | <b>Goal Name</b>        | Provide Homeless Prevention, Emergency Shelter, Outreach and Rapid Re-Housing services                                             |
|   | <b>Goal Description</b> | ESG funds will be used to provide outreach, services emergency shelter and/or rapid re-Housing to literally homeless households.   |

**Estimate the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined by HOME 91.315(b)(2)**

The number of new affordable housing units created during the Consolidated Plan period will depend on the amount of HOME and CDBG funds available to the City, the availability of other sources of affordable housing development funding, and the cost of rehabilitating and constructing affordable housing in Berkeley. Generally, the City has experienced declining allocations of federal funding combined with rising costs of housing development and operation. Assuming an average of \$500,000 in HOME funds per year, a 5 year Consolidated Plan period, and the maximum allowable HOME subsidy per unit of \$185,136 per two bedroom unit, the City will provide funding for at least 4 extremely low income units and 10 low income units in the Consolidated Plan period. This does not include the hundreds of previously created HOME and CDBG units which the City continues to monitor for compliance.

**SP-50 Public Housing Accessibility and Involvement – 91.215(c)**

**Need to Increase the Number of Accessible Units (if Required by a Section 504 Voluntary Compliance Agreement)**

N/A

**Activities to Increase Resident Involvements**

N/A

**Is the public housing agency designated as troubled under 24 CFR part 902?**

No

**Plan to remove the ‘troubled’ designation**

N/A

## SP-55 Barriers to affordable housing – 91.215(h)

### Barriers to Affordable Housing

The City adopted its *Housing Element* (HE) for the 5<sup>th</sup> RHNA cycle on April 28, 2015. The HE serves as the City's framework for housing goals and policies, detailing programs needed for meeting existing and future housing needs and for increasing affordable housing opportunities. The 5<sup>th</sup> Cycle HE addresses the planning period of January 31, 2015 to January 31, 2023 and the 6<sup>th</sup> cycle will address the next eight years. The 2015 HE contains an evaluation of potential constraints to housing production. The following narrative is adapted from the report.

*To identify potential constraints to housing production, City staff analyzed the specific constraint categories as described in state law and discussed the City's regulations with local developers. Planning and zoning regulations establish rules for how land may be used, thereby limiting the amount of development in a city. Although local ordinances and policies are typically adopted to protect the health, safety, and welfare of residents, they may have the consequence of creating constraints to the development of housing. This consequence may be intentional (as is the case with growth control ordinances) or unintentional (such as with certain zoning requirements).*

Additionally, a 2018 study by Bay Area Council's Economic Institute entitled, "Policy Choices and the Affordability Crisis in Alameda County," notes that Alameda County added 125,000 jobs since 2012, but only permitted 27,505 housing units over the same period (<http://www.bayareaconomy.org/files/pdf/AlamedaHousing.pdf>). This competitive market for housing encourages pricing to climb for both for sale homes and rental properties across all market segments. That same study identified Berkeley's progressive ADU policies as a model for cities to expand affordability and build additional units on existing parcels. As previously stated in MA-40, Berkeley is working to address constraints that have been identified and improve existing successful initiatives, like the ADU program. Expanding the Housing Trust Fund through ballot approved bond and fee structures additionally addresses the issue of high costs facing affordable housing development.

As described in MA-40 and NA-10 the major constraints facing Berkeley are housing costs and an ongoing need for policy changes, which are being addressed by existing City programs and/or by State directives. The development record and densities of approved projects are the best evidence that there are not significant constraints to housing production imposed by the city of Berkeley. However, housing policies must continually be revisited to minimize potential constraints. Some areas of potential change identified in 2015 included: identification and consideration of options to revise the zoning regulations in lower and medium-density areas for infill developments, consideration of revisions to the accessory dwelling unit regulations, and continued improvement to the development review process.

## Strategy to Remove or Ameliorate the Barriers to Affordable Housing

As stated in MA-40, the following are considered potential constraints in Berkeley: accessory dwelling unit (ADU) requirements, infill development regulations and permit review process. Outlined below are strides the City has made, either through local initiative or by State direction, to lessen these constraints:

**ADUs:** The city of Berkeley has revised its ADU ordinance three times since 2015 and is about to undergo another round of changes. The current ordinance was less restrictive than State regulations in terms of allowable size (e.g. there was no limiting relationship between the size of the primary and the accessory dwelling unit), parking (ADUs were not required to provide off-street parking) and setbacks (the state required 5 feet, Berkeley only required 4 feet). After new State ADU law comes into effect on January 1, 2020, existing constraints will be removed, as outlined in Berkeley's 2015 Housing Element.

**Infill Development:** Additionally, while the zoning ordinance includes five multi-family zoning districts and the City has seen a number multi-family development projects, Housing Policy H-34 of the 2015 Housing Element encourages the review of infill development regulations in residential districts to identify and change possible constraints. Since adoption of the 2015 Housing Element, the City of Berkeley has increased density in the Telegraph Avenue Commercial District and is currently engaged in active planning processes for the Adeline Corridor and Southside Priority Development Areas. Furthermore, Assembly Bill 2923, signed by the Governor in 2019, requires the City of Berkeley to adopt Transit Oriented Development at Ashby and North Berkeley BART stations within the next two years. These projects help to lessen the constraints on infill development.

**Permitting Process:** The permit process in Berkeley may be considered a constraint to housing production, although based on the amount of affordable and market-rate development that has been approved and the density of those projects, it does not appear to have deterred new development and the City met most of the previous California Regional Housing Needs Assessment (RHNA) targets. However, Policy H-34 of the 2015 Housing Element calls for the City to continue to improve and streamline the development review process and to evaluate regulations to identify and reduce unnecessary impediments to housing development and affordable housing projects. Since the 2015 Housing Element was adopted, the City has begun a process to develop objective standards for zoning, which will help streamline the permitting process. In addition, State housing law packages adopted in 2017, 2018 and 2019 have created new pathways for streamlining projects with a majority of affordable units (e.g. SB-35). In addition to State Law, the City is examining its regulations, with the intent of simplifying and clarifying regulations, through its Zoning Ordinance Revision Project. Although this won't streamline the permitting process, it will provide the public with a document that is easy to read and easy to understand.

## **SP-60 Homelessness Strategy – 91.215(d)**

### **Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs**

The North County HRC is focused on single adults who are literally homeless in Berkeley, Emeryville and Albany. The staff at the North County HRC work in close partnership with Berkeley homeless service partners who provide a range of services including shelter, transitional housing, SSI advocacy, primary care, mental health and alcohol and other drug services, and drop-in services.

HRC staff conduct assessments through 211 referrals, during HRC drop-in hours, and at regularly scheduled service partner locations. Additionally, assessments are conducted on the streets, in parks and at encampments throughout Berkeley with the goal of identifying individual needs and matching them to appropriate and available resources including physical and mental health services, housing navigation services, shelter, transitional housing programs, addiction services and SSI advocacy. Services providers are focused on removing barriers and quickly moving people into permanent housing. Housing navigators support participants in a variety of ways from housing problem solving to, assisting with identification documents to housing search activities. The HRC outreach team partners with the City's Homeless Outreach and Treatment Team (HOTT) and University of California Berkeley's Outreach staff.

### **Addressing the emergency and transitional housing needs of homeless persons**

The HRC assesses people to determine needs and appropriate and available resources. Initial conversations are geared towards housing problem solving with the goal of reconnecting people with housed friends or family. In some cases, these conversations are supported with one-time limited financial assistance. The HRC is the access point into emergency shelter, transitional housing, rapid rehousing financial assistance, and will provide housing search assistance and other housing supports. On a daily basis, HRC staff identify the number of shelter and transitional housing beds available and reach out to people who have been assessed and have expressed interest in shelter to fill the beds. Additionally, depending on the need and availability of shelter beds, the HRC will support medically fragile people who are working with housing navigators or partnering agency case managers with short-term motel stays when a more permanent housing placement is imminent. HRC will also make referrals through this front door to other existing services in the community, such as medical services, alcohol and other drug treatment programs, and SSI advocacy.

### **Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals**

**and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again.**

The intake and assessment process assists HRC staff in understanding an individual's level of need and the level of assistance needed.

The goal of this process is to ensure people are matched as quickly as possible to the appropriate amount of assistance needed to end their homelessness (typically rapid re-housing) and reserve the most costly interventions (permanent supportive and transitional housing) for those with the highest needs and greatest barriers.

Additionally, staff has access to small amounts of one-time flexible funds to support people's successful transition to these opportunities. Staff utilizes rapid rehousing funds to quickly move people into housing. This typically includes paying the security deposit and approximately six months of rental assistance; the monthly subsidy decreases over the six month period. Due to the exorbitant rental prices rents in the bay area, HRC staff have incorporated larger units in their portfolio. This has allowed people with limited income and a willingness to share housing more opportunities to be permanently housed.

**Help low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families who are likely to become homeless after being discharged from a publicly funded institution or system of care, or who are receiving assistance from public and private agencies that address housing, health, social services, employment, education or youth needs**

Low income households in Berkeley at risk of homelessness and being discharged from institutions will benefit from the groundwork laid by the Alameda County-wide Homeless Continuum of Care (CoC). The CoC's discharge planning efforts are summarized below.

Health Care: Persons are not routinely discharged from health care facilities into homelessness, and the CoC worked with a variety of health care institutions to reduce discharges into literal homelessness. California recently enacted Senate Bill (SB) 1152 that outlines requirements of hospitals and emergency departments related to the care and discharge of homeless patients. The Alameda County Health Care Services Agency (HCSA), a member of the HUD CoC, convened several work group sessions on the new legislation in partnership with the Northern California Hospital Council and its members. The sessions focused on improving collaboration and coordination among the CoC and community-based agencies including training and information sharing on coordinated entry processes. The County and hospitals have established several medical respite/recuperative care programs for homeless patients exiting emergency departments and hospitals with a large project in the planning phases on formal federal land. The County also established a locally funded housing subsidy pool to provide permanent housing subsidies for high priority homeless patients in Skilled Nursing Facilities and hospitals. Finally, Alameda County actively participates in a Medicaid waiver program



focused on expanding resources and collaboration among health and housing providers to address homelessness.

Mental Health: The CoC works with Housing Services Office of Behavioral Health Care Services (BHCS) to improve discharge planning from mental health facilities. To that end, the Housing Services Office, with coordination by the CoC created a homelessness prevention/rapid re-housing fund, modeled after and delivered in partnership with the Homeless Prevention and Rapid Re-Housing Program. The fund has been used to help hospitalized persons continue to pay rent so units are not lost, or to obtain units upon exit from the facility. The CoC worked with permanent supportive housing providers to develop protocols allowing tenants hospitalized for more than 30 days to retain their units. The CoC and the Housing Services Office trained staff on how to assess patients' housing needs and assist in resolving them as part of discharge planning, utilizing the Office's centralized housing resource database and webpage. BHCS also contracts for dedicated emergency hotel beds for use while ACT teams work on locating permanent housing. BHCS also pays subsidies for licensed residential care facilities to which people routinely exit and expanded this program over the past year. BHCS is also working on a new crisis and transitional residential program for homeless individuals with a serious mental illness.

## SP-65 Lead based paint Hazards – 91.215(i)

### Actions to address LBP hazards and increase access to housing without LBP hazards

While lead-based paint was banned in 1978 by the U.S. Consumer Product Safety Commission (CPSC), it is still a significant problem in cities where the housing stock is relatively old and built before the ban. In Berkeley, over 90 percent of the housing stock was built before 1979.

The City of Berkeley Childhood Lead Poisoning Prevention Program collaborates with the Berkeley Health, Housing & Community Services Department's State lead-certified Risk Assessor/Inspector, Project Designer, and Project Monitor. Berkeley's program also provides case management services to families with children who have elevated blood lead levels. Services range from Public Health Nursing case management for children with blood lead levels above 15  $\mu\text{g}/\text{dL}$  to health education for children with levels between 5-14  $\mu\text{g}/\text{dL}$ .

The Alameda County Healthy Homes Department (ACHHD) also has a HUD Lead Hazard Control grant to remediate lead hazards in qualifying Berkeley housing units that are vacant, or occupied by a low income household with either a child under 6, a pregnant woman, or a child under 6 years who visits twice a week for at least three hours each time. Since July 1, 2015, ACHHD has completed lead evaluations at 52 pre-1978 low-income housing units and has made 49 housing units lead-safe at 21 properties. The ACHHD was recently awarded a new 42-month lead hazard control grant which is expected to begin January 1<sup>st</sup>, 2020. The ACHHD will market to and expects to enroll eligible Berkeley properties into the program which will complete 144 units County-wide over the grant period.

ACHHD provides lead safety and healthy housing training. Since July 1, 2015, the ACHHD has provided lead safety training to 23 individuals with the City of Berkeley, associated with Berkeley-based non-profits, or with residential properties or housing-related businesses in Berkeley including Community Energy Services Corp, Berkeley Mission Homes, and the Northern California Land Trust. In addition, broader healthy housing training, which included lead safety, was provided to 6 City of Berkeley staff. The ACHHD plans to continue to make lead safety training opportunities available for City of Berkeley staff, organizations, and property owners.

The ACHHD's outreach and education activities promote lead safety, regulatory compliance, and participation in ACHHD lead hazard control grant programs to property owners, property managers. The ACHHD coordinates lead poisoning prevention outreach activities with the City of Berkeley Public Health. Outreach partners and locations for property owner presentations, staff trainings, and literature distribution have included the Berkeley Rent Stabilization Board and Permit Office, the Berkeley Housing Authority, Tool Lending Library, North Berkeley Senior Center, YMCA, Berkeley Apartment Owners Association, the East Bay Rental Housing Association which is in Oakland but serves Berkeley property owners, the Ecology Center, and local paint and hardware stores. The ACHHD participates in local collaborations and with partners including the Berkeley Tobacco Prevention Coalition, Bay Area Lead Programs, Berkeley Black Infant Health, Kerry's Kids, Rebuilding Together East Bay North, Habitot, and the Safe Kids Coalition.

**How are the actions listed above related to the extent of lead poisoning and hazards?**

The City's old housing stock increases the risk of lead-based paint hazard. Approximately 87 percent of renter-occupied units are built before 1980. For owner-occupied units, the figure is 94 percent. There have been years of education and assistance to the public but the City does not know the extent of lead poisoning and hazards. The City will continue to take action as necessary to reduce lead-based paint hazards as required by HUD regulations.

**How are the actions listed above integrated into housing policies and procedures?**

All participants of the City's Housing Choice Voucher Program and prospective tenants of a pre-1978 residential building are required to receive a copy of the EPA booklet entitled "Protect Your Family From Lead in Your Home." Landlords must also provide a disclosure form for the tenants to sign that informs them either of any known lead-based paint the property or that no testing has been done. The Alameda County Lead Poisoning Prevention Program also provides information to property owners, realtors, and contractors. The actions above will also assist the City in meeting its policy of encouraging housing types that are environmentally and chemically safe, a policy of the City of Berkeley Housing Element.

## SP-70 Anti-Poverty Strategy – 91.215(j)

### Jurisdiction Goals, Programs and Policies for reducing the number of Poverty-Level Families

The City funds a wide variety of social service programs designed to assist households with poverty level incomes. These programs include childcare and a range of services for special needs populations, which are outlined in other sections of this Consolidated Plan. This section will highlight the City's strategies to increase livable wage employment opportunities by supporting related community services and working with public and private regional partners. Strategies include:

- Funding and refinement of anti-poverty programs provided by community-based organizations and by the City. Federally funded community agency contracts are outlined in the Annual Action Plan.
- Continue implementation of the City of Berkeley's Living Wage Ordinance.
- Foster regional coordination on economic development to benefit low income Berkeley residents.
- Linking homelessness and homelessness prevention programs, such as the coordinated entry system, to employment training and placement opportunities.

The City has contracted with workforce development programs to provide training, education and job placement for low income, under-employed, and unemployed residents in addition to administering local hire policies and a youth employment program:

- Inter-City Services provides employment, training, and education and continues to serve veterans as funded under the Governor's 15 percent Discretionary pool of Workforce Investment Act (WIOA) funds.
- Biotech Partners operates the Biotech Academy at Berkeley High School, targeting youth from under-represented populations in the fields of science and technology (African American, Latino, South East Asian, female and low income youth) and who may be at risk of not graduating from high school.
- The Bread Project provides training in culinary arts and bakery production, and includes the formerly incarcerated as their target population. They operate a social enterprise (wholesale bakery) that creates opportunities for trainees to obtain crucial on-the-job experience.
- Rising Sun Center for Opportunity (formerly known as Rising Sun Energy Center) Green Energy Training Services (GETS) provides pre-apprenticeship classroom and hands-on training in the Building and Construction trades which serves as a pathway for careers in construction including green and clean technologies. Rising Sun also operates the California Youth Energy Services (CYES) program funded by the CA Public Utilities Commission, providing summer jobs for youth conducting residential energy audits.
- Berkeley Youth Alternatives (BYA) receives WIOA funding through Alameda County Workforce Development Board (ACWDB) to provide workforce development services to in-school and out-of-school youth. The area of workforce development is a focus area for increased coordination,

including establishing methods to maximize and leverage resources. BYA, utilizing city funds, provides training to disadvantaged youth in all aspects of park and landscape maintenance in addition to summer and after-school programs for children and youth.

- UC Theatre Concert Careers Pathways (UCCCP) is a nine-month program for young people ages 17-25, providing workshops and paid internships for participants to learn all aspects of live music venue production.

The City's anti-poverty strategy continues to be closely tied to the funding of approximately 50 community agencies to provide services as described above to enable people in poverty to attain self-sufficiency, support at-risk youth to succeed in school and graduate, and protect the health and safety of low income people. The City also funds anti-poverty programs with general funds for job training and creation/job placement agencies.

### **How are the Jurisdiction poverty reducing goals, programs, and policies coordinated with this affordable housing plan**

The City will undertake the following additional actions to reduce poverty which are coordinated with this Consolidated Plan:

- Continuing the City's Local Hire policies which include the Community Workforce Agreement (CWA) between the City of Berkeley and the Building trades (created in 2011) which applies to publicly funded construction projects estimated at \$500,000 or above, and, the First Source local hiring policy which applies to both public infrastructure projects estimated between \$100,000 - \$499,999 and private development over 7,500 square feet. These policies work towards creating a pathway into building and construction trades jobs for Berkeley residents.
- The YouthWorks employment program will continue its partnerships with the YMCA Teen Center, Public Health Division, Berkeley Public Library, Public Works Department and Parks, Recreation and Waterfront Department. YouthWorks targets low income, at-risk youth from and provides all youth with training regarding important workplace skills. City of Berkeley departments and organizations serve as worksites providing valuable work experience to Berkeley youth. YouthWorks provides positive and meaningful youth-focused activities, which address youth unemployment, crime and poverty, teach fundamental life and workplace skills and help them to explore, prepare for, transition, and ultimately succeed in the world of work. YouthWorks will continue to develop and coordinate new opportunities for Berkeley youth in the public service jobs.

## SP-80 Monitoring – 91.230

**Describe the standards and procedures that the jurisdiction will use to monitor activities carried out in furtherance of the plan and will use to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements**

Monitoring Completed Developments: The Housing Services Division of the Health, Housing and Community Services Department (HHCS) is responsible for monitoring affordable housing developments funded with Housing Trust Fund (HTF) money to ensure ongoing compliance with federal regulations under the HOME and CDBG programs and other local requirements. The HTF Program pools funds from various sources to achieve the City's General Plan and Consolidated Plan goals of developing and preserving long-term affordable housing. To achieve this purpose, the City provides loan and grants to qualified developers to undertake activities which create, preserve and expand the City's affordable housing stock. The federal and local requirements are incorporated in the development loan agreements and regulatory agreements associated with each project. Currently, there are a total of 54 HTF properties subject to a regulatory agreement. Of the 54 HTF properties, 46 are rental properties of which 17 have HOME-assisted units. The monitoring procedures are documented in the *City of Berkeley Monitoring Procedures for the HTF Program*.

Monitoring During Construction: Consistent with federal requirements and good lending practices, the City is very involved in monitoring funded developments during construction. Individual projects may require a varying degree of City staff involvement depending upon the project size, complexity of the construction activity, type of sponsor, and subrecipient's development expertise/process.

Community Agency Services Contract Monitoring: HHCS staff both prepare and monitor more than 50 community agency contracts for services annually. The City requires outcome reporting for all community agency contracts, and has drawn on outcome reporting information in the RFP process since November 2003.

Community Facilities Improvements Monitoring: The CDBG Coordinator reviews the contract between the non-profit and the general contractor to ensure that all local and federal requirements are passed on. The CDBG Coordinator is responsible for submitting the Semi-Annual Labor Enforcement Report (HUD 4710) and the Annual Contractor and Subcontractor Activity Report (HUD 2516). These reports include both information from the community facility improvement projects and information from any other construction activity undertaken by the HHCS.

Senior and Disabled Home Rehabilitation Loans Monitoring: The City's contracts include insurance and permitting requirements, payment instructions, the construction drawings and the scope of work detailing the work to be executed. The payment schedules and change orders document the procedure employed to implement payments, changes to the scope of work and time schedules. All pre 1978

properties must employ lead-safe work practice and are tested when the work is completed to ensure there has not been contamination during the construction process.

The program administrative staff processes the progress payments for work completed. The progress payments are based on 95 percent of the cost associated in the line item breakdown for the work completed. The progress payment includes the pay request, payment tabulation, lien waivers and approved permit signatures. All payments require the owner(s), Contractor, and the City's Project Manager/Inspector to approve the payment. The final five percent retainage payment is held for 31 days after the Notice of Completion has been recorded and any documentation that may be required to close out the contract. In order to refine the program, improve services, and ensure the program is meeting current needs, staff incorporate both participant feedback and improvements identified through routine program review into program procedures and Council approved guidelines.

### Expected Resources

#### AP-15 Expected Resources – 91.220(c)(1,2)

##### Introduction

##### Anticipated Resources

| Program | Source of Funds  | Uses of Funds                                                                                                                                                       | Expected Amount Available Year 1 |                    |                          |           | Expected Amount Available Remainder of ConPlan \$ | Narrative Description |
|---------|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|--------------------|--------------------------|-----------|---------------------------------------------------|-----------------------|
|         |                  |                                                                                                                                                                     | Annual Allocation: \$            | Program Income: \$ | Prior Year Resources: \$ | Total: \$ |                                                   |                       |
| CDBG    | public - federal | Acquisition<br>Admin and Planning<br>Economic Development<br>Housing<br>Public Improvements<br>Public Services                                                      | 2,738,258                        | 255,925            | 222,352                  | 3,216,536 | 16,082,678                                        | See below             |
| HOME    | public - federal | Acquisition<br>Homebuyer assistance<br>Homeowner rehab<br>Multifamily rental new construction<br>Multifamily rental rehab<br>New construction for ownership<br>TBRA | 778,383                          | 20,000             | 0                        | 798,383   | 3,991,915                                         | See below             |



| Program | Source of Funds  | Uses of Funds                                                                                                                                                                               | Expected Amount Available Year 1 |                    |                          |           | Expected Amount Available Remainder of ConPlan \$ | Narrative Description |
|---------|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|--------------------|--------------------------|-----------|---------------------------------------------------|-----------------------|
|         |                  |                                                                                                                                                                                             | Annual Allocation: \$            | Program Income: \$ | Prior Year Resources: \$ | Total: \$ |                                                   |                       |
| ESG     | public - federal | Conversion and rehab for transitional housing<br>Financial Assistance<br>Overnight shelter<br>Rapid re-housing (rental assistance)<br>Rental Assistance<br>Services<br>Transitional housing | 234,480                          | 0                  | 0                        | 234,480   | 1,171,770                                         | See below             |

AP Table 63 - Expected Resources – Priority Table

**Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied**

Many of the housing and community services programs described in the Consolidated Plan will continue to be delivered by nonprofit community based organizations. The City contracts with a wide range of housing and service providers using CDBG, HOME, ESG, Community Services Block Grant (CSBG), General Fund, and other sources of funding. These organizations leverage significant financial and in-kind support from individual community members, foundations, and private organizations that help meet the needs identified in this plan.

In addition to leveraging at the individual agency level, the City has historically matched the investment of CDBG, HOME, and ESG dollars with the investment of General Funds. In PY18 over three quarters of the funding for community agency programs came from General Funds. The City meets the HOME 25 percent match requirement. The City meets the dollar for dollar match requirements for the ESG program by allocating General Funds to various homeless services providers. Shelter programs alone receive over \$348,489 in City General Funds each year.

**If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan**

The City has long-term leases of City-owned property with non-profit organizations that address the needs identified. Programs operating in leased City-owned properties include:

- Dorothy Day House –Year-round and Emergency Winter Shelters and Community Resource Center
- BOSS’ Harrison House Shelter for Homeless men, women and families;
- BOSS’ Sankofa House – emergency shelter for homeless families;
- Women’s Daytime Drop-In Center’s Bridget House – transitional housing for homeless families; and
- Bay Area Community Services Pathways Stair Center.

The City also has long-term leases for affordable permanent housing at:

- Ocean View Gardens;
- UA Cooperative Housing; and
- William Byron Rumford Senior Plaza.

The City has committed more than \$27 million in local funding for the development of the City-owned Berkeley Way parking lot to address the needs identified in the plan. On September 9, 2014, after a Request for Qualifications process, the City Council approved the selection of a development team consisting of Bridge Housing, the Berkeley Food and Housing Project, and Leddy Maytum Stacy Architects (LMSA) as the preferred development team for the site. Since then the City has been working closely with the project team on a three-part project including homeless services and meal space, emergency shelter, permanent supportive housing, and affordable apartments. The project sponsors have secured all required funding and construction will begin in spring 2020.

The City is currently exploring the possible use of the City-owned Ashby BART station area as well as the West Berkeley Services Center as possible future housing sites.

**Discussion**

N/A

## Annual Goals and Objectives

### AP-20 Annual Goals and Objectives

#### Goals Summary Information

| Sort Order | Goal Name                                     | Start Year | End Year | Category                          | Geographic Area | Needs Addressed                   | Funding                                  | Goal Outcome Indicator                                                                                                                                                                                                    |
|------------|-----------------------------------------------|------------|----------|-----------------------------------|-----------------|-----------------------------------|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1          | Improve affordable Housing Supply and Quality | 2020       | 2024     | Affordable Housing                | BERKELEY        | Affordable Housing                | CDBG: \$1,476,057<br><br>HOME: \$690,430 | Rental units constructed: 3 to 4 Household Housing Unit<br><br>Rental units rehabilitated: 16 Household Housing Unit<br><br>Homeowner Housing Rehabilitated: 33 Household Housing Unit                                    |
| 2          | Improve Public Facilities and Public Services | 2020       | 2024     | Non-Housing Community Development | BERKELEY        | Non-Housing Community Development | CDBG: \$1,142,827                        | Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 400 Persons Assisted<br><br>Public service activities other than Low/Moderate Income Housing Benefit: 1,105 Persons Assisted |

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| Sort Order | Goal Name                                                                     | Start Year | End Year | Category | Geographic Area | Needs Addressed | Funding        | Goal Outcome Indicator                                                                                                                                                                                         |
|------------|-------------------------------------------------------------------------------|------------|----------|----------|-----------------|-----------------|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3          | Provide Homeless Prevention, Emergency Shelter, Outreach and Rapid Re-Housing | 2020       | 2024     | Homeless | BERKELEY        | Homelessness    | ESG: \$234,354 | Tenant-based rental assistance / Rapid Rehousing: 10 Households Assisted<br><br>Emergency Shelter: TBD Households Assisted<br><br>Outreach: 100 Households Assisted<br><br>Prevention: TBD Households Assisted |

Table 64 – Goals Summary

**Goal Descriptions**

|   |                         |                                                                                                                                    |
|---|-------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| 1 | <b>Goal Name</b>        | Increase Affordable Housing Supply and Quality                                                                                     |
|   | <b>Goal Description</b> | CDBG and HOME funds will be used for affordable housing acquisition and rehabilitation, and single family rehabilitation programs. |
| 2 | <b>Goal Name</b>        | Improve Public Facilities and Public Services                                                                                      |
|   | <b>Goal Description</b> | CDBG funds will be used to rehabilitate public facilities and homeless and fair housing public services.                           |
| 3 | <b>Goal Name</b>        | Provide Homeless Prevention, Emergency Shelter, Outreach and Rapid Re-Housing                                                      |
|   | <b>Goal Description</b> | ESG funds will be used to provide outreach, services emergency shelter and/or rapid re-Housing to literally homeless households.   |

## Projects

### AP-35 Projects – 91.220(d)

#### Introduction

With its CDBG, HOME, and ESG funds, the City of Berkeley will fund eligible projects in the following categories: housing development, rehabilitation and services projects, public services, public/community facility improvement projects, emergency shelter grant programs, program planning and administration, and the Housing Trust Fund.

#### Projects

| # | Project Name                          |
|---|---------------------------------------|
| 1 | Housing Services                      |
| 2 | Single Family Rehabilitation Programs |
| 3 | Housing Trust Fund                    |
| 4 | Public Services                       |
| 5 | Community Facility Rehabilitation     |
| 6 | Rapid Rehousing and HMIS Activities   |

**Table 65 – Project Information**

#### **Describe the reasons for allocation priorities and any obstacles to addressing underserved needs**

See sections NA and MA of the Consolidated Plan.

## AP-38 Project Summary

## Project Summary Information

|   |                                                                                                |                                                                                                                                                                                                                                                                                    |
|---|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | <b>Project Name</b>                                                                            | Housing Loan Services                                                                                                                                                                                                                                                              |
|   | <b>Target Area</b>                                                                             | BERKELEY                                                                                                                                                                                                                                                                           |
|   | <b>Goals Supported</b>                                                                         | Increase Affordable Housing Supply and Quality                                                                                                                                                                                                                                     |
|   | <b>Needs Addressed</b>                                                                         | Affordable Housing                                                                                                                                                                                                                                                                 |
|   | <b>Funding</b>                                                                                 | CDBG: \$70,008                                                                                                                                                                                                                                                                     |
|   | <b>Description</b>                                                                             | City staff provide loan services to support single family rehabilitation, housing trust fund projects, and other federally funded housing related activities.                                                                                                                      |
|   | <b>Target Date</b>                                                                             | 6/30/2021                                                                                                                                                                                                                                                                          |
|   | <b>Estimate the number and type of families that will benefit from the proposed activities</b> | The project will serve approximately 106 active housing rehabilitation loans.                                                                                                                                                                                                      |
|   | <b>Location Description</b>                                                                    | Various locations within the City of Berkeley.                                                                                                                                                                                                                                     |
|   | <b>Planned Activities</b>                                                                      | Services provided under this project will include accounting, processing loan payments and loan payoff demands, deeds of reconveyance, lien releases and loan subordination requests, collections, personal financial analysis, and structuring of temporary repayment agreements. |
| 2 | <b>Project Name</b>                                                                            | Single Family Rehabilitation Programs                                                                                                                                                                                                                                              |
|   | <b>Target Area</b>                                                                             | BERKELEY                                                                                                                                                                                                                                                                           |
|   | <b>Goals Supported</b>                                                                         | Increase Affordable Housing Supply and Quality                                                                                                                                                                                                                                     |
|   | <b>Needs Addressed</b>                                                                         | Affordable Housing                                                                                                                                                                                                                                                                 |
|   | <b>Funding</b>                                                                                 | CDBG: \$917, 708                                                                                                                                                                                                                                                                   |
|   | <b>Description</b>                                                                             | Activities related to single family rehabilitation efforts will be funded under this project. These projects will cover health and safety improvements as well as accessibility improvements such as the installation of ramps/lifts for low income homeowners and renters.        |
|   | <b>Target Date</b>                                                                             | 6/30/2021                                                                                                                                                                                                                                                                          |
|   | <b>Estimate the number and type of families that will benefit from the proposed activities</b> | The project will benefit an estimated 44 low-income households annually.                                                                                                                                                                                                           |

|          |                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------|------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          | <b>Location Description</b>                                                                    | Various locations within the City of Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|          | <b>Planned Activities</b>                                                                      | Activities include health and safety, accessibility, and energy efficiency improvements. CIL's program removes barriers to housing for 21 low-income, disabled residents by installing ramps, lifts and making other interior and exterior modifications to ensure accessibility of their homes. Habitat for Humanity provides home repairs, access modifications, and safety upgrades 18 low-income households focusing on essential health and safety of the home. City staff work with senior and/or disabled homeowners, providing loans of up to \$100,000 for the Senior & Disabled Home Rehabilitation Loan Program. |
| <b>3</b> | <b>Project Name</b>                                                                            | Housing Trust Fund                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|          | <b>Target Area</b>                                                                             | BERKELEY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|          | <b>Goals Supported</b>                                                                         | Increase Affordable Housing Supply and Quality                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|          | <b>Needs Addressed</b>                                                                         | Affordable Housing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|          | <b>Funding</b>                                                                                 | CDBG: \$488,341<br>HOME: \$690,430                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|          | <b>Description</b>                                                                             | Activities that provide funding for City staff in support of projects funded with City of Berkeley Housing Trust Fund dollars, includes funding for projects and CHDO operating funds.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|          | <b>Target Date</b>                                                                             | 6/30/2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|          | <b>Estimate the number and type of families that will benefit from the proposed activities</b> | 17 units (households) will be directly supported with federal funding during the five-year Consolidated Plan period for an average of 3-4 per year. During the same time period staff will also support the development of an additional 371 affordable units with local funds. These totals will include 34 senior units and 81 special needs (homeless and/or disabled units).                                                                                                                                                                                                                                            |
|          | <b>Location Description</b>                                                                    | Citywide                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|          | <b>Planned Activities</b>                                                                      | City staff actively facilitate development, rehabilitation and/or preservation of affordable housing through working with developers, other city staff, lenders and other public agencies for the acquisition and rehabilitation of multi-family housing.                                                                                                                                                                                                                                                                                                                                                                   |
| <b>4</b> | <b>Project Name</b>                                                                            | Public Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|          | <b>Target Area</b>                                                                             | BERKELEY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|          | <b>Goals Supported</b>                                                                         | Improve Public Facilities and Public Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|          | <b>Needs Addressed</b>                                                                         | Homelessness<br>Non-Housing Community Development                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

|   |                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---|------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | <b>Funding</b>                                                                                 | CDBG: \$453,921                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|   | <b>Description</b>                                                                             | Services including homeless programs (daytime respite, men's shelter and Coordinated Entry System), and fair housing services are funded under this project.                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|   | <b>Target Date</b>                                                                             | 6/30/2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|   | <b>Estimate the number and type of families that will benefit from the proposed activities</b> | 1,105 low-income and homeless households are expected to be served through these activities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|   | <b>Location Description</b>                                                                    | Citywide                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|   | <b>Planned Activities</b>                                                                      | Bay Area Community Services operates Berkeley's Coordinated Entry System which will screen, conduct intakes, and provide housing navigation services to approximately 920 people. Berkeley Food and Housing Program will provide emergency shelter to approximately 115 adult homeless men. Eden Council for Hope and Opportunity will provide outreach, training, fair housing counseling services to up to 70 households, investigation of an estimated 25 fair housing complaints, 10 tenant/landlord mediations, and 10 fair housing testing/audits with follow-up training for non-compliant property owners. |
| 5 | <b>Project Name</b>                                                                            | Community Facility Rehabilitation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|   | <b>Target Area</b>                                                                             | BERKELEY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|   | <b>Goals Supported</b>                                                                         | Improve Public Facilities and Public Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|   | <b>Needs Addressed</b>                                                                         | Non-Housing Community Development                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|   | <b>Funding</b>                                                                                 | CDBG: \$688,906                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|   | <b>Description</b>                                                                             | Activities that fund the rehabilitation of public facilities are funded under this project.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|   | <b>Target Date</b>                                                                             | 6/30/2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|   | <b>Estimate the number and type of families that will benefit from the proposed activities</b> | It is projected that improved community facility improvements provided by the City of Berkeley administered program will benefit a minimum of 409 people. The number of beneficiaries may increase as new community facility projects are identified through the upcoming NOFA.                                                                                                                                                                                                                                                                                                                                    |
|   | <b>Location Description</b>                                                                    | Various locations within the City of Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |



|   |                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                            |
|---|------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | <b>Planned Activities</b>                                                                      | Activities include improving community facilities by funding substantial rehabilitation to applicants of the City administered Community Facility Improvement Program. Additionally, the City of Berkeley's Adult Mental Health Clinic and the City's Public Health Clinic will both be planned to be completed, serving some of the City's lowest income and most vulnerable populations. |
| 6 | <b>Project Name</b>                                                                            | Emergency Shelter, Outreach, Rapid Rehousing and HMIS Activities                                                                                                                                                                                                                                                                                                                           |
|   | <b>Target Area</b>                                                                             | BERKELEY                                                                                                                                                                                                                                                                                                                                                                                   |
|   | <b>Goals Supported</b>                                                                         | Provide Homeless Prevention, Emergency Shelter, Outreach and Rapid Re-Housing services                                                                                                                                                                                                                                                                                                     |
|   | <b>Needs Addressed</b>                                                                         | Homelessness                                                                                                                                                                                                                                                                                                                                                                               |
|   | <b>Funding</b>                                                                                 | ESG: \$234,354                                                                                                                                                                                                                                                                                                                                                                             |
|   | <b>Description</b>                                                                             | ESG funds will be used for Emergency Shelter, Outreach, Rapid Re-Housing and HMIS costs.                                                                                                                                                                                                                                                                                                   |
|   | <b>Target Date</b>                                                                             | 6/30/2021                                                                                                                                                                                                                                                                                                                                                                                  |
|   | <b>Estimate the number and type of families that will benefit from the proposed activities</b> | 10 households will be served with rapid rehousing financial assistance.<br>100 persons will be assisted with Street Outreach.<br>No persons will be assisted with Emergency Shelter or Homeless Prevention activities during this year's plan.                                                                                                                                             |
|   | <b>Location Description</b>                                                                    | Various locations.                                                                                                                                                                                                                                                                                                                                                                         |
|   | <b>Planned Activities</b>                                                                      | ESG funds will be used to provide financial assistance and housing relocation and stabilization services to rapidly re-house approximately 10 households, and support approximately 100 people through street outreach and engagement activities.                                                                                                                                          |

**AP-50 Geographic Distribution – 91.220(f)**

**Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed**

As discussed in MA-50, the City does not have areas of low income or minority concentration and therefore does not allocate federal funds geographically.

**Geographic Distribution**

| Target Area | Percentage of Funds |
|-------------|---------------------|
| BERKELEY    | 100                 |

Table 66 - Geographic Distribution

**Rationale for the priorities for allocating investments geographically**

N/A

**Discussion**

N/A

## Affordable Housing

### AP-55 Affordable Housing – 91.220(g)

#### Introduction

This section includes HOME-funded units only. The City does not anticipate that any new construction will be completed in the year July 1, 2020 – June 30, 2021. As of this writing in November 2019, the City is working with six proposed development projects with a total of 386 permanent housing units and more than \$71 million in City funding, including \$1.8 million (three percent) in HOME funds. At least two developments will start construction in spring 2019, and are expected to be completed in the following program year (2021-2022), adding 177 units to the City's Housing Trust Fund portfolio, including a portion of HOME units.

| One Year Goals for the Number of Households to be Supported |   |
|-------------------------------------------------------------|---|
| Homeless                                                    | 0 |
| Non-Homeless                                                | 0 |
| Special-Needs                                               | 0 |
| Total                                                       | 0 |

**Table 67 - One Year Goals for Affordable Housing by Support Requirement**

| One Year Goals for the Number of Households Supported Through |   |
|---------------------------------------------------------------|---|
| The Production of New Units                                   | 0 |
| Total                                                         | 0 |

**Table 68 - One Year Goals for Affordable Housing by Support Type**

#### Discussion

N/A

## **AP-60 Public Housing – 91.220(h)**

### **Introduction**

The Berkeley Housing Authority (BHA) is not a department of the City of Berkeley. BHA Board members are appointed by the Mayor and confirmed by the City Council.

### **Actions planned during the next year to address the needs to public housing**

N/A. The BHA no longer owns any public housing.

### **Actions to encourage public housing residents to become more involved in management and participate in homeownership**

N/A

### **If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance**

N/A

### **Discussion**

N/A

## **AP-65 Homeless and Other Special Needs Activities – 91.220(i)**

### **Introduction**

The City uses a variety of approaches to support homeless and other vulnerable populations.

### **Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including**

#### **Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs**

HRC staff will continue to conduct assessments through 211 referrals, during HRC drop-in hours, and at regularly scheduled service partner locations, and at street based locations throughout Berkeley. Street based outreach staff will continue to engage people and provide basic necessities, such as water and hygiene kits.

Eligible people will be matched to appropriate and available resources including physical and mental health services, housing navigation services, shelter, transitional housing programs, addiction services and SSI advocacy.

The HRC will provide housing navigation services tied to rapid-rehousing and flexible financial assistance to support additional people in moving to permanent housing. Housing navigators support participants in a variety of ways from housing problem solving to, assisting with identification documents to housing search activities.

#### **Addressing the emergency shelter and transitional housing needs of homeless persons**

The City will continue to provide funding for shelter and transitional housing as described in section MA-30.

The City funds multiple agencies to provide 298 year round shelter beds, 30 seasonal shelter beds and 27 transitional housing beds. After working hours, unfilled beds are filled through an evening Shelter Reservation Hotline. The Shelter Bed Hotline opens after 7:00 pm and makes available shelter beds operated by BFHP that were not filled after the daytime shelter bed reservation process. Sometimes people have a bed reserved but do not come in to the shelter in the evening. Before this program was implemented in 2009, these beds stayed vacant all night.

**Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were**

### recently homeless from becoming homeless again

Housing Navigators focus on the highest need people, which are prioritized using the standardized assessment tool. They assist with collecting identification documentation needed to apply for housing opportunities, housing searches and linking participants to services that will help to retain housing. The City's Shelter Plus Care COACH Project will be expanded by 53 vouchers this year. These vouchers will be matched to the highest need people in North County through the county's HomeStretch process. The City's Aging Services Division will support enrolled participants with housing search and retention services, regardless of the age of the participant.

The North County HRC has flexible and rapid rehousing funds, which assist in reducing people's length of homelessness. The City allocates ESG, and City and County General Funds to support these efforts. While funding is available, providers report that the lack of available units with rents within HUD's Fair Market Rent (FMR) makes it difficult to rapidly re-house participants within the County. Often, participants are being housed in neighboring counties making it challenging to provide ongoing housing retention services. This has resulted in some delays in spending City of Berkeley ESG funds for rapid rehousing. Starting in PY19, the City of Berkeley has shifted a portion of its ESG allocation to fund the Pathway Stair Center and HRC outreach. Also, the HRC has incorporated more shared housing opportunities through the use of larger units. This has provided people with limited income and a willingness to share housing more opportunities to be permanently housed.

### **Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs**

The City uses General Funds to fund services that prevent people who are not literally homeless but are at imminent risk of homelessness per the HUD Homeless definition (Category 2) from becoming homeless. Prevention assistance may include support to a household to retain its current housing or to move to other housing without having to become literally homeless. While the ESG regulations allow for federal funds to be provided to those categorized as "at-risk" but not necessarily at "imminent risk", Berkeley uses its ESG funds for rapidly rehousing people who are literally homeless.

Berkeley funds prevention assistance for people who meet "immediate risk" criteria defined as:

"An individual or family who will imminently lose their primary nighttime residence, provided that:

- the primary nighttime residences will be lost within 14 days of the day of application for homeless assistance;
- No subsequent residence has been identified; and,

- the individual or family lacks the resources of support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.”

Alameda County has mental health, foster youth, health care, and corrections discharge policies intended to prevent discharges of individuals from these systems into homelessness, described in detail in the Consolidated Plan.

The City is working with local hospitals to share information about the North County HRC and available homeless services in Berkeley to reduce discharges to local daytime drop-in centers and shelters that can't support the needs of medically fragile people with severe disabling conditions. The City will continue to participate in countywide and regional efforts to reduce discharges into homelessness.

### **Discussion**

The City of Berkeley supports a wide range of homeless programs, including emergency/crisis drop in centers and shelters, transitional housing, permanent supportive housing, prevention and rapid rehousing services. All contracted service providers report outcomes based on the countywide outcome standards developed by EveryOne Home, in order to inform future adjustments to the service system.

**AP-75 Barriers to affordable housing – 91.220(j)****Introduction:**

N/A

**Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment**

As stated in section MA-40, the following are considered potential constraints in Berkeley: accessory dwelling unit (ADU) requirements, infill development regulations and permit review process. While the City's accessory dwelling unit requirements meet state law, they may be a constraint to development of additional units; therefore, the 2015 *Housing Element* includes a housing program to evaluate the regulations and consider changes to development standards for ADUs, a process that is currently underway. Additionally, while the zoning ordinance includes five multi-family zoning districts and the City has seen a number multi-family development projects, Housing Policy H-34 of the 2015 *Housing Element* encourages the review of infill development regulations in residential districts to identify and change possible constraints.

The permit process in Berkeley may be considered a constraint to housing production, although based on the amount of affordable and market-rate development that has been approved and the density of those projects, it does not appear to have deterred new development. However, Policy H-34 calls for the City to continue to improve and streamline the development review process and to evaluate regulations to identify and reduce unnecessary impediments to housing development and affordable housing projects.

With the passage of California Senate Bill 35 Berkeley, like all California cities, has an expedited path to planning and environmental approvals for affordable housing developments meeting certain State-established criteria. In 2018, the City approved land use entitlements for three City-funded projects under the SB35 rules: 2012 Berkeley Way, 1601 Oxford and 2001 Ashby.

**Discussion:**

N/A



## AP-85 Other Actions – 91.220(k)

### Introduction:

The City of Berkeley uses a range of strategies to address the housing, homeless, and community development goals identified in the Consolidated Plan. This section discusses actions planned to foster and maintain affordable housing, to reduce lead-based paint hazards, to reduce the number of poverty-level families in Berkeley, and to coordinate activities in these areas with other entities.

### Actions planned to address obstacles to meeting underserved needs

One of Berkeley's major obstacles to meeting underserved needs is the limited amount of federal, state, and local resources available given the diversity of needs in the community and high cost of housing in the Bay Area. The City of Berkeley will continue to pursue new State and Federal resources as available to meet underserved needs.

### Actions planned to foster and maintain affordable housing

The City has several on-going programs which foster and maintain affordable housing in Berkeley:

- Rent Stabilization Program. In 1980, Berkeley residents passed the Rent Stabilization and Eviction for Good Cause Ordinance. The Ordinance regulates most residential rents in Berkeley, provides tenants with increased protection against unwarranted evictions and is intended to maintain affordable housing and preserve community diversity.
- Affordable Housing Mitigation Fee (AHMF). This fee requires developers of new market rate rental housing to pay a fee into the Housing Trust Fund or to provide affordable apartments instead. Resulting units are affordable both to people with incomes less than 50 percent of Area Median and less than 80 percent. The Council adopted a formula for increasing the rate over time.
- Condominium Conversion Ordinance (CCO). The CCO governs the conversion of rental apartments and tenancy-in-common buildings to condominiums, and other types of mutual or cooperative housing. A mitigation fee for production of permanently affordable housing will be collected.
- Commercial Linkage Fee. The Affordable Housing Mitigation Program was approved on April 20, 1993. It imposed fees on commercial new construction in which the newly constructed gross floor area is over 7,500 square feet.
- Housing Trust Fund (HTF). The City of Berkeley created its HTF in 1990 to help develop and preserve below-market-rate housing. The HTF program pools funds for affordable housing construction from a variety of sources with different requirements, makes them available through one single application process to local developers, then monitors development and operation of the funded housing.
- Inclusionary Housing Ordinance for ownership housing. The ordinance requires developers of

market rate ownership housing to include affordable ownership units or pay a fee. On November 19, 2013, City Council approved completing a nexus study to determine the appropriate fee applicable to new for-sale housing.

- Mortgage Credit Certificate. MCC is a federal income tax credit that provides qualified low income homebuyers a tax credit worth up to 15 percent of their annual mortgage interest paid on their home loan. MCC recipients adjust their federal income tax withholding, which increases their take-home pay, making monthly mortgage payments more affordable. The City participates in the Alameda County MCC program.
- Senior and Disabled Loan Rehab Program. HHCS administers the program as an effort to preserve the City's housing stock and to assist low- and moderate-income senior and disabled homeowners, funded by CDBG and CalHOME. The applicants receive a zero interest loan, secured by a deed of trust on their home, which is repaid when title to the property changes hands, normally as a result of the sale of the property or inheritance by the owner's heirs.

### **Actions planned to reduce lead-based paint hazards**

The City will continue to comply with the Environmental Protection Agency's Renovation, Repair, and Painting Program in its Senior and Disabled Rehabilitation Loan Program. Similarly, organizations working with the City of Berkeley on single family rehabilitation will work with the City and Alameda County Lead Poisoning Prevention Programs to increase awareness of lead issues among their clients and incorporate lead safe work practices into their activities.

The City of Berkeley Public Health Division and the Alameda County Lead Poisoning Prevention Program will work together to increase awareness and knowledge about lead poisoning prevention in Berkeley including providing lead-safe painting classes, in-home consultations, garden soil lead testing kits, presentations, educational materials, and other services.

The City of Berkeley Childhood Lead Poisoning Prevention Program collaborates with the Berkeley Health, Housing & Community Services Department's State lead-certified Risk Assessor/Inspector, Project Designer, and Project Monitor. Berkeley's program also provides case management services to families with children who have elevated blood lead levels. Services range from Public Health Nursing case management for children with blood lead levels above 15  $\mu\text{g}/\text{dL}$  to health education for children with levels between 5-14  $\mu\text{g}/\text{dL}$ .

The Alameda County Healthy Homes Department (ACHHD) also has a HUD Lead Hazard Control grant to remediate lead hazards in qualifying Berkeley housing units that are vacant, or occupied by a low income household with either a child under 6, a pregnant woman, or a child under 6 years who visits twice a week for at least three hours each time. Since July 1, 2015, ACHHD has completed lead evaluations at 52 pre-1978 low-income housing units and has made 49 housing units lead-safe at 21 properties. The ACHHD was recently awarded a new 42-month lead hazard control grant which is expected to begin January 1<sup>st</sup>, 2020. The ACHHD will market to and expects to enroll eligible Berkeley properties into the program which will complete 144 units County-wide over the grant period.

ACHHD provides lead safety and healthy housing training. Since July 1, 2015, the ACHHD has provided lead safety training to 23 individuals with the City of Berkeley, associated with Berkeley-based non-profits, or with residential properties or housing-related businesses in Berkeley including Community Energy Services Corp, Berkeley Mission Homes, and the Northern California Land Trust. In addition, broader healthy housing training, which included lead safety, was provided to 6 City of Berkeley staff. The ACHHD plans to continue to make lead safety training opportunities available for City of Berkeley staff, organizations, and property owners.

The ACHHD's outreach and education activities promote lead safety, regulatory compliance, and participation in ACHHD lead hazard control grant programs to property owners, property managers. The ACHHD coordinates lead poisoning prevention outreach activities with the City of Berkeley Public Health. Outreach partners and locations for property owner presentations, staff trainings, and literature distribution have included the Berkeley Rent Stabilization Board and Permit Office, the Berkeley Housing Authority, Tool Lending Library, North Berkeley Senior Center, YMCA, Berkeley Apartment Owners Association, the East Bay Rental Housing Association which is in Oakland but serves Berkeley property owners, the Ecology Center, and local paint and hardware stores. The ACHHD participates in local collaborations and with partners including the Berkeley Tobacco Prevention Coalition, Bay Area Lead Programs, Berkeley Black Infant Health, Kerry's Kids, Rebuilding Together East Bay North, Habitot, and the Safe Kids Coalition.

### **Actions planned to reduce the number of poverty-level families**

The City funds a wide variety of social service programs designed to assist households with poverty level incomes. These programs include childcare and a range of services for special needs populations, which are outlined in other sections of this Consolidated Plan. This section will highlight the City's strategies to increase livable wage employment opportunities by supporting related community services and working with public and private regional partners. Strategies include:

- Funding and refinement of anti-poverty programs provided by community-based organizations and by the City. Federally funded community agency contracts are outlined in the Annual Action Plan.
- Continue implementation of the City of Berkeley's Living Wage Ordinance.
- Foster regional coordination on economic development to benefit low income Berkeley residents.
- Linking homelessness and homelessness prevention programs, such as the coordinated entry system, to employment training and placement opportunities.

The City has contracted with the a number of workforce development programs to provide training,

education and job placement for low income, under-employed, and unemployed residents:

- Inter-City Services provides employment, training, and education and continues to serve veterans as funded under the Governor’s 15% Discretionary pool of Workforce Investment Act (WIOA) funds.
- Biotech Partners operates the Biotech Academy at Berkeley High School, targeting youth from under-represented populations in the fields of science and technology (African American, Latino, South East Asian, female and low income youth) and who may be at risk of not graduating from high school.
- The Bread Project provides training in culinary arts and bakery production, and includes the formerly incarcerated as their target population. They operate a social enterprise (wholesale bakery) that creates opportunities for trainees to obtain crucial on-the-job experience.
- Rising Sun Center for Opportunity (formerly known as Rising Sun Energy Center) Green Energy Training Services (GETS) provides pre-apprenticeship classroom and hands-on training in the Building and Construction trades which serves as a pathway for careers in construction including green and clean technologies. Rising Sun also operates the California Youth Energy Services (CYES) program funded by the CA Public Utilities Commission, providing summer jobs for youth conducting residential energy audits.
- Berkeley Youth Alternatives (BYA) receives WIOA funding through Alameda County Workforce Development Board (ACWDB) to provide workforce development services to in-school and out-of-school youth. The area of workforce development is a focus area for increased coordination, including establishing methods to maximize and leverage resources. BYA, utilizing city funds, provides training to disadvantaged youth in all aspects of park and landscape maintenance in addition to summer and after-school programs for children and youth.
- UC Theatre Concert Careers Pathways (UCCCP) is a nine-month program for young people ages 17-25, providing workshops and paid internships for participants to learn all aspects of live music venue production.
- Continuing the City’s Local Hire policies which include the Community Workforce Agreement (CWA) between the City of Berkeley and the Building trades (created in 2011) which applies to publicly funded construction projects estimated at \$500,000 or above, and, the First Source local hiring policy which applies to both public infrastructure projects estimated between \$100,00 - \$499,999 and private development over 7,500 square feet. develop the
- The YouthWorks employment program continued its partnerships with City and nonprofit agencies. YouthWorks targets low income, at-risk youth and provides all youth with workplace skills training. City of Berkeley departments and local community agencies serve as worksites providing valuable work experience to Berkeley youth 14-25 years old.
- The City’s Recreation Division of the Park, Recreation & Waterfront Department partners with the Berkeley Unified School District and YouthWorks on the Achievers Program, which provides leadership development, career exploration and peer-led tutoring. This program is also used as a stepping stone for entry into the City’s YouthWorks program.

- Funded through the City's Public Works Department, the Downtown Streets Team, a non-profit organization, homeless and low-income persons volunteer to beautify commercial districts while engaging in case management and employment services.

The City's anti-poverty strategy continues to be closely tied to the funding of approximately 50 community agencies to provide services as described above to enable people in poverty to attain self-sufficiency, support at-risk youth to succeed in school and graduate, and protect the health and safety of low income people. The City also funds anti-poverty programs with general funds for job training and creation/job placement agencies.

### **Actions planned to develop institutional structure**

During the next year, the City of Berkeley will continue to coordinate the housing and community services activities within the department through regular senior staff meetings and coordination on specific topics. The City's Health & Human Services and its Housing Departments merged in PY12. Since that time, senior leadership of all Divisions meets weekly to share information on Division activities which promotes closer coordination. For example, in PY2019, the Housing & Community Services Division and the Aging Services Division collaborated to hire two new staff who will provide supportive services to house homeless residents who are assisted through Continuum of Care Rental Assistance administered by the Housing & Community Services Division. The Division leadership will continue to seek opportunities to increase coordination during PY20.

### **Actions planned to enhance coordination between public and private housing and social service agencies**

City staff will also continue to participate in the implementation of EveryOne Home, the countywide plan to end homelessness. EveryOne Home spearheads Alameda County's Continuum of Care. Staff will continue to participate in the initiative's Leadership Board, which includes most public funders of housing and homeless services in the county, as well as leadership from key community based organizations. Leadership Board membership helps coordination efforts across the county. Staff also participates in other committees composed of other funders (such as Alameda County Behavioral Health Care Services and the Social Services Agency) as well as many community based organizations.

Recent countywide collaboration efforts include the implementation and ongoing refinement of the Coordinated Entry System, issuance of an updated countywide strategic report by EveryOne Home, coordination and approval of countywide performance measures aligned with HUD priorities; and implementation of the countywide Whole Person Care funds to support the development and operations of regional housing resource centers.

City staff continue to collaborate with service agencies, from legal advocacy assistance, to disability rights organizations for unit modifications, the VA for VASH vouchers, and the Berkeley Housing Authority (BHA) for Mainstream Voucher allocations. Additionally with Project-based voucher

allocations and through work with owners of Below Market Rate units, BHA has partnered with both non-profit and for-profit developers of housing in Berkeley, to house those participating in our programs.

**Discussion:**

The majority of Berkeley's activities furthering the goals of the Consolidated Plan are provided by community agency partners. This will continue to be the case in PY20.

## Program Specific Requirements

### AP-90 Program Specific Requirements – 91.220(I)(1,2,4)

**Introduction:**

#### Community Development Block Grant Program (CDBG) Reference 24 CFR 91.220(I)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

|                                                                                                                                                                                                |                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed                                            | \$255,925        |
| 2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan. | 0                |
| 3. The amount of surplus funds from urban renewal settlements                                                                                                                                  | 0                |
| 4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan                                                   | 0                |
| 5. The amount of income from float-funded activities                                                                                                                                           | 0                |
| <b>Total Program Income:</b>                                                                                                                                                                   | <b>\$255,925</b> |

#### Other CDBG Requirements

|                                                                                                                                                                                                                                                                                                                                                                                                          |        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| 1. The amount of urgent need activities                                                                                                                                                                                                                                                                                                                                                                  | 0      |
| 2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70 percent of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan. | 87.00% |

#### HOME Investment Partnership Program (HOME) Reference 24 CFR 91.220(I)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:

The City of Berkeley uses no forms of investment other than ones described in §92.205(b)

(Refinancing Costs).

2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

No homeownership or tenant-based rental assistance activities are anticipated for PY20.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

No homeownership activities are anticipated for PY20.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

The City of Berkeley's HTF Guidelines apply to any project using HOME funds to refinance existing debt. Per the Guidelines, Project owners submit funding requests to the City, or reply to the City's Requests for Proposals for funding, with the following information, among other things:

a) As a condition precedent to funding, Owners must demonstrate an extension of affordability term. For new HOME funds invested in the Project, the minimum affordability term is the term required by 24 CFR 92 et seq., but, typically, the required extension of affordability is 55 years.

b) As a condition precedent to funding, Owners must demonstrate that the refinancing preserves the affordable Project through rehabilitation.

1. Minimum rehab costs/unit must correspond to at least the value identified in a current physical needs assessment to ensure that the long-term needs of the Project can be met.
2. Typical rehab/unit costs are no less than \$10,000/unit, the minimum rehab value required by the California Debt Limit Allocation Committee Regulations.

c) Owners indicate if their refinancing request includes new construction that adds net new units to the Project

d) Owners provide extensive Project data, including audited financial statements, cash flows, rent rolls, services plans, PNAs, and rehabilitation proformas to demonstrate that:

1. The project is sound financially and disinvestment has not occurred
2. The long-term needs of the Project and residents will be met by the rehab



3. The proposed rehab is financially feasible, includes no barriers to refinancing existing mortgage loans, does not include the refinancing of any existing federal or federally-insured loans, and leverages other non-federal funds to the greatest extent possible

**Emergency Solutions Grant (ESG)  
Reference 91.220(l)(4)**

1. Include written standards for providing ESG assistance (may include as attachment)

The City's standards for providing ESG assistance are attached as Attachment 1: Alameda County Priority Home Partnership City of Berkeley Manual.

2. If the Continuum of Care has established centralized or coordinated assessment system that meets HUD requirements, describe that centralized or coordinated assessment system.

The Alameda County Continuum of Care has established its coordinated entry system (CES). The CES has regional Housing Resource Centers that provide a range of services and resources. Each HRC conducts assessments using a standardized tool that prioritizes individuals and families based on need. The people with the highest needs are matched to appropriate and available services and resources including housing navigation, emergency shelter, transitional housing, rapid rehousing and permanent supportive housing.

3. Identify the process for making sub-awards and describe how the ESG allocation available to private nonprofit organizations (including community and faith-based organizations).

The City of Berkeley was allocated \$227,398 in ESG funding for PY19. Funds will be used primarily for rapid rehousing and street outreach. Funds may be used, however, for shelter activities depending on community needs. The City of Berkeley will utilize the maximum amount possible for administration (Seven and a half percent of the grant) and allocate funds to support the County-wide Homeless Management Information System, known as InHouse.

ESG funds were allocated to the North County HRC through the FY20-24 Community Agency Request for Proposals (RFP) allocation process. Bay Area Community Services successfully competed to operate the HRC and will therefore be awarded the ESG funding.

4. If the jurisdiction is unable to meet the homeless participation requirement in 24 CFR 576.405(a), the jurisdiction must specify its plan for reaching out to and consulting with homeless or formerly homeless individuals in considering policies and funding decisions regarding facilities and services funded under ESG.

The policy-making entity for the City of Berkeley which makes decisions regarding the facilities, services, and other programs to receive funding under the Emergency Solutions Grant (ESG) is the

Berkeley City Council. The Berkeley City Council is elected by the citizens of Berkeley. The City cannot mandate that a homeless or formerly homeless individual be on the City Council. Therefore, the City must develop and implement a plan to consult with homeless or formerly homeless individuals in making policies and decisions regarding programs that receiving funding under ESG.

5. Describe performance standards for evaluating ESG.

The performance standards to be applied to ESG activities is attached as an image labeled Outcome Measures. These standards were developed in 2009-2010 through the leadership of EveryOne Home (the Continuum of Care) and partially funded by City of Berkeley General Funds. This matrix presents outcome standards for each type of program in the Continuum of Care. Most were established as a percentage of the average outcomes achieved by all County programs (for example, the average permanent housing placement rate of all emergency shelters) and will be adjusted over time to ensure continued improvement.

**Systemwide Performance Targets for Rapid Re-Housing Services**

| Rapid Re-Housing  |                                                                                                                                                       | Target                 |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| How Much?         | Service Population: Unduplicated count of individuals served (HUD Element, APR Q5a)                                                                   | observe                |
|                   | Service Population: Proportion of chronically homeless individuals served (HUD Element, APR Q5a)                                                      | observe                |
|                   | Service Population: Unduplicated count of households served (HUD Element, Annual Performance Report/APR Q8a)                                          | observe                |
|                   | Service Population: Proportion of chronically homeless households served (HUD Element, APR Q26a)                                                      | observe                |
| How Well?         | Data Quality: Data entry within 3 days (HUD Element, APR Q6e)                                                                                         | 100%                   |
|                   | Data Quality: Completion. Adult participants with income info. recorded in HUD Element at entry and annual or exit assessments (HUD Element, APR Q18) | 90%                    |
|                   | Average length of time from enrollment to move in (HUD Element, Apr Q22c)                                                                             | 60%<br>within 2 months |
| With What Impact? | Are participants growing their income? (HUD Element, APR Q19a3)                                                                                       | 50%                    |

|  |                                                                                                             |     |
|--|-------------------------------------------------------------------------------------------------------------|-----|
|  | Are participants accessing mainstream benefits?<br>(HUD Element, APR Q20b)                                  | 85% |
|  | Are participants enrolled in health insurance?(HUD<br>Element, APR Q21)                                     | 85% |
|  | Are we successfully moving people into permanent<br>housing? (HUD Element, APR Q23a&b)                      | 80% |
|  | Exits to Homelessness: What proportion of people<br>exit to homeless destinations? (HUD Element APR Q23a&b) | <5% |

Together Priority Home Partnership and the Housing Retention program make up the housing retention and rapid rehousing segment of the City’s continuum of services. The City will continue to work with EveryOne Home and community agencies to ensure that prevention and rapid rehousing funds are fully utilized and play an important role in ending homelessness in Berkeley.

**Appendix - Alternate/Local Data Sources**

|          |                                                                                                                                                 |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1</b> | <b>Data Source Name</b><br>Berkeley Housing Authority                                                                                           |
|          | <b>List the name of the organization or individual who originated the data set.</b><br>Berkeley Housing Authority                               |
|          | <b>Provide a brief summary of the data set.</b><br>The table was updated with the most current data available from PIC (PIH Information Center) |
|          | <b>What was the purpose for developing this data set?</b>                                                                                       |
|          | <b>Provide the year (and optionally month, or month and day) for when the data was collected.</b><br>December 2019                              |
|          | <b>Briefly describe the methodology for the data collection.</b>                                                                                |
|          | <b>Describe the total population from which the sample was taken.</b>                                                                           |
|          | <b>Describe the demographics of the respondents or characteristics of the unit of measure, and the number of respondents or units surveyed.</b> |
|          |                                                                                                                                                 |

| <b>Attachment 1</b>                                                          |                                                                                  |                                                 |                        |
|------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-------------------------------------------------|------------------------|
| <b>Annual Action Plan for PY20</b>                                           |                                                                                  |                                                 |                        |
| <b>City of Berkeley CDBG, ESG and HOME Projects for 7/1/2020 - 6/30/2021</b> |                                                                                  |                                                 |                        |
| <b>Proj. #</b>                                                               | <b>Agency</b>                                                                    | <b>Project Name</b>                             | <b>PY20 Allocation</b> |
| <b>CDBG</b>                                                                  |                                                                                  |                                                 |                        |
| 1                                                                            | Center for Independent Living                                                    | Residential Access                              | \$ 159,660             |
| 2                                                                            | Habitat for Humanity                                                             | Housing Rehabilitation Grant Program            | \$ 250,000             |
| 3                                                                            | HHCS D*                                                                          | Loan Services                                   | \$ 70,008              |
| 4                                                                            | HHCS D                                                                           | Senior and Disabled Rehab Program               | \$ 358,048             |
| 5                                                                            | HHCS D                                                                           | Rehab Loans                                     | \$ 150,000             |
| 6                                                                            | HHCS D                                                                           | Housing Development: M/F Rehab                  | \$ 488,341             |
|                                                                              |                                                                                  | <b>Subtotal Housing Projects</b>                | <b>\$ 1,476,057</b>    |
| 7                                                                            | Bay Area Community Services                                                      | Coordinated Entry System                        | \$ 248,419             |
| 8                                                                            | Berkeley Food and Housing Project                                                | Men's Overnight Shelter                         | \$ 170,502             |
| 9                                                                            | Eden Housing for Hope and Oppor.                                                 | Fair Housing                                    | \$ 35,000              |
|                                                                              |                                                                                  | <b>Subtotal Public Services Projects</b>        | <b>\$ 453,921</b>      |
| 10                                                                           | HHCS D                                                                           | Community Facility Improvements                 | \$ 152,908             |
| 11                                                                           | HHCS D                                                                           | PY20 (FY21) Community Facility Improvement NOFA | \$ 535,998             |
|                                                                              |                                                                                  | <b>Subtotal Public Facilities Projects</b>      | <b>\$ 688,906</b>      |
| 12                                                                           | HHCS D                                                                           | CDBG Planning and Administration                | \$ 597,652             |
|                                                                              |                                                                                  | <b>Subtotal Planning &amp; Admin Projects</b>   | <b>\$ 597,652</b>      |
|                                                                              |                                                                                  | <b>**GRAND TOTAL ALL CDBG PROJECTS</b>          | <b>\$ 3,216,536</b>    |
| <b>ESG</b>                                                                   |                                                                                  |                                                 |                        |
| 13                                                                           | Berkeley CES Provider - BACS                                                     | Rapid Re-Housing Project                        | \$ 69,489              |
| 14                                                                           | Berkeley CES Provider - BACS                                                     | Emergency Shelter/Street Outreach               | \$ 140,612             |
| 15                                                                           | HHCS D                                                                           | Homeless Management Information System          | \$ 6,676               |
| 16                                                                           | HHCS D                                                                           | Program Planning and Administration             | \$ 17,577              |
|                                                                              |                                                                                  | <b>GRAND TOTAL ALL ESG PROJECTS</b>             | <b>\$ 234,354</b>      |
| <b>HOME</b>                                                                  |                                                                                  |                                                 |                        |
| 17                                                                           | HHCS D                                                                           | HOME Administration                             | \$ 79,838              |
| 18                                                                           | CHDO Operating Funds                                                             | CHDO Operating Funds                            | \$ 28,115              |
| 19                                                                           | HHCS D                                                                           | Housing Trust Fund                              | \$ 690,430             |
|                                                                              |                                                                                  | <b>***GRAND TOTAL ALL HOME PROJECTS</b>         | <b>\$ 798,383</b>      |
| <b>Notes:</b>                                                                | * HHCS D = City of Berkeley Health, Housing & Community Services Department      |                                                 |                        |
|                                                                              | ** Assumes \$255,925 in Program Income and \$222,352 in unused carry over funds. |                                                 |                        |
|                                                                              | *** Assumes \$20,000 in Program Income                                           |                                                 |                        |



# COUNTY OF ALAMEDA

## REGIONAL ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

---

January 2020

**Prepared By:**

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**INTERNATIONAL**

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# SECTION I

---

## COVER SHEET

### FINAL SUBMISSION - 2020–2025

#### Program Participants

County of Alameda

City of Alameda

City of Albany

City of Berkeley

City of Dublin

City of Emeryville

City of Fremont

City of Hayward

City of Livermore

City of Newark

City of Oakland

City of Piedmont

City of Pleasanton

City of San Leandro

City of Union City

Housing Authority of the City of Alameda

Housing Authority of the County of Alameda

Berkeley Housing Authority

Livermore Housing Authority

Oakland Housing Authority

# SIGNATURES

## Section II

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### Executive Summary

This report reflects a countywide effort to increase fair housing choices for residents across the county. The County of Alameda, as lead agency, and multiple participating jurisdictions—the cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City; the housing authorities for the cities of Alameda, Berkeley, Livermore, and Oakland; and the Housing Authority of the County of Alameda—have formed a regional collaborative for the purpose of completing an Analysis of Impediments to Fair Housing Choice (Regional Analysis of Impediments) while meeting their goals and obligations under the fair housing rules to affirmatively further fair housing.

The US Department of Housing and Urban Development (HUD) requires that an analysis of impediments be conducted every five years as part of a five-year Consolidated Plan process, which regional members plan to complete by June 30, 2020.

This section summarizes the findings of the analysis and includes an overview of the public engagement process and fair housing findings, including the primary issues and contributing factors, and identification of future goals and priorities that address these findings. To support this summary, an explanation of the Assessment of Fair Housing requirements and prevalent definitions used in this Regional Analysis of Impediments are provided.

### Definitions

Below are terms frequently used throughout this report:

The **Affirmatively Furthering Fair Housing (AFFH) Tool** is a web mapping tool prepared by HUD to assist participating jurisdictions in affirmatively furthering fair housing. It includes data tables that break down the demographics of each participating jurisdiction, such as race and ethnicity, national origin, poverty, and language proficiency. The tool also includes maps displaying the population densities of people of different races, the locations of publicly supported housing, and the level of access of each racial group to resources within a participating jurisdiction.

**Alameda County** includes all participating jurisdictions, as defined below.

**Consortium** includes the geographic areas covered by HOME Consortium members, which are Urban County and Entitlement Cities, excluding Berkeley and Oakland. The Housing Authorities' service areas are covered by these geographies.

**Entitlement Cities** are the cities of Alameda, Berkeley, Fremont, Hayward, Livermore, Oakland, Pleasanton, San Leandro, and Union City.

**Participating jurisdictions** include all the entities in this regional collaboration: County of Alameda; the cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City; and the Housing Authority of the County of Alameda, Housing

Authority of the City of Alameda, Berkeley Housing Authority, Livermore Housing Authority, and Oakland Housing Authority. Data presented within this document may say Alameda County when referring to the geographic area of the Alameda County which includes all these participating jurisdiction geographies.

**Racially/Ethnicly Concentrated Area of Poverty (R/ECAP)** is a neighborhood (census tract) that has a poverty rate of 40 percent or more and a racial or ethnic concentration where 50 percent or more of the tract is composed of minority residents.

**Region** refers to the Alameda County Core Base Statistical Area (CBSA) that is used in comparative analysis. Jurisdictions included in the Alameda County CBSA are Alameda, Contra Costa, San Francisco, and San Mateo.

**Urban County:** Albany, Dublin, Emeryville, Newark, Piedmont, and unincorporated county.

## What is Affirmatively Furthering Fair Housing?

This Regional Analysis of Impediments is prepared for the purpose of implementing fair housing rules to affirmatively further fair housing. Affirmatively furthering fair housing means to take meaningful actions that address significant disparities in housing needs and access to opportunities, replace segregated living patterns with integrated and balanced living patterns, transform R/ECAPs into areas of opportunity, and foster and maintain compliance with civil rights and fair housing laws.

In 2015, HUD required HUD program participants (participating jurisdictions) to comply with the new AFFH rule and to develop an Assessment of Fair Housing (AFH) pursuant to 24 CFR Section 5.154. An AFH includes robust community input, an analysis of housing data, and identification of fair housing issues and contributing factors to set fair housing priorities and goals. In 2018, HUD reversed the AFH requirement and in response, the California legislature passed Assembly Bill 686, which upholds the 2015 requirements for HUD program participants in California. As required by California Assembly Bill 686, this Regional Analysis of Impediments report follows the 2015 AFFH rule for completing an AFH.

## Methodology

The previous Regional Analysis of Impediments was prepared in 2015 for the Alameda County HOME Consortium. The local housing authorities participated as stakeholders in the previous analysis. The cities of Oakland and Berkeley individually prepared separate Analysis of Impediments reports.

This report is a combined update of the 2015 Alameda HOME Consortium, City of Berkeley, and City of Oakland Analyses of Impediments. The following steps were taken to update the report:

- Analyze current publicly available data regarding the Alameda County demographics and housing;
- Engage with community members and stakeholders via public meetings and correspondence;
- Identify impediments to fair housing choice for Alameda County residents; and
- Develop strategies and actions for removing impediments and affirmatively furthering fair housing choice.



Analysis of demographic and housing trends was completed using data from numerous sources, including the US Census Bureau's 1990, 2000, and 2010 Decennial Census data, American Community Survey (ACS) 2012–2017 data, the Urban Displacement Project 2015 report, and the HUD AFFH Tool.

The community engagement process involved three community meetings and three stakeholder meetings as well as a survey. The process is further discussed in the Community Participation Process section below and in Section III.

Impediments to fair housing choice were identified through an analysis of the collected data and community engagement findings. Regional goals were then developed to address these impediments, and sub-goals were adopted by each participating jurisdiction to further these regional goals.

## Community Participation Process

Alameda County's community engagement process consisted of a seven-page survey, three community engagement meetings, and three stakeholders meetings. Engagement materials were distributed to service organizations who then distributed it to their served populations. The survey was available in Dari, English, Spanish, Tagalog, Traditional Chinese, and Vietnamese. Residents of the participating jurisdictions as well as specific populations were targeted for engagement, including: racial and ethnic minorities, people experiencing homelessness, people with disabilities, people residing in R/ECAPs, and people with limited English proficiency. Stakeholders from a variety of organizations were contacted as well, including organizations that provide housing, housing services, homeless services, youth services, nonprofit social services, services for seniors, services for disabled persons, and HIV/AIDS services, as well as government agencies, advocates, emergency service providers, educational organizations, and economic development organizations.

## Summary of Findings

### What are the primary fair housing issues in Alameda County?

Housing affordability and availability are the largest issues found to affect the residents participating in the community engagement process. This finding is further supported by data provided by HUD through the AFFH Tool, the ACS, and from local resources, including Association of Bay Area Governments and local transit authorities, among others. See Section V, Fair Housing Analysis, of this Regional Analysis of Impediments for the in-depth analysis supporting these primary fair housing issues.

The fair housing issues found to affect many residents in the participating jurisdictions include:

- Across the County, white residents make up the majority of homeowners but only approximately a third of the County's population. See Table V-4 - Homeownership and Rental Rates by Race/Ethnicity, Jurisdictions and Region.
- Segregation between white residents and minority residents has increased in the last decade. See Table V-5 - Racial/Ethnic Dissimilarity Trends, Jurisdictions and Region.
- The County's black resident population has decreased by nearly 7 percent since 1990. Black residents are primarily located in Oakland and Berkeley, but the percentage of black residents in these areas

has decreased by 19 percent and 10 percent, respectively, since 1990. See Table V-2 - Demographic Trends, Alameda County and Region, 1990, 2000, 2010, 2017.

- Overall, minority residents are being displaced from areas with a traditionally large minority population. Some specific minority majority cities, however, are seeing increases in minority populations. See Figure V-20 - Displacement and Gentrification, 2015.
- Areas with higher levels of minority residents have less access to proficient schools, jobs, and environmental health. See Table V-9 - Opportunity Indicators, by Race/Ethnicity, Alameda County and Region.
- Median rents have risen an average of \$1,000 (unadjusted for inflation) since 2010, representing an increase of 55 percent in a 9-year period. See Figure V-64 - Alameda County Median Monthly Rental Price.
- The average home sales prices have increased from approximately \$300,000 to nearly \$900,000 in less than 20 years (unadjusted for inflation). See Figure V-63 - Alameda County Median Home Sales Price.
- The wage needed to rent an average housing unit in the County is \$44.79 an hour or \$93,000 a year.
- Homelessness has increased by 42 percent since 2017. See Table V-12 - 2019 Point-In-Time Counts by City.
- Minority households, especially black and Hispanic households, have the highest rate of disproportionate housing needs, which includes having incomplete kitchen facilities, incomplete plumbing facilities, more than 1 person per room, and households with a cost burden greater than 30 percent. See Table V-13 - Demographics of Households with Disproportionate Housing Needs.
- Overall, the rate of mortgage approvals has gone up in the last seven years, but the disparities in the rate of approval across race and ethnicity has stayed relatively the same. Black applicants continue to have the lowest approval rate at 59.1 percent and Hispanic applicants the second lowest at 61.5 percent compared to white applicants at 70 percent. See Table V-15 - Mortgage Approvals by Race/Ethnicity, 2011–2017.
- Based on community feedback, Housing Choice Voucher holders and those with disabilities often find it difficult to find an appropriate housing unit. Some find it difficult to find an appropriately sized unit that will take their voucher and others experienced that the vouchers will not cover the rent of an appropriately sized unit.
- Disability, race, and familial status are the most common bases of housing discrimination complaints forwarded to the California Department of Fair Employment and Housing and the Office of Fair Housing and Equal Opportunity. See Table V-26 - Fair Housing Complaints Forwarded to Fair Housing and Equal Opportunity, 2015–2016 and Table V-27- Fair Housing Complaints Forwarded to Department of Fair Employment and Housing, 2015–2019.

## Contributing Factors to Primary Fair Housing Issues

In accordance with the AFFH rule, this Regional Analysis of Impediments has identified contributing factors from the HUD-provided list in the AFFH Rule Guidebook that create, perpetuate, or increase the severity of one or more fair housing issues. Participating jurisdictions identified additional contributing factors, which are *italicized* below.

- Contributing factors affecting segregation
  - Displacement of residents due to economic pressures
  - Location and type of affordable housing
  - *Historical discrimination against people of color*
  - *Limited supply of affordable housing within neighborhoods*
- Contributing factors affecting R/ECAPs
  - Displacement of residents due to economic pressures
  - Lack of private investments in specific neighborhoods
  - Lack of public investment in specific neighborhoods, including services or amenities
  - Location and type of affordable housing
  - *Lack of local taxation to support social services and affordable housing*
  - *Limited supply of affordable housing within neighborhoods*
- Contributing factors affecting access to opportunity
  - Access to financial services
  - Lack of private investments in specific neighborhoods
  - Location of employers
  - Location of proficient schools and school assignment policies
  - Location and type of affordable housing
  - *Limited supply of affordable housing in areas with access to opportunity*
- Contributing factors affecting disproportionate housing needs
  - The availability of affordable units in a range of sizes
  - Displacement of residents due to economic pressures
  - Lack of private investments in specific neighborhoods
  - Land use and zoning laws
  - Lending discrimination
  - *High cost of developing affordable housing*
  - *Limited supply of affordable housing within neighborhoods*
- Contributing factors affecting publicly supported housing
  - Land use and zoning laws
  - Community opposition
  - Source of income discrimination

- *Lack of federal, state, and local funding for publicly supported housing*
- Contributing factors affecting disability and access
  - Access to publicly supported housing for persons with disabilities
  - Lack of affordable housing for individuals who need supportive services
  - Lack of assistance for housing accessibility modifications
  - Location of accessible housing
  - *Limited supply of affordable housing within neighborhoods*
- Contributing factors affecting fair housing
  - Lack of local private (nonprofit) fair housing outreach and enforcement
  - Lack of local public (local, state, federal) fair housing enforcement
  - Lack of resources for fair housing agencies and organizations
  - *Lack of federal, state, and local funding to support affordable housing*

## Goals and Strategies

In response to the fair housing needs identified in Section V of this Regional Analysis of Impediments, along with community and stakeholder feedback, the participating jurisdictions committed to nine regional policies and developed supporting activities for each policy that specifically address fair housing needs. These policies and activities maintain and expand on existing programs and activities and introduce new actions to address fair housing needs in the region. A review of the previous 2015 Regional Analysis of Impediments goals resulted in continuing to work on those goals and incorporating them into these new policies and activities. These new policies and activities will be incorporated into the jurisdictions' five-year consolidated plans, annual plans, and additional plans, such as housing elements, that relate to these activities. Detailed descriptions of each policy and activity, including the contributing factors, responsible party(s), metrics and milestones, and time frame for achievement, are provided in Section VI.

Creating new affordable housing units has typically been a difficult goal for participating jurisdictions because of increasing need for and limited amount of public dollars to support these activities. However, recent California legislation, such as the Building Homes and Jobs Act (SB 2), Housing for a Healthy California program (AB 74), and other housing funding laws, plus HUD's recent increase of HEAP funds and the No Place Like Home for permanent supportive housing funds, is creating new potential opportunities for funding that could be allocated toward fair housing challenges in each community. As set forth in Goal 9.b, participating jurisdictions are committed to vetting those opportunities.

To address issues with fair housing, participating jurisdictions will strive to do the following:

Regional Policy 1: Promote fair housing enforcement and outreach.

Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable

accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.

Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias.

Activity 1.c: Participating jurisdictions will advocate for local federal/state laws that would improve fair housing protections for those experiencing barriers to accessing housing.

Activity 1.d: Participating jurisdictions will continue to fund housing placement services for people with disabilities to assist them in finding accessible housing (i.e. CRIL, DCARA, County's online application/website).

Activity 1.e: Participating jurisdictions will provide financial assistance to clinics that provide free or reduced-costs legal services for low-income rental households facing barriers to affordable housing.

Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.

Activity 2.a: Participating jurisdictions with an existing rental stabilization program will take actions to continue to maintain the program and make improvements, as needed.

Activity 2.b: Participating jurisdictions will promote new fair housing laws, including AB 1482, upon adoption, and to the extent required by the new laws.

Activity 2.c: Participating jurisdictions will periodically review their existing inclusionary housing in-lieu fees and/or housing impact fees and jobs-housing linkage fee programs if applicable, to maximize number of units in a manner consistent with current housing market conditions and applicable law.

Activity 2.d: The participating jurisdictions will continue to pursue modifications of current zoning and other local policies regulating housing development that pose a direct or indirect constraint on the production of affordable housing.

Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.

Activity 2.f: Participating jurisdictions will continue to incorporate these Regional Analysis of Impediments' goals into their 5 -Year Consolidated and Annual Action Plans.

Activity 2.g: The participating jurisdictions will continue to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that evaluates the progress towards these Regional Analysis of Impediments' goals.

Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.

Activity 2.i: Other Activities (see Section VI for details)

Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.

Activity 3.a: Educate tenants and landlords on new fair housing laws.

Activity 3.b: Participating jurisdictions will explore creating incentives for landlords to rent to Section 8 voucher holders, such as a leasing bonus, damage claim reimbursement, security deposit and utility assistance.

Activity 3.c: Other Activities (see Section VI for details)

Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.

Activity 4.a: Participating jurisdictions will explore a low-cost loan program for landlords unable to make needed repairs or accessibility modifications in order to avoid displacement of lower-income tenants in substandard units.

Activity 4.b: Participating jurisdictions will research establishing citywide code inspection program of all rental units or continue to maintain existing program.

Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.

Activity 4.d: The participating jurisdictions will continue to financially support programs that rehabilitate existing units for accessibility.

Activity 4.e: Other Activities (see Section VI for details)

Regional Policy 5: Increase the number of affordable housing units.

Activity 5.a: Participating jurisdictions will prioritize the production of affordable housing units in sizes appropriate for the population and based on family size.

Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or Analysis of Impediments, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.

Activity 5.c: Participating jurisdictions will explore revisions to building codes or processes that reduce the costs and/or allow greater number of accessory dwelling units, tiny homes, or smaller houses.

Regional Policy 6: Increase homeownership among low- and moderate-income households.

Activity 6.a: Participating jurisdictions will create a shared list of lenders countywide that can help buyers access below-market-rate loans (homes) and locally sponsored down payment and mortgage assistance programs; promote this list of lenders to interested residents.

Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.

Regional Policy 7: Maintain and expand supportive services for lower-income households.

Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.

Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.

Activity 7.c: Participating jurisdictions will continue to support access to resources (such as for those with disabilities, language barriers, cultural barriers).

Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.

Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.

Activity 8.b: The participating jurisdictions will explore the creation of a countywide affordable housing database.

Activity 8.c: The participating jurisdictions will continue promoting 211's affordable housing database with current information.

Activity 8.d: Increase marketing efforts of affordable housing units to people that typically face barriers and discrimination in fair housing choice, such as persons with disabilities, people of color, low-income families, seniors, new immigrants, people experiencing homelessness.

Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.

Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.

Activity 9.a: Participating jurisdictions will explore financially supporting economic development activities and initiatives in Racially/Ethnicly Concentrated Areas of Poverty (R/ECAPs).

Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e. Program 811).

## APPENDIX

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### ATTACHMENT 1

## SUMMARY OF GOALS AND ACTIVITIES BY JURISDICTION

### Alameda Urban County Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
  - Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias.
  - Activity 1.c: Participating jurisdictions will advocate for local federal/state laws that would improve fair housing protections for those experiencing barriers to accessing housing.
  - Activity 1.d: Participating jurisdictions will continue to fund housing placement services for people with disabilities to assist them in finding accessible housing (i.e., CRIL, DCARA, County's online application/website).
  - Activity 1.e: Participating jurisdictions will provide financial assistance to clinics that provide free or reduced-costs legal services for low-income rental households facing barriers to affordable housing.
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.b: Participating jurisdictions will promote new fair housing laws, including AB 1482, upon adoption, and to the extent required by the new laws.
  - Activity 2.c: Participating jurisdictions will periodically review their existing inclusionary housing in-lieu fees and/or housing impact fees and jobs-housing linkage fee programs if applicable, to maximize number of units in a manner consistent with current housing market conditions and applicable law.
  - Activity 2.d: The participating jurisdictions will continue to pursue modifications of current zoning and other local policies regulating housing development that pose a direct or indirect constraint on the production of affordable housing.
  - Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.
  - Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.



- Activity 2.g: The participating jurisdictions will continue to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that evaluates the progress towards these Regional AI goals.
- Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.a: Educate tenants and landlords on new fair housing laws.
  - Activity 3.b: Participating jurisdictions will explore creating incentives for landlords to rent to Section 8 voucher holders, such as a leasing bonus, damage claim reimbursement, security deposit and utility assistance.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.a: Participating jurisdictions will explore a low-cost loan program for landlords unable to make needed repairs or accessibility modifications in order to avoid displacement of lower-income tenants in substandard units.
  - Activity 4.b: Participating jurisdictions will research establishing citywide code inspection program of all rental units or continue to maintain existing program.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
  - Activity 4.e: Other Activities - The City of Emeryville work proactively to retain existing subsidized affordable housing units that are at risk of converting to market rate.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.a: Participating jurisdictions will prioritize the production of affordable housing units in sizes appropriate for the population and based on family size.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.
  - Activity 5.c: Participating jurisdictions will explore revisions to building codes or processes that reduce the costs and/or allow greater number of accessory dwelling units, tiny homes, or smaller houses.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.

- Activity 6.a: Participating jurisdictions will create a shared list of lenders countywide that can help buyers access below-market-rate loans (homes) and locally sponsored down payment and mortgage assistance programs; promote this list of lenders to interested residents.
- Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.
- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
  - Activity 7.c: Participating jurisdictions will continue to support access to resources (such as for those with disabilities, language barriers, cultural barriers).
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.
  - Activity 8.b: The participating jurisdictions will explore the creation of a countywide affordable housing database.
  - Activity 8.c: The participating jurisdictions will continue promoting 211's affordable housing database with current information.
  - Activity 8.d: Increase marketing efforts of affordable housing units to people that typically face barriers and discrimination in fair housing choice, such as persons with disabilities, people of color, low-income families, seniors, new immigrants, people experiencing homelessness.
  - Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.
- Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.a: Participating jurisdictions will explore financially supporting economic development activities and initiatives in Racially/Ethnically Concentrated Areas of Poverty (R/ECAPs).
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

## City of Alameda Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.a: Participating jurisdictions with an existing rental stabilization program will take actions to continue to maintain the program and make improvements, as needed.
  - Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
  - Activity 2.g: The participating jurisdictions will continue to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that evaluates the progress towards these Regional AI goals.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.c: Other Activities - Create a prosecution division within the City Attorney's Office to enforce the city ordinance regarding source of income protections and other fair housing violations. Maintain data on education activities.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
  - Activity 4.d: The participating jurisdictions will continue to financially support programs that rehabilitate existing units for accessibility.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit

Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.

- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
  - Activity 7.c: Participating jurisdictions will continue to support access to resources (such as for those with disabilities, language barriers, cultural barriers).
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.
- Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.a: Participating jurisdictions will explore financially supporting economic development activities and initiatives in Racially/Ethnically Concentrated Areas of Poverty (R/ECAPs).

## City of Berkeley Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
  - Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias.
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.a: Participating jurisdictions with an existing rental stabilization program will take actions to continue to maintain the program and make improvements, as needed.
  - Activity 2.b: Participating jurisdictions will promote new fair housing laws, including AB 1482, upon adoption, and to the extent required by the new laws.
  - Activity 2.c: Participating jurisdictions will periodically review their existing inclusionary housing in-lieu fees and/or housing impact fees and jobs-housing linkage fee programs if applicable, to maximize number of units in a manner consistent with current housing market conditions and applicable law.

- Activity 2.d: The participating jurisdictions will continue to pursue modifications of current zoning and other local policies regulating housing development that pose a direct or indirect constraint on the production of affordable housing.
- Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.
- Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
- Activity 2.g: The participating jurisdictions will continue to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that evaluates the progress towards these Regional AI goals.
- Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.b: Participating jurisdictions will research establishing citywide code inspection program of all rental units or continue to maintain existing program.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
  - Activity 4.d: The participating jurisdictions will continue to financially support programs that rehabilitate existing units for accessibility.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.
- Regional Policy 7: Maintain and expand supportive services for lower-income households.

- Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
- Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.
  - Activity 8.c: The participating jurisdictions will continue promoting 211's affordable housing database with current information.
  - Activity 8.d: Increase marketing efforts of affordable housing units to people that typically face barriers and discrimination in fair housing choice, such as persons with disabilities, people of color, low-income families, seniors, new immigrants, people experiencing homelessness.
  - Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.
- Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.a: Participating jurisdictions will explore financially supporting economic development activities and initiatives in Racially/Ethnicly Concentrated Areas of Poverty (R/ECAPs).

## City of Fremont Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
  - Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias.
  - Activity 1.d: Participating jurisdictions will continue to fund housing placement services for people with disabilities to assist them in finding accessible housing (i.e., CRIL, DCARA, County's online application/website).
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.a: Participating jurisdictions with an existing rental stabilization program will take actions to continue to maintain the program and make improvements, as needed.

- Activity 2.b: Participating jurisdictions will promote new fair housing laws, including AB 1482, upon adoption, and to the extent required by the new laws.
- Activity 2.c: Participating jurisdictions will periodically review their existing inclusionary housing in-lieu fees and/or housing impact fees and jobs-housing linkage fee programs if applicable, to maximize number of units in a manner consistent with current housing market conditions and applicable law.
- Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.
- Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
- Activity 2.g: The participating jurisdictions will continue to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that evaluates the progress towards these Regional AI goals.
- Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.a: Educate tenants and landlords on new fair housing laws.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
  - Activity 4.d: The participating jurisdictions will continue to financially support programs that rehabilitate existing units for accessibility.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and

homebuyer education classes; and will promote any existing programs through marketing efforts.

- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
  - Activity 7.c: Participating jurisdictions will continue to support access to resources (such as for those with disabilities, language barriers, cultural barriers).
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.
  - Activity 8.c: The participating jurisdictions will continue promoting 211's affordable housing database with current information.
  - Activity 8.d: Increase marketing efforts of affordable housing units to people that typically face barriers and discrimination in fair housing choice, such as persons with disabilities, people of color, low-income families, seniors, new immigrants, people experiencing homelessness.
  - Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.
- Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

## City of Hayward Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
  - Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias.
  - Activity 1.e: Participating jurisdictions will provide financial assistance to clinics that provide free or reduced-costs legal services for low-income rental households facing barriers to affordable housing.



- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.a: Participating jurisdictions with an existing rental stabilization program will take actions to continue to maintain the program and make improvements, as needed.
  - Activity 2.b: Participating jurisdictions will promote new fair housing laws, including AB 1482, upon adoption, and to the extent required by the new laws.
  - Activity 2.d: The participating jurisdictions will continue to pursue modifications of current zoning and other local policies regulating housing development that pose a direct or indirect constraint on the production of affordable housing.
  - Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.
  - Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
  - Activity 2.g: The participating jurisdictions will continue to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that evaluates the progress towards these Regional AI goals.
  - Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.a: Educate tenants and landlords on new fair housing laws.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.b: Participating jurisdictions will research establishing citywide code inspection program of all rental units or continue to maintain existing program.
  - Activity 4.d: The participating jurisdictions will continue to financially support programs that rehabilitate existing units for accessibility.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.a: Participating jurisdictions will prioritize the production of affordable housing units in sizes appropriate for the population and based on family size.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.

- Activity 5.c: Participating jurisdictions will explore revisions to building codes or processes that reduce the costs and/or allow greater number of accessory dwelling units, tiny homes, or smaller houses.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.
- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.
  - Activity 8.c: The participating jurisdictions will continue promoting 211's affordable housing database with current information.
  - Activity 8.d: Increase marketing efforts of affordable housing units to people that typically face barriers and discrimination in fair housing choice, such as persons with disabilities, people of color, low-income families, seniors, new immigrants, people experiencing homelessness.
  - Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.
- Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

## City of Livermore Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.

- Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias.
- Activity 1.d: Participating jurisdictions will continue to fund housing placement services for people with disabilities to assist them in finding accessible housing (i.e., CRIL, DCARA, County's online application/website).
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.b: Participating jurisdictions will promote new fair housing laws, including AB 1482, upon adoption, and to the extent required by the new laws.
  - Activity 2.c: Participating jurisdictions will periodically review their existing inclusionary housing in-lieu fees and/or housing impact fees and jobs-housing linkage fee programs if applicable, to maximize number of units in a manner consistent with current housing market conditions and applicable law.
  - Activity 2.d: The participating jurisdictions will continue to pursue modifications of current zoning and other local policies regulating housing development that pose a direct or indirect constraint on the production of affordable housing.
  - Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.
  - Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
  - Activity 2.g: The participating jurisdictions will continue to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that evaluates the progress towards these Regional AI goals.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Educate tenants and landlords on new fair housing laws.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
- Regional Policy 5: Participating jurisdictions will prioritize the production of affordable housing units in sizes appropriate for the population and based on family size.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.

- Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.
- Regional Policy 7: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.d: Increase marketing efforts of affordable housing units to people that typically face barriers and discrimination in fair housing choice, such as persons with disabilities, people of color, low-income families, seniors, new immigrants, people experiencing homelessness.
  - Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.

## City of Oakland Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
  - Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias.
  - Activity 1.e: Participating jurisdictions will provide financial assistance to clinics that provide free or reduced-costs legal services for low-income rental households facing barriers to affordable housing.
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.a: Participating jurisdictions with an existing rental stabilization program will take actions to continue to maintain the program and make improvements, as needed.
  - Activity 2.d: The participating jurisdictions will continue to pursue modifications of current zoning and other local policies regulating housing development that pose a direct or indirect constraint on the production of affordable housing.
  - Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.

- Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
- Activity 2.g: The participating jurisdictions will continue to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that evaluates the progress towards these Regional AI goals.
- Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.a: Educate tenants and landlords on new fair housing laws.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.a: Participating jurisdictions will explore a low-cost loan program for landlords unable to make needed repairs or accessibility modifications in order to avoid displacement of lower-income tenants in substandard units.
  - Activity 4.b: Participating jurisdictions will research establishing citywide code inspection program of all rental units or continue to maintain existing program.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
  - Activity 4.d: The participating jurisdictions will continue to financially support programs that rehabilitate existing units for accessibility.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.a: Participating jurisdictions will prioritize the production of affordable housing units in sizes appropriate for the population and based on family size.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.
  - Activity 5.c: Participating jurisdictions will explore revisions to building codes or processes that reduce the costs and/or allow greater number of accessory dwelling units, tiny homes, or smaller houses.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.a: Participating jurisdictions will create a shared list of lenders countywide that can help buyers access below-market-rate loans (homes) and locally sponsored down payment and mortgage assistance programs; promote this list of lenders to interested residents.

- Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.
- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.
  - Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.
- Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.a: Participating jurisdictions will explore financially supporting economic development activities and initiatives in Racially/Ethnically Concentrated Areas of Poverty (R/ECAPs).
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

## City of Pleasanton Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
  - Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias
  - Activity 1.d: Participating jurisdictions will continue to fund housing placement services for people with disabilities to assist them in finding accessible housing (i.e., CRIL, DCARA, County's online application/website).
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.

- Activity 2.b: Participating jurisdictions will promote new fair housing laws, including AB 1482, upon adoption, and to the extent required by the new laws.
- Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.
- Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
- Activity 2.g: The participating jurisdictions will continue to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that evaluates the progress towards these Regional AI goals.
- Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.a: Educate tenants and landlords on new fair housing laws.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.a.: Participating jurisdictions will prioritize the production of affordable housing units in sizes appropriate for the population and based on family size.
- Regional Policy 6: Increase homeownership among low- and moderate-income households
  - Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.
- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
  - Activity 7.d: Participating jurisdictions will continue to support access to resources (such as for those with disabilities, language barriers, cultural barriers).
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.
  - Activity 8.c: The participating jurisdictions will continue promoting 211's affordable housing database with current information.

- Regional Policy 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

## City of San Leandro Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
  - Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias.
  - Activity 1.d: Participating jurisdictions will continue to fund housing placement services for people with disabilities to assist them in finding accessible housing (i.e., CRIL, DCARA, County's online application/website).
  - Activity 1.e: Participating jurisdictions will provide financial assistance to clinics that provide free or reduced-costs legal services for low-income rental households facing barriers to affordable housing.
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.a: Participating jurisdictions with an existing rental stabilization program will take actions to continue to maintain the program and make improvements, as needed.
  - Activity 2.b: Participating jurisdictions will promote new fair housing laws, including AB 1482, upon adoption, and to the extent required by the new laws.
  - Activity 2c: Participating jurisdictions will periodically review their existing inclusionary housing in-lieu fees and/or housing impact fees and jobs-housing linkage fee programs if applicable, to maximize number of units in a manner consistent with current housing market conditions and applicable law.
  - Activity 2.d: The participating jurisdictions will continue to pursue modifications of current zoning and other local policies regulating housing development that pose a direct or indirect constraint on the production of affordable housing.
  - Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.
  - Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
  - Activity 2.g: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.



- Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.a: Educate tenants and landlords on new fair housing laws.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.c: Participating jurisdictions will explore revisions to building codes or processes that reduce the costs and/or allow greater number of accessory dwelling units, tiny homes, or smaller houses.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.
- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.c: The participating jurisdictions will continue promoting 211's affordable housing database with current information.

## City of Union City

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
  - Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias.

- Activity 1.d: Participating jurisdictions will continue to fund housing placement services for people with disabilities to assist them in finding accessible housing (i.e., CRIL, DCARA, County's online application/website).
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.b: Participating jurisdictions will promote new fair housing laws, including AB 1482, upon adoption, and to the extent required by the new laws.
  - Activity 2.c: Participating jurisdictions will periodically review their existing inclusionary housing in-lieu fees and/or housing impact fees and jobs-housing linkage fee programs if applicable, to maximize number of units in a manner consistent with current housing market conditions and applicable law.
  - Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.
  - Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
  - Activity 2.g: The participating jurisdictions will continue to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) that evaluates the progress towards these Regional AI goals.
  - Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.a: Educate tenants and landlords on new fair housing laws.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
  - Activity 4.d: The participating jurisdictions will continue to financially support programs that rehabilitate existing units for accessibility.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.a: Participating jurisdictions will prioritize the production of affordable housing units in sizes appropriate for the population and based on family size.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities,

persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.

- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.a: Participating jurisdictions will create a shared list of lenders countywide that can help buyers access below-market-rate loans (homes) and locally sponsored down payment and mortgage assistance programs; promote this list of lenders to interested residents.
  - Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.
- Regional Policy 7: Maintain and expand supportive services for lower-income households
  - Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
  - Activity 7.c: Participating jurisdictions will continue to support access to resources (such as for those with disabilities, language barriers, cultural barriers)
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.
  - Activity 8.b: The participating jurisdictions will explore the creation of a countywide affordable housing database.
  - Activity 8.c: The participating jurisdictions will continue promoting 211's affordable housing database with current information.
  - Activity 8.d: Increase marketing efforts of affordable housing units to people that typically face barriers and discrimination in fair housing choice, such as persons with disabilities, people of color, low-income families, seniors, new immigrants, people experiencing homelessness.
- Regional Policy 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

## Livermore Housing Authority Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.b: Participating jurisdictions will seek ways to increase resident access to fair housing services, such as improved marketing of services, improved landlord education, and improved tenant screening services to avoid owner bias.
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.b: Participating jurisdictions will promote new fair housing laws, including AB 1482, upon adoption, and to the extent required by the new laws.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.b: Participating jurisdictions will explore creating incentives for landlords to rent to Section 8 voucher holders, such as a leasing bonus, damage claim reimbursement, security deposit and utility assistance.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.a: Participating jurisdictions will prioritize the production of affordable housing units in sizes appropriate for the population and based on family size.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.a: Participating jurisdictions will create a shared list of lenders countywide that can help buyers access below-market-rate loans (homes) and locally sponsored down payment and mortgage assistance programs; promote this list of lenders to interested residents.
- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.

- Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

## Housing Authority of the City of Alameda

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.b: Participating jurisdictions will explore creating incentives for landlords to rent to Section 8 voucher holders, such as a leasing bonus, damage claim reimbursement, security deposit and utility assistance.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.a: Participating jurisdictions will prioritize the production of affordable housing units in sizes appropriate for the population and based on family size.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.
- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.d: Participating jurisdictions will continue to provide program materials in multiple languages.

- Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

## Housing Authority of the County of Alameda (HACA) Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
  - Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.a: Educate tenants and landlords on new fair housing laws.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.d: The participating jurisdictions will continue to financially support programs that rehabilitate existing units for accessibility.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.
- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit

Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.

- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.
  - Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.
- Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

## Berkeley Housing Authority Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.
  - Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
  - Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.a: Educate tenants and landlords on new fair housing laws.

- Activity 3.b: Participating jurisdictions will explore creating incentives for landlords to rent to Section 8 voucher holders, such as a leasing bonus, damage claim reimbursement, security deposit and utility assistance.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.
- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.b: Participating jurisdictions will continue to provide financial support for homeless services.
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.
  - Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.
- Regional Goal 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

## Oakland Housing Authority Goals

- Regional Policy 1: Promote fair housing enforcement and outreach.
  - Activity 1.a: The participating jurisdictions will continue to contract with fair housing service providers to educate home seekers, landlords, property managers, real estate agents, and lenders regarding fair housing law and recommended practices, including the importance of reasonable accommodation under ADA; to mediate conflicts between home seekers, landlords, property managers, real estate agents, and lenders; and to continue fair housing testing and audits.
- Regional Policy 2: Maintain, improve, and implement local policy that supports affordable housing and fair housing.



- Activity 2.d: The participating jurisdictions will continue to pursue modifications of current zoning and other local policies regulating housing development that pose a direct or indirect constraint on the production of affordable housing.
- Activity 2.e: Participating jurisdictions will continue to aim to implement the programs described in their Housing Elements within the current Housing Element planning period.
- Activity 2.f: Participating jurisdictions will continue to incorporate these Regional AI goals into their 5-Year Consolidated and Annual Action Plans.
- Activity 2.h: As needed, participating jurisdictions will work together to continue to commission market-based surveys of current market-rate rents in the Oakland-Fremont HUD FMR Area (Alameda and Contra Costa Counties) in an effort to seek adjustment to HUD FMR standards for the area; and will advocate to HUD for the revision of FMR calculations/methodology.
- Activity 2.i: Other Activities - OHA plans to implement a relocation assistance program for housing choice voucher participants that are forced to vacate their homes, due to failed housing quality standard inspections. Eligible residents may be approved for a moving allowance to assist with costs using Uniform Relocation Allowances. Residents will be informed through the briefing process and during abatement communications of this benefit. Metrics will be compiled at fiscal year-end for number of families assisted and reported through the Annual Moving to Work (MTW) report, a HUD requirement.
- Regional Policy 3: Promote and implement new fair housing laws that protect recipients of rental subsidies from discrimination by landlords.
  - Activity 3.b: Participating jurisdictions will explore creating incentives for landlords to rent to Section 8 voucher holders, such as a leasing bonus, damage claim reimbursement, security deposit and utility assistance.
- Regional Policy 4: Preserve and rehabilitate existing affordable housing stock.
  - Activity 4.a: Participating jurisdictions will explore a low-cost loan program for landlords unable to make needed repairs or accessibility modifications in order to avoid displacement of lower-income tenants in substandard units.
  - Activity 4.c: Participating jurisdictions will provide rehabilitation assistance loans for lower-income units.
- Regional Policy 5: Increase the number of affordable housing units.
  - Activity 5.a: Participating jurisdictions will prioritize the production of affordable housing units in sizes appropriate for the population and based on family size.
  - Activity 5.b: The participating jurisdictions will continue all existing programs to support development of local affordable housing units through a variety of strategies such as applications for state and federal funding, entitlement assistance, outreach to the community and other stakeholders, direct financial support, and site identification and acquisition assistance. This support will include development of units that serves specialized populations as defined by the funding source, Housing Element, Consolidated Plan, or AI, such as transitional and supportive housing, and housing for seniors, persons with disabilities, persons experiencing homelessness, and persons living with HIV/AIDS or severe mental illness.

- Regional Policy 6: Increase homeownership among low- and moderate-income households.
  - Activity 6.b: As resources are available, the participating jurisdictions will allocate funds for homeownership programs that support low- and moderate-income households, including but not limited to down payment assistance, first time home buyer, Mortgage Credit Certificate, below market rate (BMR) homeownership programs, and financial literacy and homebuyer education classes; and will promote any existing programs through marketing efforts.
- Regional Policy 7: Maintain and expand supportive services for lower-income households.
  - Activity 7.a: Participating jurisdictions will continue to support or will explore new programs that provide financial support for job training programs to lower-income individuals.
  - Activity 7.c: Emergency assistance for clothing, food and transportation.
- Regional Policy 8: Maintain and expand awareness of affordable housing opportunities and services through marketing efforts.
  - Activity 8.a: Participating jurisdictions will continue to assist in advertising the availability of subsidized rental units via the jurisdictions' websites and or apps, the 2-1-1 information and referral phone service, and other media outlets.
  - Activity 8.d: Increase marketing efforts of affordable housing units to people that typically face barriers and discrimination in fair housing choice, such as persons with disabilities, people of color, low-income families, seniors, new immigrants, people experiencing homelessness.
  - Activity 8.e: Participating jurisdictions will continue to provide program materials in multiple languages.
- Regional Policy 9: Continue to find ways to finance affordable housing, community development, and economic development activities.
  - Activity 9.a: Participating jurisdictions will explore financially supporting economic development activities and initiatives in Racially/Ethnically Concentrated Areas of Poverty (R/ECAPs).
  - Activity 9.b: Participating jurisdictions will pursue local, state, and federal funding sources as they become available (i.e., Program 811).

**CITY OF BERKELEY  
NOTICE OF PUBLIC HEARING  
and  
REQUEST FOR COMMENTS ON ITS  
CONSOLIDATED PLAN (2020-2025) including the First Year ANNUAL ACTION  
PLAN and REGIONAL ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING**

Beginning Friday, March 27, 2020, the public is invited to review and comment on the City of Berkeley's Consolidated Plan for Housing and Community Development that covers the period July 1, 2020 through June 30, 2025 including the City of Berkeley's FY 2021 Annual Action Plan, which covers the period July 1, 2020 through June 30, 2021, and the Regional Analysis of Impediments to Fair Housing.

The City of Berkeley, and all jurisdictions receiving certain types of federal funds, are required to submit a Consolidated Plan and subsequent Annual Action Plans, as well as an Analysis of Impediments to Fair Housing to the US Department of Housing and Urban Development (HUD). The Consolidated Plan outlines the City's needs and goals in the areas of Housing, Homelessness, Community Development, and Non-Homeless Special Needs, to act as a framework for the use of federal funds in these areas. The City of Berkeley's Annual Action Plan presents the City's plan for funding housing and community services. In FY 2021, the first year of the five-year Consolidated Plan, the Annual Action plan contemplates funding allocations of approximately \$3 million in Community Development Block Grant (CDBG) funds, approximately \$227,000 in Emergency Solutions Grant (ESG) funds; and approximately \$757,000 in HOME Investment Partnership Program (HOME) funds. The Analysis of Impediments to Fair Housing is a planning document built on public participation and intergovernmental consultation and informs the Consolidated Plan and associated Annual Action Plans. **The period for public comment on this report closes Friday, May 1, 2020, at 5:00 p.m.** The City must complete the reports and submit them to HUD, including City responses to all written public comments, by no later than 5:00 p.m., on Friday, May 15, 2020.

A **public hearing** will be held on the Consolidated Plan that includes the FY 2021 Annual Action Plan with the proposed CDBG, ESG and HOME allocations for funding, and the Regional Analysis of Impediments to Fair Housing on **April 28, 2020, 6 p.m. in the School District Board Room, 1231 Addison Street, Berkeley, CA 94702**. A copy of the agenda material for this public hearing will be posted on the City's website at [www.cityofberkeley.info](http://www.cityofberkeley.info).

The draft Consolidated Plan including the FY 2021 Annual Action Plan and the Regional Analysis of Impediments to Fair Housing will be available for public review and written comment at the Health, Housing and Community Services Department on the second floor at 2180 Milvia Street and at the Berkeley Public Library Reference Desk at 2090 Kittredge Street, 2<sup>nd</sup> floor, during normal business hours, and on the web at <http://www.cityofberkeley.info/ContentDisplay.aspx?id=12160> beginning March 27, 2020. For more information or to submit written comments, contact Rhianna Babka (email: [rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info)) at the Health, Housing and Community Services Department

2180 Milvia Street, 2<sup>nd</sup> Floor, Berkeley, 94704. **Written comments must be received by no later than May 1, 2020, at 5:00 p.m.**

A partir del viernes, 27 de marzo de 2020, la ciudadanía está invitada a revisar y dar comentarios en el Plan Consolidado para Vivienda y Desarrollo Comunitario. Este Plan cubre el periodo de trabajo a partir del 1 de julio de 2020 hasta el 30 de junio de 2025. Este plan también incluye el Plan de Acción Anual de la Ciudad de Berkeley que cubre el periodo a partir del 1 de julio de 2020 hasta el 30 de junio de 2021 y el Análisis Regional de Obstáculos en la Equidad de Vivienda.

La Ciudad de Berkeley y todas las jurisdicciones que reciben ciertos tipos de fondos federales tienen como requisito presentar un Plan Consolidado y Planes de Acción Anual como también el Análisis Regional de Obstáculos en la Equidad de Vivienda al departamento de Vivienda y Desarrollo Urbano (HUD siglas en inglés). El Plan Consolidado enumera las necesidades y metas en las áreas de vivienda, indigencia, desarrollo comunitario y necesidades especiales que sirve como referencia para el uso de fondos federales en estas áreas. El Plan de Acción Anual de la Ciudad de Berkeley presenta la propuesta para financiar servicios comunitarios y de vivienda. En el año fiscal 2021 (FY), el cual es el primer año de los cinco años del Plan Consolidado, el Plan de Acción Anual considera la distribución de fondos de aproximadamente \$3 millones que serán recibidos por medio de la Beca de Desarrollo del Bloque Comunitario (CDBG siglas en inglés). Aproximadamente \$227,000 de la Beca de Soluciones de Emergencias (ESG siglas en inglés) y aproximadamente \$757,000 para el Programa de Asociación para la Inversión en Viviendas HOME (HOME siglas en inglés). El Análisis Regional de Obstáculos en la Equidad de Vivienda es un documento de planificación preparado con la participación del público y consultas entre agencias intergubernamentales el cual sirve para la preparación del Plan Consolidado y los Planes Anuales de Acción subsecuentes. **El público puede presentar comentarios para la producción de este informe hasta el 1 de mayo de 2020, a las 5:00 pm.** La Ciudad necesita completar los informes y entregarlos a HUD el 15 de mayo de 2020 hasta las 5:00 pm. Los informes incluirán todos los comentarios escritos que la Ciudad reciba.

Una **audiencia pública** para discutir el Plan Consolidado, el Plan de Acción Anual y la distribución de fondos monetarios de CDBG, ESG y HOME propuestos para el año fiscal 2021 se llevará a cabo el **día martes 28 de abril de 2020 en el School District Board Room ubicado en la Calle Addison 1231, Berkeley, Ca 94702.** Durante la audiencia pública también se discutirá el Análisis Regional de Obstáculos en la Equidad de Vivienda.

A partir del viernes 27 de marzo de 2020, el borrador del Plan Consolidado, el Plan de Acción Anual para el año fiscal 2021 y el Análisis Regional de Obstáculos en la Equidad de Vivienda estarán disponibles al público en los escritorios de referencia de la Biblioteca Pública de Berkeley localizada en Calle Kittredge 2090, y en el escritorio de recepción del Departamento de Salud, Vivienda y Servicios Comunitarios de la ciudad de Berkeley localizado en la Calle Milvia 2180, 2do Piso, durante las horas de oficina.

También está disponible al público por medio del Internet en la página electrónica <http://www.cityofberkeley.info/ContentDisplay.aspx?id=12160>.

Para más información o para presentar comentarios escritos, favor contactar a Rhianna Babka, (correo electrónico: [rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info)) en el Departamento de Salud, Vivienda y Servicios Comunitarios localizado en la dirección 2180 Calle Milvia, 2do piso, Berkeley, CA 94704. **Los comentarios escritos serán recibidos hasta el 1 de mayo, hasta las 5:00 pm.** Para asistencia en español, favor contactar a Roxana Andrade, (510) 981-5402 o [Randrade@cityofberkeley.info](mailto:Randrade@cityofberkeley.info).

由二零二零年三月二十七日開始，伯克萊市政府邀請公眾人士對伯克萊的房屋及社區服務部發表的綜合計劃書和年度活動計劃書加以檢核及評論。該綜合計劃書蓋括五個財政年度（由二零二零年七月一日至二零二五年六月三十日），概述市政府針對房屋的需求而制定的運用聯邦經費計劃；年度活動計劃書則為經費分配的提議，包括社區發展經費（CDBG）-三百萬元，緊急庇護經費（ESG）-二十二萬七千元，房屋發展經費（HOME）-七十五萬七千元。市政府必須在二零二零年五月一日下午五時前向聯邦政府呈交此等計劃書及評論。市民如有諮詢或呈交書面評論，請聯絡房屋及社區服務部 Rhianna Babka 小姐，電郵地址：[rbabka@cityofberkeley.info](mailto:rbabka@cityofberkeley.info)

書面評論必須在二零二零年五月一日下午五時前送到房屋及社區服務部，地址 2180 Milvia St., 2<sup>nd</sup> Floor, Berkeley, CA 94704.

市政府將於二零二零年四月二十八日下午六時舉行公聽會，討論綜合計劃書，年度活動計劃書，及二零二零年 CDBG, ESG, 與 HOME 經費分配提議。

公聽會議地址：1231 Addison Street, Berkeley

公聽會議程將于在市政府網頁發表，市民可登入網頁閱覽。網址：

[www.cityofberkeley.info](http://www.cityofberkeley.info)

如需要中文協助，請聯絡，電話 (510)981 5423 或 電郵：[www.cityofberkeley.info](http://www.cityofberkeley.info)

**Published March 21, 2020**





Office of the City Manager

ACTION CALENDAR

April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: David A. White, Deputy City Manager

Subject: Discussion and Direction Regarding Potential Ballot Measures for the November 3, 2020 General Municipal Election

RECOMMENDATION

Discuss possible ballot measures for November 2020, and provide direction to the City Manager about which issues to include in a community survey should the City Council wish to undertake one.

SUMMARY

The purpose of this report is to provide an update to City Council on the 2020 community survey. The Council's discussion and direction at this meeting will inform the following: (1), whether or not a survey should be administered during the pandemic and (2) if City Council would like to move forward with a survey, what issues City Council would like to include in the survey.

FISCAL IMPACTS OF RECOMMENDATION

The cost of two community surveys is expected to not exceed \$75,000. The City has incurred expenses of approximately \$4,400 in developing the first survey and generating the first sample.

CURRENT SITUATION AND ITS EFFECTS

At the February 11, 2020 City Council meeting, City Council provided direction to city staff on possible ballot measures for the November 3, 2020 ballot, and provided direction to the City Manager about which issues to include in a community survey. The original timeline indicated that the first, of two, surveys would be administered in mid-March with city staff returning to City Council on April 14, 2020 with the results of the first survey. The following is the original timeline that was discussed with City Council:

**Original 2020 Ballot Measure Schedule**

|                           |                                                                                                                                                          |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Feb. 4: Worksession       | City Council to discuss possible revenue measures and questions to be included                                                                           |
| Feb. 11: Action Calendar  | Council decides which possible measures should be on first Community Survey                                                                              |
| March                     | Conduct Survey                                                                                                                                           |
| April 14: Action Calendar | Presentation and Discussion of first Community Survey Results<br><br>Council refines which issues deserve additional testing with more focused language. |
| April                     | Possible second survey                                                                                                                                   |
| May 26: Action Calendar   | Presentation and Discussion of Second Community Survey Results and Direction About Next Steps                                                            |
| June 16: Action Calendar  | Draft Ballot Language to Council (from May 26 direction)                                                                                                 |
| July 14: Action Calendar  | Draft Ballot Language to Council (from June 16 direction)                                                                                                |
| July 28: Action Calendar  | Last Council meeting before recess; Adopt Final Ballot Language and Resolutions placing measures on the ballot                                           |
| August 7:                 | Last Day to Place a Measure on the Ballot                                                                                                                |

1. Presented at the February 11, 2020 City Council meeting.

The original schedule indicated that the initial survey would take place two weeks after the March 3, 2020 primary and at least 500 Berkeley voters would be surveyed. Staff and the vendor originally planned to present the results of the survey to City Council in April 2020, with the goal of receiving input and direction to develop and implement a second survey that would have been conducted in April. However, due to the local, state, and national emergencies that were declared as a result of the COVID-19 pandemic and the shelter-in-place orders that were issued on March 17, 2020 and on March 31, 2020, the community survey has not been administered. Given the schedule above, there is likely not sufficient time to conduct more than one (1) survey.



**BACKGROUND**

On January 28, staff delivered a presentation to the City Council on fire and emergency services and various operational and system enhancements as well as funding options that included ballot measures, fees, and special studies. On February 4, 2020, staff provided an overview to the City Council on the ballot schedule and discussed the items that could be part of a community survey along with a variety of potential ballot measures that were being considered for the November 3, 2020 ballot. On February 11, 2020, staff delivered a subsequent presentation to City Council and received direction to survey the community on the following revenue measures:

- Tax / User Fee on ride share companies for prearranged rides originating in the City of Berkeley.
- Increase the utility user tax (gas and electric only) by 2.5 percent to generate resources for a climate action fund.
- Establish a new parcel tax for wildfire prevention activities.
- Increase the existing emergency medical services parcel tax to address deficits, provide for additional emergency medical services to address demand, and generate additional resources to address fire suppression and priority dispatching.
- Establish a new residential vacancy tax that would be applied to residential units and multi-unit properties that have been vacant for one year or more.

In addition to the revenue measures listed above, the following is a list of other measures that are being considered for the November 3, 2020 ballot:

- Police Charter Amendment. This item was scheduled for the City Council meeting on April 14, 2020. The Council voted to place the item on the November 3, 2020 ballot.
- Addressing the GANN limit. This is an item that has to be placed on the ballot every four (4) years that allows the City to continue to spend the proceeds of various taxes that were previously approved by the voters. The City last placed this item on the 2016 ballot.
- Eliminate the requirement in the Charter (Article VII, Section 37a) that requires the following: "Any sworn member of the fire department who is hired subsequent to January 1, 1995, may not reside greater than a radius of forty (40) air miles from the boundaries of the City of Berkeley."
- Revising certain sections of the Charter and Municipal Code to use gender neutral language (two measures – one for the Charter and one for the BMC).
- City Council salaries. Based on City Council direction, this item appears on the April 28, 2020 City Council agenda for consideration.
- Term Limits for Mayor and City Council. At the April 28, 2020 City Council meeting, there is an item on the agenda for City Council to discuss developing a Charter Amendment limiting the terms of the Mayor and City Council.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the action requested in this report.

RATIONALE FOR RECOMMENDATION

A community survey is an important tool to evaluate the public's interest in funding various projects and programs. While city staff have not implemented the initial survey, there is still time to engage the public and solicit input. However, with the community's focus on public health and safety, along with the significant social and economic impacts resulting from the COVID-19 pandemic, City Council may wish to postpone the survey and limit the items that appear on the November 3, 2020 ballot.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

David A. White, Deputy City Manager, 981-7012

Attachments:

- 1: February 11, 2020 City Council Report with Attachments
- 2: February 11, 2020 Presentation



Office of the City Manager

ACTION CALENDAR

February 11, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Matthai Chakko, Assistant to the City Manager

Subject: Discussion and Direction Regarding Potential Ballot Measures for the November 3, 2020 General Municipal Election

RECOMMENDATION

Discuss possible ballot measures for November 2020, and provide direction to the City Manager about which issues to include in a community survey.

SUMMARY

The purpose of this report is to discuss services the Council may wish to consider funding through a revenue measure – or measures – on the November 2020 ballot. In addition, the report will provide information about a community survey to provide additional information about the community's interests. The Council's discussion and direction at this meeting will inform the development of the community survey should the Council wish to undertake one.

FISCAL IMPACTS OF RECOMMENDATION

The cost of the two community surveys is expected to not exceed \$75,000.

CURRENT SITUATION AND ITS EFFECTS**Ballot Measure Development**

In order to prepare for a possible community survey, the City Manager's Office conducted a competitive process to select an opinion research firm, Lake Research Partners, to conduct voter surveys.

At tonight's meeting, Council has a forum to discuss the programs and/or services that could be included in a community survey. For example, should the focus be on a single area, such as an increase in the Emergency Medical Services Tax, or should the council choose a broader approach that includes multiple areas.

Should the Council choose to move forward, the next steps in the community survey process are as follows:

- The survey would take place two weeks after the March 3 primary and at least 500 Berkeley voters would be surveyed.

- Staff and the vendor would present the results of the survey to Council in April.
- Based on those results, Council would be able to discuss whether to narrow the focus of any measures and could direct staff to develop specific measures for the community's consideration. A second survey would then be conducted in April to assess the more focused approach.
- Following a second survey, the council would then decide upon a specific ballot measure or measures, if any, and direct the City Manager to develop ballot measure language for Council consideration in June and July.

**Ballot Measure Considerations**

As part of this discussion, staff has provided a comparison of the City's property-based taxes and assessments with other neighboring jurisdictions; and information about other likely items on the November 2020 ballot.

Property Tax Bill Comparison: When comparing the property tax bills between Berkeley, Oakland, and Albany, the primary differences relate to taxes based on the General Obligation (GO) Bond debt and the jurisdiction's special taxes, assessments and fees.

GO Bond debt is voter-approved and can be issued by the City or a school district. Special taxes can be used to meet a broad variety of needs, and can be based on different formulas. Berkeley's special taxes are generally based on a tax rate multiplied by the building square footage, while Oakland and Albany's special taxes are usually a flat amount per parcel with some land-use variations. The table below illustrates tax differences between Berkeley, Oakland and Albany by comparing a single-family residence with an assessed value of \$485,000<sup>1</sup>, a \$7,000 homeowner's exemption and 1,900 square feet.

**Summary of FY 2020 Property-Based Taxes and Assessments Comparison\***

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<sup>1</sup> Represents the median assessed value in the City of Berkeley.

Discussion and Direction Regarding Potential Ballot Measures  
for the November 3, 2020 General Municipal Election

ACTION CALENDAR  
February 11, 2020

| AGENCY                                            | Berkeley FY2020 |                | Oakland FY2020 |                | Albany FY2020 |                |
|---------------------------------------------------|-----------------|----------------|----------------|----------------|---------------|----------------|
|                                                   | Rate            | Amount         | Rate           | Amount         | Rate          | Amount         |
| Countywide Ad Valorem Tax                         | 1.000%          | \$4,780        | 1.000%         | \$4,780        | 1.000%        | \$4,780        |
| Voter-Approved Ad Valorem Debt Service (Combined) | 0.218%          | \$1,045        | 0.369%         | \$1,763        | 0.395%        | \$1,887        |
| Total All Ad Valorem Taxes                        | 1.218%          | \$5,824        | 1.369%         | \$6,543        | 1.395%        | \$6,667        |
| Total City Special Taxes                          | \$0.526         | \$1,001        |                | \$431          |               | \$321          |
| Total City Special Assessments                    |                 | \$112          |                | \$16           |               | \$712          |
| Total Unified School District Special Taxes       | \$0.468         | \$890          |                | \$435          |               | \$909          |
| Total County Assessments/Charges                  |                 | \$351          |                | \$352          |               | \$405          |
| <b>TOTAL CURRENT ANNUAL TAXES</b>                 |                 | <b>\$8,178</b> |                | <b>\$7,777</b> |               | <b>\$9,014</b> |
| <b>Tax/Assessment Rate</b>                        | <b>1.711%</b>   |                | <b>1.627%</b>  |                | <b>1.886%</b> |                |

\*For the full table, see Attachment 1

**Funding Mechanisms:** For purposes of this discussion, staff have provided information about various funding mechanisms.

#### General Obligation (GO) Bonds

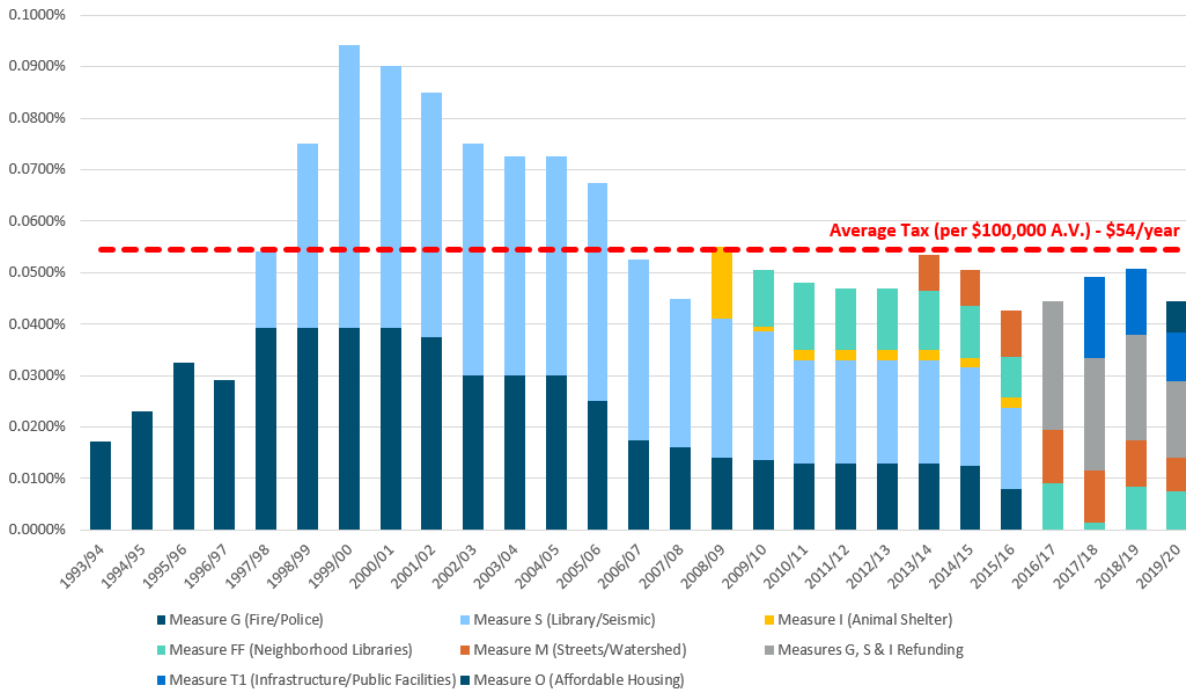
A General Obligation (GO) Bond is a form of long-term borrowing to finance capital improvements to real property such as buildings, roads and school facilities. Under a GO Bond structure, all tax requirements are shared proportionally based on taxable assessed value.

Key features of a GO Bond are:

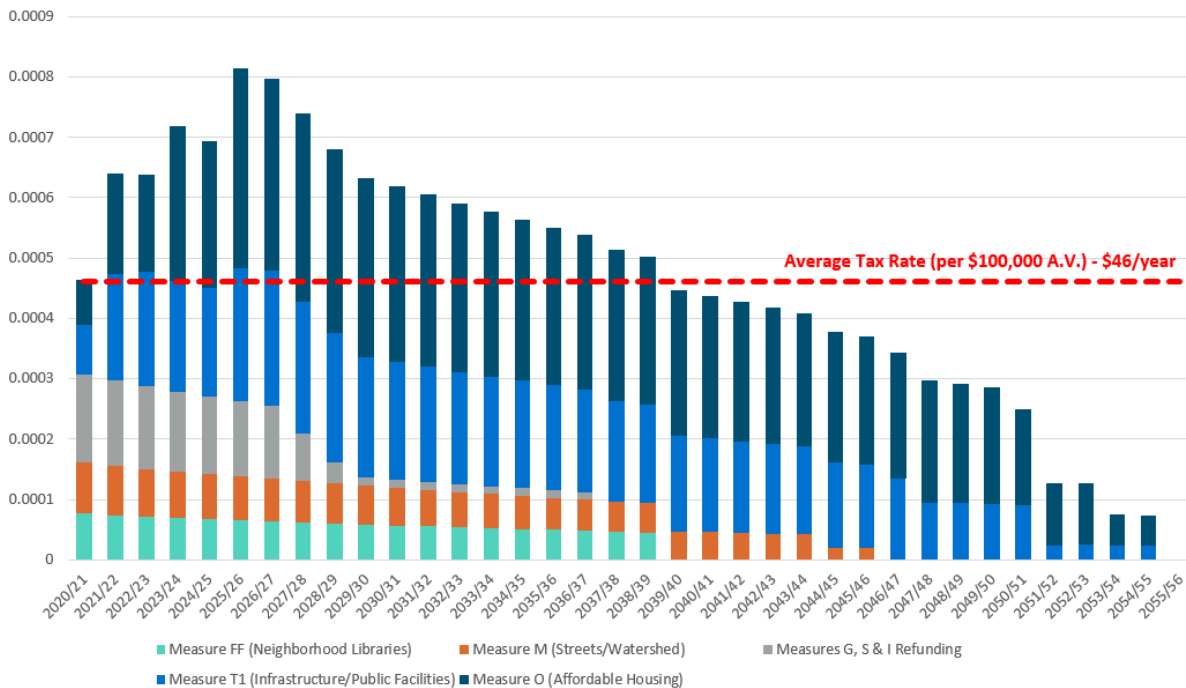
- May be used only for capital improvements, not for ongoing operational costs;
- Requires 66.7% voter approval to pass;
- The principal and interest are paid with the proceeds of tax levies made upon taxable property;
- Bonds are repaid by taxpayers based on their property's assessed value; and
- Bonds are generally repaid over 30 years.

Berkeley voters have passed several bonds since 2012, including Measure M, Measure T1 and Measure O. The charts below show historical and projected tax rates.

# Historical Tax Rates



# Projected Tax Rate – All Authorizations



## The 2020 Ballot Measure Schedule

In order to meet the deadlines set by the Alameda County Registrar of Voters to place items on the November 2020 ballot, the following timeline has been developed for the Council’s consideration. To

get the most accurate feedback, the first survey will be conducted two weeks after the March 3 primary:

|                           |                                                                                                                                                                                                                  |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Feb. 4: Worksession       | City Council to discuss possible revenue measures and questions to be included                                                                                                                                   |
| Feb. 11: Action Calendar  | Council decides which possible measures should be on first Community Survey                                                                                                                                      |
| March                     | Conduct Survey                                                                                                                                                                                                   |
| April 14: Action Calendar | <ul style="list-style-type: none"> <li>• Presentation and Discussion of first Community Survey Results</li> <li>• Council refines which issues deserve additional testing with more focused language.</li> </ul> |
| April                     | Possible second survey                                                                                                                                                                                           |
| May 26: Action Calendar   | Presentation and Discussion of Second Community Survey Results and Direction About Next Steps                                                                                                                    |
| June 16: Action Calendar  | Draft Ballot Language to Council (from May 26 direction)                                                                                                                                                         |
| July 14: Action Calendar  | Draft Ballot Language to Council (from June 16 direction)                                                                                                                                                        |
| July 28: Action Calendar  | Last Council meeting before recess; Adopt Final Ballot Language and Resolutions placing measures on the ballot                                                                                                   |
| August 7:                 | Last Day to Place a Measure on the Ballot                                                                                                                                                                        |

## BACKGROUND

Voters, in recent years, have approved the following items to address community need and priorities:

- A \$30 million infrastructure bond in 2012 (Measure M) funded street paving and related green infrastructure throughout the City. In 2014, Berkeley voters also approved an increase in the Parks Tax (Measure F) to ensure well maintained parks.
- A \$100 million infrastructure bond in 2016 (Measure T1). In the first phase, the project funded critical improvements to the North Berkeley Senior Center, the Adult Mental Health Services Center, Frances Albrier Community Center, Live Oak Community Center, improvements to numerous parks, paving of numerous streets and work on 11 different green infrastructure projects. The Parks, Recreation and Waterfront Department has launched an inclusive outreach effort to develop a list for the second phase of Measure T1.
- In 2018, a \$135 million affordable housing bond (Measure O) as well as an increase in property transfer tax on the top 1/3 of properties (Measure P) to increase the supply of affordable housing and services for people who are homeless. The City will be allocated approximately \$37 million to various developers in 2020 that will enable the construction of more than 450 units of affordable housing.

On January 28, staff delivered a presentation to Council on fire and emergency services and various operational and system enhancements as well as funding options that included ballot measures, fees, and special studies.

Berkeley Unified School District is proposing three different revenue measures on the March 3 primary:

| Name                                           | Type       | Cost            | Impact*      |
|------------------------------------------------|------------|-----------------|--------------|
| <b>Measure E</b> Recruitment & Retention       | Parcel Tax | \$0.12/sq foot  | \$236        |
| <b>Measure G</b> Facilities Bond               | Bond       | \$0.0445/\$100  | \$213        |
| <b>Measure H</b> Maintenance                   | Parcel Tax | \$0.091/sq foot | \$173        |
| <b>Total Annual Impact:</b>                    |            |                 | <b>\$449</b> |
| * based on a 1,900 square foot, \$485,000 home |            |                 |              |

Several non-revenue generating measures are also being considered for the ballot. These include Charter amendments regarding:

- Revising language throughout the Charter to ensure that gender neutral terminology is used throughout;
- New article regarding the Police Review Commission; and
- Eliminating certain language regarding sworn firefighter residency requirements (Article VII, Section 37a).

A number of state propositions have qualified for the ballot and a high number have been cleared for circulation as voter initiatives. See Attachment 3 for details. The Council may wish to consider the number of measures appearing on the ballot all together when considering placing local measures on the ballot.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the action requested in this report.

RATIONALE FOR RECOMMENDATION

One tool for considering placement of local measures is to conduct a community survey to evaluate the public’s interest in funding various projects and programs.

ALTERNATIVE ACTIONS CONSIDERED

Continue discussions of funding needs, but do not conduct a survey at this time.

CONTACT PERSON

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

Attachments:

- 1: November 2020 Election Calendar
- 2: Comparison of Berkeley, Oakland and Albany Property-Based Taxes & Assessments
3. Statewide Ballot Measures for November 2020 Election



Discussion and Direction Regarding Potential Ballot Measures  
for the November 3, 2020 General Municipal Election

ACTION CALENDAR  
February 11, 2020

**4. Overview of Revenue Measures**

5. Institute for Local Government Report, "Understanding the Basics of Municipal Revenues in California: Cities, Counties, and Special Districts"

**CITY OF BERKELEY - GENERAL ELECTION CALENDAR**      **Attachment 1**  
**November 3, 2020**

**Offices to be Elected: Mayor; City Council Districts 2, 3, 5, 6; Rent Board (4 seats); School Board (2 seats)**  
**Note: Public Finance submission deadlines will be added to this calendar in 2020**

| <u>DAYS PRIOR TO ELECTION</u> | <u>DATE</u>                            | <u>ACTION TAKEN</u>                                                                                                                                                                                                                                              |
|-------------------------------|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 180                           | May 7, 2020                            | Suggested Last Day to file initiative petitions. Qualified petitions received after this date will be accepted, but may not be on the November ballot.                                                                                                           |
| 158<br>103                    | May 29, 2020<br>July 23, 2020          | Signature In-Lieu of Filing Fee - Candidates may collect signatures during this period to offset the \$150 filing fee. Valid signatures are worth \$1 each. Charter Art. III, Sec. 6.1, BMC §2.16.020                                                            |
| 113                           | July 13, 2020                          | <b>FILING PERIOD OPENS - CANDIDATE NOMINATION PAPERS</b>                                                                                                                                                                                                         |
| 103                           | July 23, 2020                          | Deadline to file Signature In-Lieu petitions with City Clerk.                                                                                                                                                                                                    |
| -                             | July 31                                | Semi-Annual Campaign Statements due. (1/1/20 - 6/30/20)                                                                                                                                                                                                          |
| 90                            | August 5, 2020                         | Independent Expenditure Disclosure Period Begins. (\$1000+)                                                                                                                                                                                                      |
| 90                            | August 5, 2020                         | Late Contribution Disclosure Period Begins. (\$1000+)                                                                                                                                                                                                            |
| 88                            | August 7, 2020                         | Deadline to deliver resolution calling ballot measure election to Registrar and request election consolidation.                                                                                                                                                  |
| <b>88</b>                     | <b>August 7, 2020</b>                  | <b>FILING PERIOD CLOSES - CANDIDATE NOMINATION PAPERS</b>                                                                                                                                                                                                        |
| 87<br>83                      | August 8, 2020<br>August 12, 2020      | <b>Extended candidate filing period.</b> Candidate filing is extended if an incumbent eligible for re-election does not file nomination documents prior to 5:00 p.m. on August 7, 2020. Incumbents are not eligible to file during the extended period. EC 10225 |
| 82                            | August 13, 2020                        | Secretary of State to conduct Random Alpha Draw for candidate name order on ballot. EC §13111                                                                                                                                                                    |
| 81                            | August 14, 2020                        | Last day to file primary ballot measure arguments - deadline is 12:00 p.m.                                                                                                                                                                                       |
| 74                            | August 21, 2020                        | Last day to file ballot measure rebuttal arguments. Impartial Analysis also due. Deadline is 12:00 p.m.                                                                                                                                                          |
| 57<br>14                      | September 7, 2020<br>October 20, 2020  | Filing Period - Candidate Nomination Papers for Write-in Candidates.                                                                                                                                                                                             |
| 40<br>21                      | September 24, 2020<br>October 13, 2020 | Voter Information Guide mailing period.                                                                                                                                                                                                                          |
|                               | September 24                           | First Pre-Election Campaign Statement due.                                                                                                                                                                                                                       |
| 29<br>7                       | October 5, 2020<br>October 27, 2020    | Vote-by-Mail Ballot may be obtained by mail between these dates. After October 27, VBM ballots may be obtained at the office of the Registrar.                                                                                                                   |
| 16                            | October 18, 2020                       | 48-Hour Late Contribution Reporting Period begins. (\$100 - \$999)                                                                                                                                                                                               |

Discussion and Direction Regarding Potential Ballot Measures  
for the November 3, 2020 General Municipal Election

ACTION CALENDAR  
February 11, 2020

|                                |                         |                                                                                                                                |
|--------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 15                             | October 19, 2020        | Last Day to Register to Vote.                                                                                                  |
| <u>DAYS PRIOR TO ELECTION</u>  | <u>DATE</u>             | <u>ACTION TAKEN</u>                                                                                                            |
| 14                             | October 20, 2020        | Close of write-in candidate filing period at 5:00 p.m.                                                                         |
|                                | October 22              | Second Pre-Election Campaign Statement due.                                                                                    |
| 7                              | October 27, 2020        | City Clerk must publish list of campaign contributions of \$50 or more online and at designated locations. BMC §2.12.065       |
| <b>Election Day</b>            | <b>November 3, 2020</b> | <b>Election Day - EC §1000; Charter Art. III, Section 4.</b>                                                                   |
| <u>DAYS AFTER THE ELECTION</u> | <u>DATE</u>             | <u>ACTION TAKEN</u>                                                                                                            |
|                                | December 1, 2020        | Taking office date for newly elected officials (actual swearing in at later date). Charter Art. V , Sections 14, 14.1, 15, 16. |
| 30                             | December 3, 2020        | Last day for County to certify election results to city. EC §15372                                                             |
| 35                             | December 8, 2020        | Council to certify election results. EC §§9217, 10262, 10263; Charter Art. III, Sec. 10                                        |
|                                | January 31, 2021        | Semi-Annual Campaign Statement due.                                                                                            |
|                                |                         | Updated 01/15/19                                                                                                               |

**Comparison of Berkeley, Oakland, and Albany Property-Based Taxes & Assessments, FY 2020**

Ad Valorem Taxes: Berkeley, Oakland, and Albany properties are all equally subject to the 1% countywide ad valorem tax based on assessed value, as well as the ad valorem debt service imposed by the Peralta Community College, Bay Area Rapid Transit, East Bay Regional Park and East Bay Municipal Utility districts. In FY 2020 these combined taxes represent \$6,437 for an average homeowner (\$485,000 A.V.) of total ad valorem tax in each city.

Berkeley, Oakland, and Albany have each approved City GO bond debt, which is based upon the assessed value. In FY 2020, Berkeley's cumulative GO bond tax at \$208 is significantly lower than Oakland's cumulative GO bond tax at \$944 and Albany's GO bond tax at \$550.

Special Taxes: Each of these cities has its own set of voter-approved special taxes and other assessments; however, Oakland and Albany do not use the same taxation method as the City of Berkeley. For instance, while most of Berkeley's special taxes are based on a tax rate multiplied by the building square footage, those in Oakland and Albany are usually a standard flat rate amount per parcel with some variation in the flat rate based upon land use. In all three cities, most of the voter approved special taxes allow for an annual cost of living adjustment based either on the annual Bay Area Consumer Price Index (CPI) or the Statewide Personal Income Growth (PIG) rate. Berkeley's Emergency Services for the Severely Disabled tax, Library Tax, Fire Protection/Emergency Response Tax, and Parks/Landscape Maintenance Tax use the higher of the two.

There are several significant differences in the special taxes imposed by Berkeley, Oakland, and Albany. For example, Berkeley's Library Tax at \$431 is significantly higher than Oakland's library tax at \$187<sup>2</sup> or Albany's library and library supplemental tax at \$97 annually.

Another significant difference is in school taxes. Each city has approved School GO bond debt and special school taxes. Berkeley Unified School District's combined GO bond and special school taxes total \$1,466, Albany Unified School District's GO and special school tax is slightly higher than Berkeley's at \$1,985, but Oakland Unified School District's GO and special school tax is significantly lower at \$993.

County and other agency assessments (such as County Service Area (CSA) Vector Control, AC Transit, East Bay Municipal Utility District (EBMUD), East Bay Trail LLD and East Bay Regional Parks (EBRP)) are parcel-based, flat rate assessments based on land use. And, with some limited exceptions<sup>3</sup>, apply equally to all property in these three cities. There are a few other variations billed on property tax statements.

Table 3 summarizes the comparison of total FY 2020 annual parcel-based taxes and assessments for Berkeley, Oakland, and Albany using an 'average' single family property that is 1,900 square feet with an assessed value of \$485,000 and a homeowner's exemption of \$7,000.

<sup>2</sup> Parcels located in the Rockridge Community Facility District (CFD) 1 pay an additional tax of \$25 annually.

<sup>3</sup> Albany is not subject to the additional Mosquito Abatement fee and is not included in the CSA Lead Abatement program. Oakland properties pay higher CSA Vector Control assessments than Berkeley or Albany.

Discussion and Direction Regarding Potential Ballot Measures  
for the November 3, 2020 General Municipal Election

ACTION CALENDAR  
February 11, 2020

### Table 3 – FY 2020 Property-based Taxes and Assessments Comparison

Single Family Home: \$485,000 Median Assessed Value (AV) and 1,900 Square Feet

| AGENCY                                                   | Berkeley FY2020   |                 | Oakland FY2020 |                 | Albany FY2020  |                 |
|----------------------------------------------------------|-------------------|-----------------|----------------|-----------------|----------------|-----------------|
|                                                          |                   |                 | Rate           | Amount          |                |                 |
| <b>COUNTYWIDE AD VALOREM TAX</b>                         | <b>1.00%</b>      | <b>\$ 4,780</b> | <b>1.00%</b>   | <b>\$ 4,780</b> | <b>1.00%</b>   | <b>\$ 4,780</b> |
| <b>Voter-Approved Ad Valorem Debt Service</b>            |                   |                 |                |                 |                |                 |
| County Wide GO Bond                                      | 0.0108%           | \$ 52           | 0.0108%        | \$ 52           | 0.0108%        | \$ 52           |
| City GO Bond                                             | 0.0435%           | \$ 208          | 0.1975%        | \$ 944          | 0.1150%        | \$ 550          |
| Unified School District GO Bonds                         | 0.1204%           | \$ 576          | 0.1168%        | \$ 558          | 0.2250%        | \$ 1,076        |
| Peralta Community College                                | 0.0257%           | \$ 123          | 0.0257%        | \$ 123          | 0.0257%        | \$ 123          |
| Bay Area Rapid Transit                                   | 0.0120%           | \$ 57           | 0.0120%        | \$ 57           | 0.0120%        | \$ 57           |
| East Bay Regional Park                                   | 0.0060%           | \$ 29           | 0.0060%        | \$ 29           | 0.0060%        | \$ 29           |
| <b>Voter-Approved Ad Valorem Debt Service (Combined)</b> | <b>0.2184%</b>    | <b>\$ 1,045</b> | <b>0.3688%</b> | <b>\$ 1,763</b> | <b>0.3945%</b> | <b>\$ 1,887</b> |
| <b>TOTAL ALL AD VALOREM TAXES</b>                        | <b>1.2184%</b>    | <b>\$ 5,824</b> | <b>1.3688%</b> | <b>\$ 6,543</b> | <b>1.3945%</b> | <b>\$ 6,667</b> |
| <b>City Voter-Approved Special Taxes</b>                 | <b>Rate X BSF</b> | <b>1,900</b>    |                | <b>1,900</b>    |                | <b>1,900</b>    |
| Landscape/Park                                           |                   |                 |                |                 |                |                 |
| Oakland: City Landscape                                  | \$0.17290         | \$ 329          | parcel/unit    | \$ 103          | parcel/unit    | \$ 76           |
| Albany: City Landscape 88-1                              |                   |                 |                |                 |                |                 |
| Albany Sidewalk Tax                                      |                   |                 |                |                 | parcel/unit    | \$ 40           |
| Library Tax/Services                                     |                   |                 |                |                 |                |                 |
| Oakland: City Library                                    | \$0.22700         | \$ 431          | parcel/unit    | \$ 187          | parcel/unit    | \$ 97           |
| Albany: Serv & Supplemental                              |                   |                 |                |                 |                |                 |
| Paramedic Supplemental                                   |                   |                 |                |                 |                |                 |
| Oakland: Emg Med/Param                                   | \$0.03930         | \$ 75           | parcel/unit    | \$ 28           | parcel/unit    | \$ 108          |
| Albany: ALS (Measure N) & Paramedic Supplement           |                   |                 |                |                 |                |                 |
| Physically Disabled                                      | \$0.01638         | \$ 31           |                |                 |                |                 |
| Fire/Emergency Response (Measure GG)                     | \$0.05818         | \$ 111          |                |                 |                |                 |
| CFD1 Disaster Fire/Mello Roos                            | \$0.01250         | \$ 24           |                |                 |                |                 |
| Oakland Violence Prevention (BB)                         |                   |                 | parcel/unit    | \$ 113          |                |                 |
| <b>Total City Special Taxes</b>                          | <b>\$0.52626</b>  | <b>\$ 1,001</b> |                | <b>\$ 431</b>   |                | <b>\$ 321</b>   |
| <b>City Assessments</b>                                  |                   |                 |                |                 |                |                 |
| Street Lighting                                          | \$0.01080         | \$ 21           |                |                 |                |                 |
| 2018 Street Light                                        | parcel/unit       | \$ 12           |                |                 |                |                 |
| Clean Storm Water (3,740 sqft lot area)                  |                   |                 |                |                 |                |                 |
| Oakland Flood Benefit12                                  | Formula           | \$ 34           | parcel/unit    | \$ 16           |                |                 |
| Albany Street/Storm Drains & CSW                         |                   |                 |                |                 | parcel/unit    | \$ 177          |
| 2018 Storm Water                                         | Formula           | \$ 45           |                |                 |                |                 |
| Albany City Sewer Service                                |                   |                 |                |                 | parcel/unit    | \$ 535          |
| <b>Total City Special Assessments</b>                    |                   | <b>\$ 112</b>   |                | <b>\$ 16</b>    |                | <b>\$ 712</b>   |
| BUSD Special Taxes: Measure H of 2010                    |                   |                 |                |                 |                |                 |
| Oakland Measure N                                        | \$0.07032         | \$ 134          | parcel/unit    | \$ 120          | parcel/unit    | \$ 318          |
| Albany Facility Maintenance Measure LL                   |                   |                 |                |                 |                |                 |
| BUSD : Measure E1 of 2016                                |                   |                 |                |                 |                |                 |
| Oakland Measures G & G1                                  | \$0.39800         | \$ 756          | parcel/unit    | \$ 315          | parcel/unit    | \$ 591          |
| Albany Measure J                                         |                   |                 |                |                 |                |                 |
| <b>Total Unified School District Special Taxes</b>       | <b>\$0.46832</b>  | <b>\$ 890</b>   |                | <b>\$ 435</b>   |                | <b>\$ 909</b>   |
| <b>County/Agency Assessments &amp; Fixed Charges</b>     |                   |                 |                |                 |                |                 |
| Mosquito Abatement                                       | parcel/unit       | \$ 2            | parcel/unit    | \$ 2            |                |                 |
| Mosquito Assess 2                                        | parcel/unit       | \$ 3            | parcel/unit    | \$ 3            |                |                 |
| CSA Paramedic                                            | parcel/unit       | \$ 34           | parcel/unit    | \$ 34           | parcel/unit    | \$ 34           |
| CSA Vector Control                                       | parcel/unit       | \$ 6            | parcel/unit    | \$ 7            | parcel/unit    | \$ 6            |
| CSA Vector Control B                                     | parcel/unit       | \$ 5            | parcel/unit    | \$ 5            | parcel/unit    | \$ 5            |
| CSA Lead Abatement                                       | parcel/unit       | \$ 10           | parcel/unit    | \$ 10           |                |                 |
| AC Transit (Measure VV)                                  | parcel/unit       | \$ 96           | parcel/unit    | \$ 96           | parcel/unit    | \$ 96           |
| EBMUD Wet weather                                        | parcel/unit       | \$ 111          | parcel/unit    | \$ 111          | parcel/unit    | \$ 111          |
| East Bay Trail LLD                                       | parcel/unit       | \$ 5            | parcel/unit    | \$ 5            | parcel/unit    | \$ 5            |
| SFBRA Measure AA                                         | parcel/unit       | \$ 12           | parcel/unit    | \$ 12           | parcel/unit    | \$ 12           |
| Hazardous Waste Program                                  | parcel/unit       | \$ 7            | parcel/unit    | \$ 7            | parcel/unit    | \$ 7            |
| EBRP Park Safety/M                                       | parcel/unit       | \$ 12           | parcel/unit    | \$ 12           | parcel/unit    | \$ 12           |
| Peralta CCD Measure B                                    | parcel/unit       | \$ 48           | parcel/unit    | \$ 48           | parcel/unit    | \$ 48           |
| Albany Open Space Tax                                    |                   |                 |                |                 | parcel/unit    | \$ 69           |
| <b>Total County Assessments/Charges</b>                  |                   | <b>\$ 351</b>   |                | <b>\$ 352</b>   |                | <b>\$ 405</b>   |
| <b>TOTAL CURRENT ANNUAL TAXES</b>                        |                   | <b>\$ 8,178</b> |                | <b>\$ 7,777</b> |                | <b>\$ 9,014</b> |
| <b>Tax/Assessment Rate</b>                               |                   | <b>1.7109%</b>  |                | <b>1.6270%</b>  |                | <b>1.8858%</b>  |

## November 2020 Ballot Information

## Attachment 3

In addition to the national, state and local candidates on the November 2020 ballot, there will also be a number of state propositions and initiatives. The "Cleared for Circulation" list has been abridged to the account for multiple submissions of measures with the same title. The full list can be found at <http://www.sos.ca.gov/elections>

| Ballot Measure                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>State of California: Qualified or Eligible for Ballot</b>                                                                                                                                                      |
| Referendum to overturn a 2018 law that replaced money bail system with a system based on public safety risk.                                                                                                      |
| Restricts Parole for Non-Violent Offenders. Authorizes Felony Sentences for Certain Offenses Currently Treated Only as Misdemeanors. Initiative Statute.)                                                         |
| Requires Certain Commercial and Industrial Real Property to be Taxed Based on Fair-Market Value. Dedicates Portion of Any Increased Revenue to Education and Local Services. Initiative Constitutional Amendment. |
| <b>State of California: Pending Signature Verification or Cleared for Circulation</b>                                                                                                                             |
| Expands local governments' authority to enact rent control on residential property. Initiative statute.                                                                                                           |
| Changes requirements for transferring property tax base to replacement property. Expands business property reassessment. Initiative constitutional amendment.                                                     |
| Increases funding for public schools, community colleges, and local government services by changing tax assessment of commercial and industrial property. Initiative constitutional amendment.                    |
| Adjusts limitations in medical negligence cases. Initiative statute.                                                                                                                                              |
| Limits duration of spousal support after divorce or legal separation to no more than five years. Initiative statute.                                                                                              |
| Changes requirements for transferring property tax base to replacement property. Expands business property reassessment. Initiative constitutional amendment.                                                     |
| Changes requirements for transferring property tax base to replacement property. Initiative constitutional amendment.                                                                                             |
| Authorizes bonds to fund projects for wildfire prevention, safe drinking water, and protecting wildlife and lands from climate risks. Initiative statute.                                                         |
| Requires monetary bail. Initiative constitutional amendment.                                                                                                                                                      |
| Increases funding for public schools, community colleges, and local government services by changing tax assessment of commercial and industrial property. Initiative constitutional amendment.                    |
| Authorizes electronic signature gathering for initiative, referendum, and recall petitions. Initiative statute.                                                                                                   |
| Expands legalization of cannabis and hemp. Initiative statute.                                                                                                                                                    |
| Replaces state senate and assembly with single-house legislature; increases number of legislators. Initiative constitutional amendment.                                                                           |
| Requires ranked-choice voting system for federal and state elections. Restructures state senate to multi-member districts. Initiative constitutional amendment.                                                   |

|                                                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Decriminalizes psilocybin mushrooms. Initiative statute.                                                                                                     |
| Adjusts limitations in medical negligence cases. Initiative statute.                                                                                         |
| Requires enactment of measures to reduce the use of non-organic fungicides, herbicides, insecticides, and fumigants. Initiative statute.                     |
| Amends consumer privacy laws. Initiative statute.                                                                                                            |
| Authorizes bonds to continue funding stem cell and other medical research. Initiative statute.                                                               |
| Requires arrest for specified offenses and, if convicted, detention or intervention programs. Initiative statute.                                            |
| Authorizes state regulation of kidney dialysis clinics. Establishes minimum staffing and other requirements. Initiative statute.                             |
| Changes employment classification rules for app-based transportation and delivery drivers. Initiative statute.                                               |
| Decriminalizes psilocybin mushrooms. Authorizes dismissal of prior psilocybin-related convictions. Initiative statute.                                       |
| Requires state regulations to reduce plastic waste, tax producers of single-use plastics, and fund recycling and environmental programs. Initiative statute. |
| Authorizes new types of gambling. Initiative constitutional and statutory amendment.                                                                         |
| Authorizes state regulation of kidney dialysis clinics. Initiative statute.                                                                                  |

Revenue Measure Options

|                                             | Sales Tax (Transaction & Use Tax)                | Utility User's Tax (UUT)                                                                                                                                                                                         | Transient Occupancy Tax (TOT)             | Parcel Tax (Mello-Roos CFD)                                                                                                                                                         | Parcel Tax (Assessment District)                                                                                                                     | General Obligation Bond                          | Property Transfer Tax                                                                                                                                   |
|---------------------------------------------|--------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>General Tax (GT) or Special Tax (ST)</b> | Either                                           | Either                                                                                                                                                                                                           | Either                                    | Special                                                                                                                                                                             | Special                                                                                                                                              | Either                                           | General                                                                                                                                                 |
| <b>Voter Approval</b>                       | GT = 50% + 1<br>ST = 2/3                         | GT = 50% + 1<br>ST = 2/3                                                                                                                                                                                         | GT = 50% + 1<br>ST = 2/3                  | 2/3 (in District)<br>Citywide has to go on ballot                                                                                                                                   | ST = 2/3 (in District)<br>Citywide has to go on ballot                                                                                               | ST = 2/3                                         | GT = 50% + 1                                                                                                                                            |
| <b>Advantages</b>                           | Generated within City, may include non-residents | Referenda to reduce or repeal rarely succeed                                                                                                                                                                     | Paid by visitors                          | * Not subject to benefit assessment<br>* Can be formed with non-contiguous boundaries<br>* No allocation to public property required<br>* Pay-as-you-go financing of infrastructure |                                                                                                                                                      | No volatility                                    |                                                                                                                                                         |
| <b>Disadvantages</b>                        | High volatility                                  | Paid solely by City residents                                                                                                                                                                                    | High volatility                           | Paid solely by CFD property owners                                                                                                                                                  | Subject to benefit allocation                                                                                                                        | Paid solely by City property owners/residents    |                                                                                                                                                         |
| <b>Restrictions</b>                         |                                                  | * State and Federal Governments are exempt<br>* Gas and water used by utility companies to generate electricity are exempt<br>* Further limits the application to charges that are subject to federal excise tax | Applied to stays for nights up to 30 days | * Used to pay for public improvements and certain public services (safety, library, maintenance of parks, parkways, streets, roads, etc.)                                           | * Used to pay for public improvements with direct benefit to parcels within AD<br>* Can fund operations and maintenance of facilities financed by AD | Acquisition or improvement of real property only | * Exemptions: Government-owned property, non-profits, bankruptcy reorg., foreclosure, and dissolution of marriage<br>* General Law cities cannot impose |
| <b>Fund Capital Projects?</b>               | Yes                                              | Yes                                                                                                                                                                                                              | Yes                                       | Yes                                                                                                                                                                                 | Yes                                                                                                                                                  | Yes                                              | Yes                                                                                                                                                     |
| <b>Fund Services?</b>                       | Yes                                              | Yes                                                                                                                                                                                                              | Yes                                       | Yes                                                                                                                                                                                 | Yes                                                                                                                                                  | No                                               | Yes                                                                                                                                                     |



# Understanding the Basics of Municipal Revenues in California: Cities, Counties and Special Districts

2016 Update



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## OVERVIEW

Each one of California's 39 million residents lives within the boundaries of one of the state's 58 counties. Nearly 33 million people also live in one of California's 482 cities.<sup>i</sup> Californians are also served by 2,156 independent special districts.

Counties, cities and special districts provide a vast array of municipal services to residents and businesses. These services include public safety (police, fire and emergency services), parks and recreation, roads, flood protection, sewers, water, electricity, refuse disposal, recycling and other utilities. Counties have an additional role as a provider for many state-mandated services, such as foster care, public health care, jails, criminal justice and elections.<sup>ii</sup>

These municipal local governments rely on a variety of revenues to pay for the services and facilities they provide. The amount and composition of revenues:

- Differ between cities, counties and special districts largely because of differences in responsibilities; and
- Vary among cities, among counties and among special districts depending in part on differences in governance responsibilities.

There is a complex web of legal rules for collecting and using the variety of revenues available to municipal governments in California. These rules derive from the state constitution, state statute and court cases further interpreting those laws.

This guide provides an overview of the sources of county, city and special district revenues in California. It is an introduction to a complex topic. You can find further information in the resources listed on the last page.

### How To Use This Information

These materials are not technical or legal advice. You should consult technical experts, attorneys and/or relevant regulatory authorities for up-to-date information and advice on specific situations.

## CITY REVENUES IN CALIFORNIA

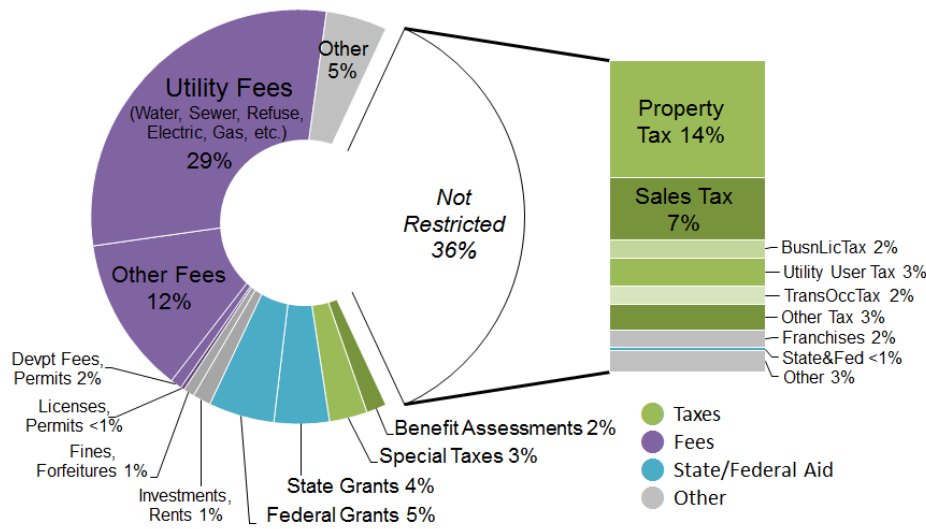
Incorporated cities (including those that refer to themselves as “towns”) are responsible for a broad array of essential frontline services tailored to the needs of their communities. These include:

- Law enforcement and crime prevention,
- Fire suppression and prevention, natural disaster planning and response, emergency medical response and transport,
- Land use planning and zoning, building safety,
- Local parks and open spaces, recreation,
- Water supply, treatment and delivery,
- Sewage collection, treatment and disposal,
- Storm water collection and drainage,
- Solid waste collection, recycling and disposal,
- Local streets, sidewalks, bikeways, street lighting and traffic controls, and
- Public transit.

Cities that are responsible for providing all or most of these functions are called “full service” - the services can be provided in-house or contracted through a private entity or another public agency. In other cities, some of these functions are the financial responsibility of other local agencies such as the county or special districts. For example, in about thirty percent of California cities, a special district provides and funds fire services. In sixty percent, library services are provided and funded by another public agency such as the county or a special district.

The mix of service responsibilities and local choice regarding service levels affects the amount and composition of revenues of each city.

California City Revenues



This is a statewide mash-up of city revenues. Individual cities vary.  
 Source: Author's computations from data from California State Controller 2014-15.  
 Does not include the City/County of San Francisco.

# COUNTY REVENUES IN CALIFORNIA

California counties are responsible for three general areas of municipal services: 1) delegated state and federal programs, 2) countywide public services and 3) essential frontline services for residents not receiving those services from a city or special district, often in unincorporated areas (outside city boundaries).

In unincorporated areas, counties provide the essential frontline services that cities provide that are not provided by a special district. These can include police protection (through a county sheriff), roads, planning and building safety.

Counties also provide public services to all county residents, whether they live in or outside of cities. These countywide functions include:

- Public assistance (notably welfare programs and aid to the indigent),
- Public health services (including mental health and drug/alcohol services),
- Local elections,
- Local corrections, detention and probation facilities and programs (including juvenile detention), and
- Property tax collection and allocation for all local agencies, including school districts.

Funding from the federal and state government, primarily for health and human services, is the largest source of county revenues. Property taxes and sales and use taxes are the primary funding sources for many county services that do not have a dedicated state or federal funding source.

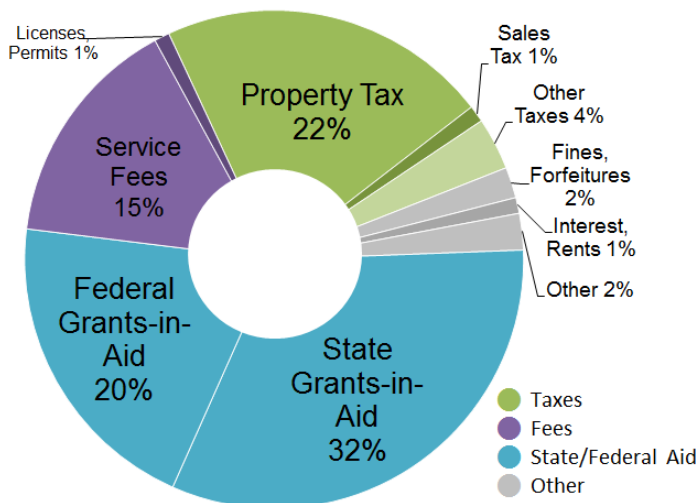
## General and Functional Revenues

Municipal revenues may be viewed as falling into two broad categories: general revenues and functional revenues.

**General revenues** can be used for any legitimate public purpose. General purpose taxes, especially property and sales taxes, account for most general city revenues statewide.

**Functional revenues** are restricted by law to a particular use. These include funds derived from fees or rates that the local agency charges for public services, including municipal utilities such as water, sewer, and garbage collection, airports, marinas, harbors and water ports. Functional revenues also include most state or federal grants as they are usually restricted for particular programs.

California County Revenues



Source: Author's computations from data from California State Controller 2014-15. Includes the County/City of San Francisco.

# SPECIAL DISTRICT REVENUES IN CALIFORNIA

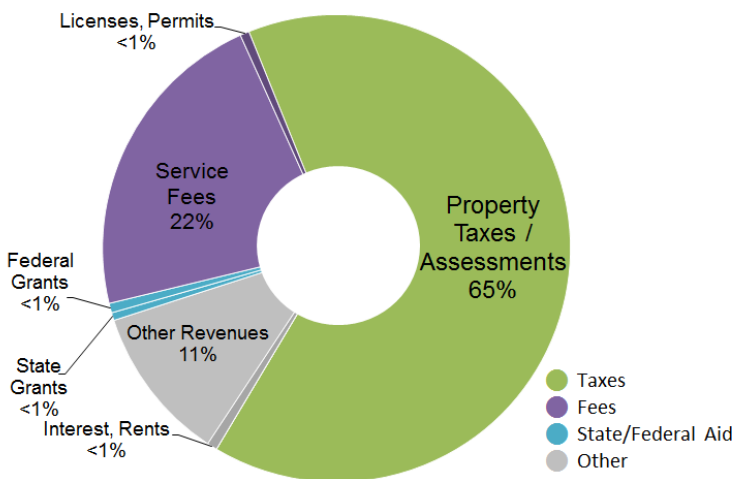
Most special districts provide one or a few municipal services to a particular geographic area. These include both enterprise and non-enterprise services. Enterprise services are funded primarily through charging a fee for service. For example, water and irrigation districts charge utility rates and fees from consumers of those services. Non-enterprise services generally do not lend themselves to fees and are primarily funded by property taxes, with relatively small amounts of fee and state and federal grant revenue. Library and fire protection services are examples of non-enterprise services.

Other districts are multifunction, providing a number of municipal services. Community services districts (CSDs) can provide as many as 32 different types of services, approximating the scope of some cities. Multifunction districts have both enterprise and non-enterprise elements and may, like cities or counties, use an array of different revenue sources.

## Types of Special Districts

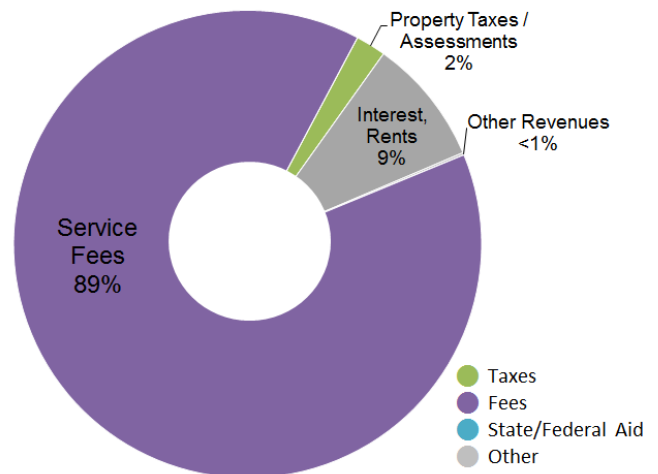
- Air Quality Management / Air Pollution Districts
- Airport Districts
- Cemetery Districts
- Community Services Districts
- Flood/Drainage Districts
- Fire Districts
- Harbor Districts
- Healthcare Districts
- Irrigation Districts
- Library Districts
- Memorial Districts
- Municipal / Resort Improvement Districts
- Open Space Districts
- Parks and Recreation Districts
- Police Protection / Ambulance Districts
- Public Utility Districts
- Reclamation Districts
- Resource Conservation Districts
- Sanitary Districts
- Waste Management Districts
- Water Districts

California Special District Revenues  
Typical District (fire) Providing Non-Enterprise Services



Source: Author's computations from data from California State Controller 2014-15.

California Special District Revenues  
Typical District (water) Providing Enterprise Services



Source: Author's computations from data from California State Controller 2014-15.

## THE STATE LEGISLATURE, LOCAL GOVERNMENTS AND THE VOTERS

The options available to local officials in governing, managing their finances and raising revenues to provide services needed by their communities are limited. Voters have placed restrictions as well as protections in the state constitution. The state's voters and the California Legislature have acted in various ways, to support and provide, and to limit and withdraw financial powers and resources from cities, counties and special districts.

Some of the most significant limitations on the local revenue-raising include:

- Property taxes may not be increased except with a two-thirds vote to fund a general obligation bond.
- The allocation of local property tax among a county, and cities, special districts and school districts within each county is controlled by the Legislature.
- Voter approval is required prior to enacting, increasing or extending any type of local tax.
- Assessments to pay for public facilities that benefit real property require property owner approval.
- Fees for the use of local agency facilities and for services may not exceed the reasonable cost of providing those facilities and services.
- Fees for services such as water, sewer and trash collection are subject to property owner majority protest.

The Legislature has enacted many complicated changes in state and local revenues over the past 30 years. Voters have approved state constitutional protections limiting many of these actions at times followed by even more complicated maneuvers by the Legislature in efforts to solve the financial troubles and interests of the state budget.

Reacting to actions of the Legislature and the deterioration of local control of fiscal matters, local government interests placed on the ballot, and voters approved, Proposition 1A in 2004 and Proposition 22 in 2010. Together, these measures prohibit the state from:

- Enacting most local government mandates without fully funding their costs. The definition of state mandate includes a transfer of responsibility or funding of a program for which the state previously had full or partial responsibility.
- Reducing the local portion of the sales and use tax rate or altering its method of allocation, except to comply with federal law or an interstate compact.
- Reducing the combined share of property tax revenues going to the county as well as cities and special districts in a county.
- Borrowing, delaying or taking motor vehicle fuel tax allocations, gasoline sales tax allocations, or public transportation account funds.

## TAXES

According to the California Constitution, every local agency charge is a “tax,” unless it falls into a list of specified exceptions:<sup>iii</sup>

- User fees for a specific benefit, privilege, service or product provided to the payor. Items include: fees for parks and recreation classes, some utilities, public records copying fees, DUI emergency response fees, emergency medical and ambulance transport service fees.
- Regulatory fees for reasonable regulatory costs of issuing licenses and permits, and performing inspections and enforcement such as health and safety permits, building permits, police background checks, pet licenses, bicycle licenses and permits for regulated commercial activities.
- Rental fees imposed for entrance to or use of government property. These include: facility room rentals, equipment rentals, park, museum and zoo entrance fees, golf greens fees, on and off-street parking and tolls.
- Fines or penalties such as parking fines, code enforcement fees and penalties, late payment fees, interest charges and other charges for violation of the law.
- A charge imposed as a condition of property development such as building permit fees, construction and grading permits, development impact fees and fees for California Environmental Quality Act requirements.
- Benefit assessments and property related fees imposed in accordance with the provisions of Article XIII D (Proposition 218) such as a lighting and landscape assessment and fees for property related services such as many retail water and sewer fees.<sup>iv</sup>

In contrast to an assessment or a fee, a tax need not be levied in proportion to specific benefit to a person or property. Tax revenues are an important source of funding for both county and city services and for many special districts. In addition to local taxes, counties rely significantly on tax dollars allocated from the state and federal governments.

|                                                                                                                                                                                                                           | TAX- General                                                                                                                                         | TAX- Parcel or Special (earmarked)     | G.O. BOND (w/tax)                 | Fee / fine / rent                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-----------------------------------|----------------------------------|
| City / County                                                                                                                                                                                                             | Majority voter approval                                                                                                                              | Two-thirds voter approval              | Two-thirds voter approval         | Majority of the governing board* |
| Special District                                                                                                                                                                                                          | n/a                                                                                                                                                  | Two-thirds voter approval              | Two-thirds voter approval         | Majority of the governing board* |
| K-14 School                                                                                                                                                                                                               | n/a                                                                                                                                                  | Two-thirds voter approval (parcel tax) | 55% voter approval**              | Majority of the governing board* |
| State                                                                                                                                                                                                                     | For any law that will increase the taxes of any taxpayer, two-thirds of each house of the Legislature - or approval of majority of statewide voters. |                                        | Statewide majority voter approval | Majority of each house           |
| <small>* Additional procedures apply for property related fees.<br/> ** Per Proposition 39 (2000), maximum tax rate limits and other conditions apply for a 55% threshold school bond or threshold is two-thirds.</small> |                                                                                                                                                      |                                        |                                   |                                  |



Counties and cities may impose a variety of taxes. Taxes fall into one of two categories: general or special.

A general tax is imposed to raise general-purpose revenues. Counties and cities may use revenues from a general tax for any lawful public purpose. A majority of voters must approve the decision to impose, increase or extend a general tax. A general tax may only be submitted for voter approval at an election for city council or board of supervisors unless a unanimous vote of the governing board declares an emergency.

A special tax is a tax imposed for a specific purpose. For example, a city may increase the sales and use tax by adding a special use tax for public safety, the acquisition of open space or transportation projects. All taxes imposed by special districts are considered special taxes. Since the tax is for a specific purpose, the revenues may only be used for that purpose. Two-thirds of voters must agree to enact, increase or extend a special tax.

## County Property Tax Administration

### County Assessor.

The assessor sets values on property and produces an annual property tax assessment roll.

### County Auditor-Controller.

The auditor-controller receives the assessed values from the assessor and calculates the amount of property tax due.

**County Treasurer-Tax Collector.** The treasurer-tax collector administers the billing, collection, and reporting of property tax revenues levied annually throughout California for not only the county, but also cities, schools and special districts.

|                         | General Tax                                                                                                                                                                                                                             | Special Tax                                                                                                                                                                                                                                           |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Use of Revenues         | Unrestricted                                                                                                                                                                                                                            | Specific purpose                                                                                                                                                                                                                                      |
| Governing Body Approval | <ul style="list-style-type: none"> <li>Counties and general law cities: two-thirds</li> <li>Charter cities: majority</li> <li>Transactions and use taxes: two-thirds</li> <li>Special districts may not adopt general taxes.</li> </ul> | Majority                                                                                                                                                                                                                                              |
| Voter Approval          | Majority                                                                                                                                                                                                                                | Two-thirds                                                                                                                                                                                                                                            |
| Other Rules             | A general tax election must be consolidated with a regularly scheduled general election of members of the governing body, unless an emergency is declared by unanimous vote (among those present) of the governing body.                | Special tax funds must be deposited in a separate account. The taxing agency must publish an annual report including: 1) the tax rate; 2) the amounts of revenues collected and expended; and 3) the status of any project funded by the special tax. |

## PROPERTY TAXES

All counties and cities in California receive property tax revenues. Many special districts do too. For all counties and most cities and non-enterprise special districts, property taxes are the largest source of discretionary revenues.

### How Property Taxes Are Calculated in California

The property tax is imposed on “real property” (land and permanently attached improvements such as buildings) and tangible personal property (movable property such as boats, aircraft and business equipment).

The maximum tax rate permitted on real property for general purposes is one percent of the property’s assessed value plus voter approved rates to fund indebtedness (general obligation bonds, requiring two-thirds voter approval).

The tax rate is applied to the assessed value (AV) of the property. The assessed value of real property is the “full cash value” of the property in 1975-76 or at change of ownership, whichever is more recent, adjusted annually by the change in the Consumer Price Index (CPI), not to exceed an annual increase of two percent. The value of new construction is additional. If a property changes hands, then the assessed value becomes the full cash value upon change in ownership.

If a property’s market value falls below its factored base year value, it may be temporarily reassessed to its lower actual value but in future years may be reassessed at the lesser of its actual value or its factored base year value. This can result in increases of more than two percent as a property’s actual value returns to its earlier value, as when the housing market rebounds from a slump.

### Property Tax Revenue Distribution

Counties allocate property taxes to the county as well as cities, special districts and school districts within the county according to state law. Allocations among local agencies vary from place to place due to differences in the service responsibilities among agencies serving different areas and differences in the tax rates enacted by those agencies prior to Proposition 13 in 1978. Full-service cities generally receive higher shares than those that do not provide the complete range of municipal services. For example, in a city where fire services are provided by a special district, the city will get a lower share, with a portion of the property tax revenues going instead to the special district.

Property tax revenues among local governments are, of course, also dramatically affected by differences in the assessed value of properties among jurisdictions. A ten percent share in a community of average property values will result in less revenue than in a similar size wealthy bedroom community, or a community that also has a sizable business/industrial area.

### Property Tax in Lieu of Vehicle License Fee

In addition to their regular apportionment of property taxes, cities and counties receive property tax revenues in lieu of Vehicle License Fees (VLF). In 2004, the Legislature permanently reduced the VLF rate from two percent to 0.65 percent and compensated cities and counties for their revenue loss with a like amount of property taxes, dollar-for-dollar. Each agency's property tax in lieu of VLF allocation increases annually in proportion to the growth in gross assessed valuation in that city or county.

### What is "ERAF?"

The property tax revenues received by school districts in each county include amounts from the county "Educational Revenue Augmentation Fund" (ERAF) created by the California Legislature in 1991 as a way to reduce state general fund spending on schools. These funds receive some property tax that was previously allocated to counties, cities and special districts.

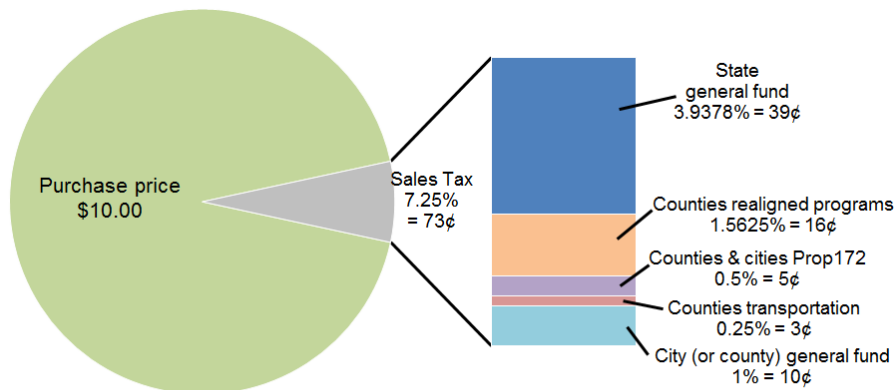
Since 2004, California's Constitution has prohibited the Legislature from increasing the amount of property tax shifted from counties, cities and special districts to ERAF or similar schemes. The state Constitution requires a two-thirds vote of the Legislature to change the allocation of property tax among the county, cities and special districts within a county.

## SALES AND USE TAXES

Consumers are familiar with the experience of going to a store, buying something and having an amount added for sales tax. Services are generally exempt from the sales tax as well as certain items, like most groceries and medicine. The sales tax is assessed as a percentage of the amount purchased.

The “base” statewide sales tax rate of 7.25 percent includes amounts to:

- The state general fund (3.9375 percent),<sup>v</sup>
- County realignment programs (state health/ welfare and corrections / law enforcement programs shifted from the state, 1.5625 percent),
- Supplemental local law enforcement grants (0.50 percent),<sup>vi</sup>
- Transportation programs in the county where the transaction occurs (0.25 percent), and
- The city where the transaction occurs (1.00 percent).<sup>vii</sup> If the transaction occurs in an unincorporated area, the 1.00 percent amount goes to the county.



*Rates effective January 1, 2017 after the expiration of the 0.25% Proposition 30 temporary rate.*

*In addition to the base, statewide rate of 7.25 percent, local voters may authorize additional “transactions and use tax” rates. These additional rates raise the total effective rate to as much as 9.75% in some locations.*

Cities, counties and countywide transportation agencies may impose sales tax rates to be added on to the “base” statewide sales and use tax rate. The add-on rates are actually “transactions and use taxes” and are allocated to the jurisdiction where the taxed product is received or registered (as in the case of a motor vehicle purchase). Over 120 cities have enacted transaction and use taxes of up to one percent, most commonly with majority voter approval for general purposes. Many counties and county transportation agencies have enacted rates, most commonly with two-thirds vote for specific purposes. Under current state law, the maximum combination of transactions and use tax rates in any location may not exceed two percent.<sup>viii</sup>

### State Sales and Use Tax Administration

The State Board of Equalization collects local sales and use tax revenues from the retailer and sends revenue from local rates and allocations back to cities and counties. In addition to administering the sales and use tax system, the State Board of Equalization collects and allocates other state taxes including fuel, tobacco and alcohol taxes.

### The “Use Tax” Part of the Sales and Use Tax

California’s sales tax has a relative called the “use tax.” While the sales tax is imposed on the seller, the use tax is imposed on the purchaser and at the same rate as the sales tax. The most common example of use tax is for the purchase of goods from an out-of-state retailer for use in California.

Out-of-state retailers doing business in California are required to report to the State Board of Equalization the jurisdiction to which sold items are delivered. If the retailer has a physical presence (nexus) in California, they must collect use tax when goods are delivered to purchasers in this state. If the seller does not collect and remit the use tax, the purchaser is legally obligated to report and pay.

### **Business License Tax (BLT)**

Most cities and a few counties have enacted business license taxes. Business license tax rates are set individually by each city and county most commonly based on gross receipts (overall business revenue) or levied at a flat rate, but may be based on the quantity of goods produced, number of employees, number of vehicles, square footage of the business or some combination of factors.

If a business operates in more than one city, a city may only tax that portion of the business's activities conducted within the city. In most cases, business license taxes are not imposed for regulatory purposes (as the term "license" might imply) but to raise revenues for general municipal purposes (i.e. a tax). If imposed as a fee to pay for the cost of regulating the business, the fee may not exceed the reasonable cost of regulating the business. (See "regulatory fees.")

### **Transient Occupancy Tax (TOT) or Hotel Bed Tax**

Most cities and some counties impose a transient occupancy tax or hotel bed tax on persons staying thirty days or less in hotels, motels and similar lodgings, including mobile homes. A county may impose a transient occupancy taxes only in the county area outside city limits. Typically, the lodging provider collects the tax from guests and turns the funds over to the county or city.

Transient occupancy taxes are imposed by most cities and counties and range from three and a half percent to 15 percent. For cities with a transient occupancy tax, it provides seven percent of general revenues on average, and as much as 17 percent in some cities. Any increase or extension of a local tax requires voter approval.

### **Utility User Tax (UUT)**

Many cities impose utility user taxes on the consumption of utility services, including (but not limited to) electricity, gas, water, sewer, telephone (including mobile phone and long distance), sanitation and cable television. Counties may levy utility user taxes in county area outside city limits. Any increase or extension of a local tax requires voter approval.

Utility companies usually collect utility user's taxes from their customers as part of their regular billing procedures and remit the funds collected to the city or county which imposed the tax.

Over 150 cities and a few counties levy utility user rates varying from one to 11 percent. For those jurisdictions with utility user taxes, it provides an average of 15 percent of general revenue and often as much as 22 percent.

### **Parcel Tax**

A parcel tax is a special tax on a parcel – or unit – of real property. Unlike the property tax, a parcel tax may not be based on the value of property. Instead, parcel taxes are generally based on a flat per-parcel rate.

A parcel tax may be enacted, increased or extended by a city, county, special district or school district only with two-thirds voter approval, even for general purposes.

### **Documentary Transfer Taxes and Property Transfer Taxes**

A documentary transfer tax is a tax imposed on the transfer of interests in real estate. Counties tax at a rate of 55 cents per \$500 of the property's value. Cities may impose the tax at up to one half of that amount, which is credited to the payment of the county tax. The Constitution allows charter cities<sup>ix</sup> to

enact a property transfer tax, with voter approval, on the value of real estate that is sold. In these cases, the entire county documentary transfer tax rate goes to the county. All cities and counties in California have documentary transfer taxes or property transfer taxes.

### Other Taxes

A city or county may impose other types of taxes within the limitations of and if not prohibited by state law. These include: admissions taxes, parking taxes, construction/development taxes, local vehicle registration taxes.

## SERVICE CHARGES, ASSESSMENTS AND FEES

### Utility Rates

Utility rates are fees for utility services charged to users who pay for special district, county or city provided water, sewer, electric or other utility services. Utility rates cover some or all of the cost of providing the service, which may include operations, maintenance, overhead, capital improvements and debt service.

Utility rates for water, sewer services and certain other utilities belong to a special category of fees called a “property-related fees.” A local government must follow certain specific procedures to impose, extend or increase a property-related fee.

To impose a property-related fee, the agency must first hold a public hearing. At the hearing, a majority of affected property owners can prevent the fee’s adoption by filing written protests. If a majority of affected property owners do not protest the fee and the fees pays for sewer, water or refuse collection, then an election is not required and the governing body may approve the fee. Other property-related fees require approval, either of two-thirds of the electorate residing in the affected area or of a majority of the owners of the property who would pay the fee.

### Benefit Assessments

Assessments are charges by cities, counties or special districts on real property to pay for public facilities or services within an area which benefit either real property or businesses. A common type of assessment is one used to pay for landscaping and lighting in a neighborhood. The amount of the assessment must reflect the special benefit to the property that results from the improvements. Assessments on property are typically collected through the owner’s annual property tax bill.

A local government must follow certain specific procedures to impose benefit assessments. When a local agency considers an assessment, a majority of property owners may defeat the assessment in a public hearing procedure. If the proposed assessment is not defeated in a public hearing procedure, then a majority of the property owners subject to the charge must approve the assessment by a mailed ballot. The property owners’ votes are weighted according to how much their property will be charged.

### User Fees

A city, county or special district may impose fees, charges and rates for services and facilities it provides. Examples include fees for checking plans for new construction or for recreation classes. The amount of a fee may not exceed the cost of providing the service or granting a benefit or privilege. This cost may include overhead, capital improvements and debt service.

### Regulatory Fees

Regulatory fees pay for the cost of issuing licenses and permits, performing investigations, inspections and audits and the administrative enforcement of these activities. Examples include a fee to pay for the cost of processing pesticide license applications or a fee to inspect restaurants for health and safety compliance.



## Development Impact Fees

Development impact fees are imposed on new construction (like new houses, apartments, shopping centers or industrial plants). They pay for improvements and facilities required to serve new development and to reduce the impacts of new development on a community.

Development impact fees (also known as “AB 1600 fees” after legislation adopted that governs such fees) pay for community amenities such as streets, sewers, parks and schools. They may not be used for day-to-day operating expenses.

The ordinance or resolution establishing the fee must explain the connection between the development project and fee. For example, a library impact fee must be connected to the demand for library services created by the construction of the development project.

The amount of the fee must not exceed the cost of providing the service or improvement that the fee pays for.

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## Local Debt Financing Tools

Local governments borrow money to pay for land, facilities and equipment that may require more funding than current revenues provide. Not a revenue source, but a way to leverage the timing of revenues, debt financing methods are important tools in government finance. Local governments may issue bonds and other debt instruments to finance improvements and services. These loans are paid off through taxes, assessments or fees. A variety of debt financing tools are available:

- **General Obligation Bonds.** General obligation bonds are essentially IOUs issued by public entities to finance large projects. General obligation bonds are backed by property tax revenue, which is used to repay the bond over a twenty- to thirty-year period. Increasing the property tax to repay the debt requires two-thirds voter approval and may only be done to acquire or improve real property.
- **Lease-Purchase Agreements.** In a lease-purchase agreement, sometimes called “certificates of participation,” the agency leases an asset for a period of years with the option to purchase the land or improvement at the end of the lease. The amount of the lease is equivalent to the principal and interest that would be paid if the transaction were financed as a loan.
- **Benefit Assessment and Special Tax Financing.** Benefit assessment financing is supported by benefit assessments on the property to fund acquisition of property and improvement of infrastructure and additional facilities of benefit to the property that is charged. Similarly special taxes, such as Mello-Roos taxes, may be financed with bonds to provide public improvements.
- **Revenue Bonds.** Revenue bonds are issued to acquire, construct or expand public projects for which fees, charges or admissions are charged. Because the debt service is paid from income generated by the facility or related service, such debt is considered self-liquidating and generally does not constitute debt of the issuer, subject to constitutional debt limitations.
- **Tax Allocation (Tax Increment).** Tax allocation bonds (sometimes referred to as tax-increment financing) are issued by Enhanced Infrastructure Financing Districts or Community Revitalization and Investment Authorities and repaid from the growth in property tax revenue (i.e., tax increment) and other designated revenues over a certain period, largely as a result of the funded projects in the area.



## REVENUES FROM OTHER GOVERNMENT AGENCIES

Counties, cities and many special districts also receive revenues from the state and federal government. For example, over half of county revenues statewide come from state and federal sources. This reflects the role of counties in implementing state policy and programs for health and human services.

### Gas Tax or Highway Users Tax

The state imposes per gallon tax on gasoline of 27.8 cents as of July 1, 2016. These funds are apportioned to cities and counties, primarily on the basis of their populations. Local gas tax revenues must be spent on research, planning, construction, improvement and maintenance of public streets, highways and mass transit. The federal government's 18.4 cents per gallon rate pays primarily for federal highways with some local grants.

### Motor Vehicle License Fee (VLF)

The Motor Vehicle License Fee is a state imposed and collected tax on ownership of a registered vehicle. Counties receive vehicle license fee revenues to fund certain health, social service and public safety programs that were realigned to counties in 1991 and 2011.

### State Public Safety Sales Tax

Proposition 172, a ballot measure approved in 1993, imposed a one-half percent state sales tax to be used for local public safety activities. The state distributes Proposition 172 revenues to each county based on its proportionate share of statewide taxable sales. Many cities receive a share of those funds based on losses to the state's ERAF property tax diversions.

### State Mandate Reimbursement

The state constitution requires the Legislature to reimburse local governments for their costs to implement a state-mandated new program or higher level of service in an existing program. The Constitution requires the Legislature to suspend most state mandates in any year in which full funding is not provided for that mandate. The Commission on State Mandates determines the level of reimbursement in response to a claim for reimbursement filed by a local agency. The process typically takes several years during which time, local governments must spend money to comply with the mandate.

### Federal and State Grants and Aid

The federal and state governments provide a wide variety of funds to counties, and a more limited set to cities and special districts. Federal and state grants comprise a large proportion of county revenues because of the many programs and responsibilities counties carry out on behalf of the federal and state governments. These funds are almost entirely restricted to specified uses. Examples include certain health, mental health, social and child welfare services.

Categorical grants support a defined program area. Categorical grants typically go to local agencies that either meet predetermined funding criteria or compete for project funding through an application process.

Block grants provide funding to a broad functional area. For example, federal Community Development Block Grant (CDBG) funds support local housing and economic development activities.

## RENT FOR USE OF PUBLIC PROPERTY

### Rents, Royalties and Concessions

Another way cities and counties and some special districts pay for public services is to charge rent for use of the public's property. An example is royalties from natural resources taken from land the public owns. Others include selling advertisements in publications or on buses, as well as, receiving a percentage of net profits from concessionaires operating on public property.

### Franchise Fees

Franchise fees are a form of rent for use of public streets and roadways. Examples of businesses that pay franchise fees include trash collectors, cable television companies, electric utilities and oil and natural gas pipeline companies. Federal and state law limits the amount of some franchise fees (for example, video and cable television franchise fees). Franchise fees for provision of video services (like television programming) are limited and administered by the state.

## FINES, FORFEITURES AND PENALTIES

Violations of the law often result in a fine of some kind. Fines, forfeitures and penalties may be imposed for many reasons. Typical examples include traffic violations, court fines, penalties and interest on late or unpaid taxes.

- State law determines the distribution of fines and bail forfeitures imposed by the state.
- State law apportions revenues for parking violations and surcharges between issuing agencies and the counties.
- A city or county may impose fines, forfeitures and penalties for civil violation of local ordinances.
- Bail for local code violations charged criminally is established by the local courts with input from the city or county.

### Maintenance of Effort Requirements (MOE)

When cities and counties receive funding for programs from the state or federal government, such funding may come with strings attached. A common condition is that the city or county commit to a certain level of funding. This commitment is called "maintenance of effort."

Local agencies also receive reimbursement for revenue lost as a result of some tax exemptions and reductions. An example includes the homeowners' property tax exemption, which eliminates the property tax on a small portion of the assessed valuation of owner-occupied residential property.

## OTHER REVENUES

There are other local government revenues, comparatively minor in amounts. These include interest earned on investments, sales of surplus property and gifts.

## ACKNOWLEDGEMENTS

Special thanks to Michael Coleman whose expertise contributed to the 2016 update of this publication. Michael Coleman is a leading expert on California local government revenues, spending and financing. He is the creator of CaliforniaCityFinance.com, the California Local Government Finance Almanac, an online resource of data, analyses and articles on California municipal finance and budgeting.

The Institute also appreciates the contributions from the staff of the California Special Districts Association, the California State Association of Counties and the League of California Cities for their contributions and suggestions to this revised document.

## ENDNOTES

<sup>i</sup> California Department of Finance, Demographic Research Unit [www.dof.ca.gov/Forecasting/Demographics/Estimates/](http://www.dof.ca.gov/Forecasting/Demographics/Estimates/)

<sup>ii</sup> Cal. Const. art. XI, § 1(a). *See also* Cal. Gov't Code § 23002 ("The several existing counties of the State and such other counties as are hereafter organized are legal subdivisions of the State."). *People ex rel. Younger v. County of El Dorado*, 5 Cal. 3d 480, 491, 96 Cal. Rptr. 557 (1971)

<sup>iii</sup> Cal. Const. art XIII, section 1(e)

<sup>iv</sup> A complete discussion of this list of seven exceptions can be found in the *Proposition 26 Implementation Guide* published by the League of California Cities.

<sup>v</sup> Proposition 30 imposed an additional state general fund sales tax of 0.25 percent from 2013 through 2016, for a total base rate of 7.5% during that time.

<sup>vi</sup> See "State Public Safety Sales Tax" under "Revenues From Other Government Agencies."

<sup>vii</sup> In some cities, by historic agreement, the city collects less than 1.00 percent, with the difference allocated to the county. For example, in San Mateo county each city receives 0.95% of transaction within its jurisdiction and 0.05% goes to the county general fund. For a full list of local sales tax rates see Table 23A of the California State Board of Equalization Annual Report.

<http://www.boe.ca.gov/annual/table23a.htm>

<sup>viii</sup> Except in the counties of Los Angeles, Alameda and Contra Costa where the maximum is 2.5 percent. Revenue and Tax Code §7251 et seq.

<sup>ix</sup> For more information on Charter Cities see [www.cacities.org/chartercities](http://www.cacities.org/chartercities)

## Resources for Further Information

Coleman, Michael. *California Municipal Revenue Sources Handbook*, League of California Cities 2014.

Multari, Michael, Michael Coleman, Kenneth Hampian, Bill Statler. *Guide to Local Government Finance in California*, Solano Press Books, 2012.

California Legislative Analyst's Office. [www.lao.ca.gov](http://www.lao.ca.gov)

"California Local Government Finance Almanac: Data, Statistics, Analyses on California City, County and Special District Finance." [www.californiacityfinance.com](http://www.californiacityfinance.com)

"Financial Management for Elected Officials." Institute for Local Government. [www.ca-ilg.org/post/financialmanagement](http://www.ca-ilg.org/post/financialmanagement)

"Learn About Cities." League of California Cities. [www.cacities.org/Resources/Learn-About-Cities](http://www.cacities.org/Resources/Learn-About-Cities)

"What Do Counties Do?" California State Association of Counties. [www.csac.counties.org/californias-counties](http://www.csac.counties.org/californias-counties)

"What are Special Districts and What Do They do?" California Special Districts Association. [www.cstda.net/special-districts/](http://www.cstda.net/special-districts/)



## ABOUT THE INSTITUTE FOR LOCAL GOVERNMENT

The Institute for Local Government (ILG) is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities, the California State Association of Counties and the California Special Districts Association. Its mission is to promote good government at the local level with practical, impartial and easy-to-use resources for California communities.

For more information and to access the Institute's resources,  
visit [www.ca-ilg.org](http://www.ca-ilg.org).

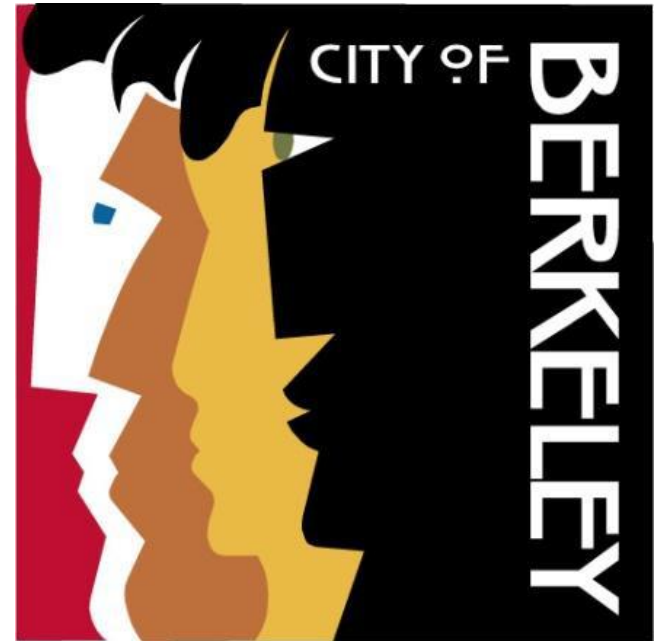
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# Community Survey: *2020 Ballot Measure Considerations*



# 2020 Community Survey

- Ballot Measure Schedule
- Tax Rate Comparison
- Street Needs and Funding Options
- Fire Department Revenue Measure
- Council Discussion

# 2020 Ballot Measure Schedule

| Critical Dates          | Key Actions                                                                                   |
|-------------------------|-----------------------------------------------------------------------------------------------|
| Feb. 11                 | Council provides final direction about possible measures to include in first Community Survey |
| April 14                | Survey Results from the First Survey and Direction on Second Survey                           |
| Month of April          | Second Survey                                                                                 |
| May 26                  | Second Survey Results Presented and Direction about Next Steps                                |
| June 16                 | Provide Direction on Ballot Language                                                          |
| July 14                 | Review Final ballot measure language                                                          |
| July 28 Action Calendar | Last Council Meeting Before Recess                                                            |

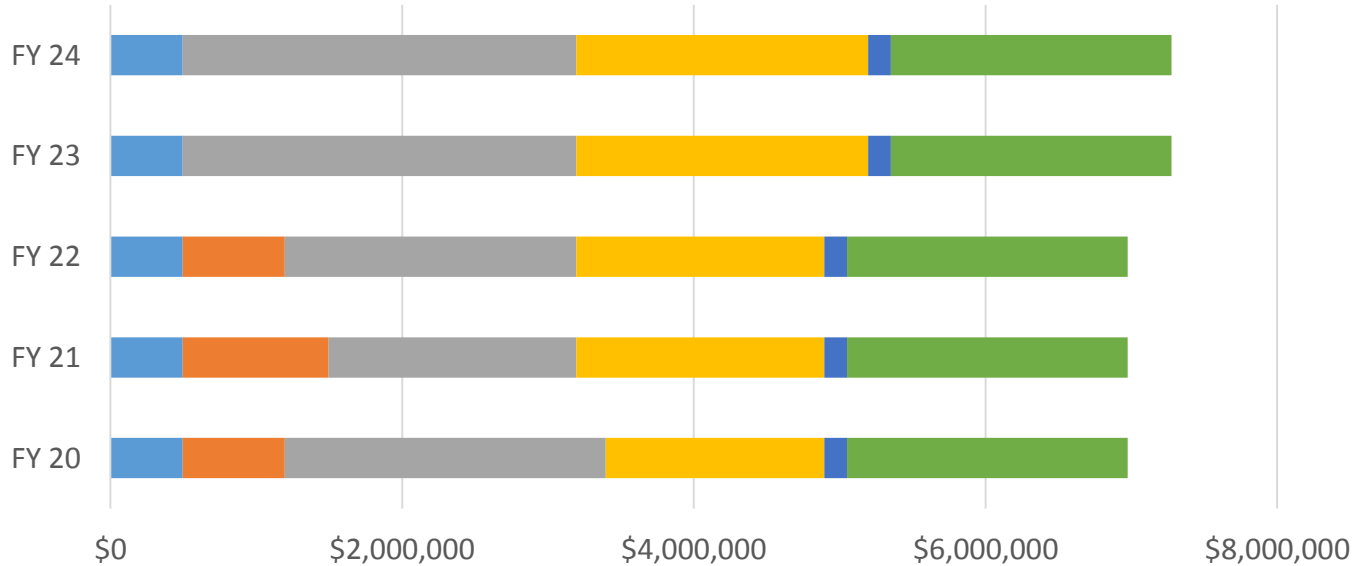
# Tax Rate Comparison Among Cities

*Based on average 1,900 square foot home; Median Assessed Value of \$485,000*

| AGENCY                                            | Berkeley FY2020 |                | Oakland FY2020 |                | Albany FY2020 |                |
|---------------------------------------------------|-----------------|----------------|----------------|----------------|---------------|----------------|
|                                                   | Rate            | Amount         | Rate           | Amount         | Rate          | Amount         |
| Countywide Ad Valorem Tax                         | 1.000%          | \$4,780        | 1.000%         | \$4,780        | 1.000%        | \$4,780        |
| Voter-Approved Ad Valorem Debt Service (Combined) | 0.218%          | \$1,045        | 0.369%         | \$1,763        | 0.395%        | \$1,887        |
| Total All Ad Valorem Taxes                        | 1.218%          | \$5,824        | 1.369%         | \$6,543        | 1.395%        | \$6,667        |
| Total City Special Taxes                          | \$0.526         | \$1,001        |                | \$431          |               | \$321          |
| Total City Special Assessments                    |                 | \$112          |                | \$16           |               | \$712          |
| Total Unified School District Special Taxes       | \$0.468         | \$890          |                | \$435          |               | \$909          |
| Total County Assessments/Charges                  |                 | \$351          |                | \$352          |               | \$405          |
| <b>TOTAL CURRENT ANNUAL TAXES</b>                 |                 | <b>\$8,178</b> |                | <b>\$7,777</b> |               | <b>\$9,014</b> |
| <b>Tax/Assessment Rate</b>                        | <b>1.711%</b>   |                | <b>1.627%</b>  |                | <b>1.886%</b> |                |

# Berkeley Street System

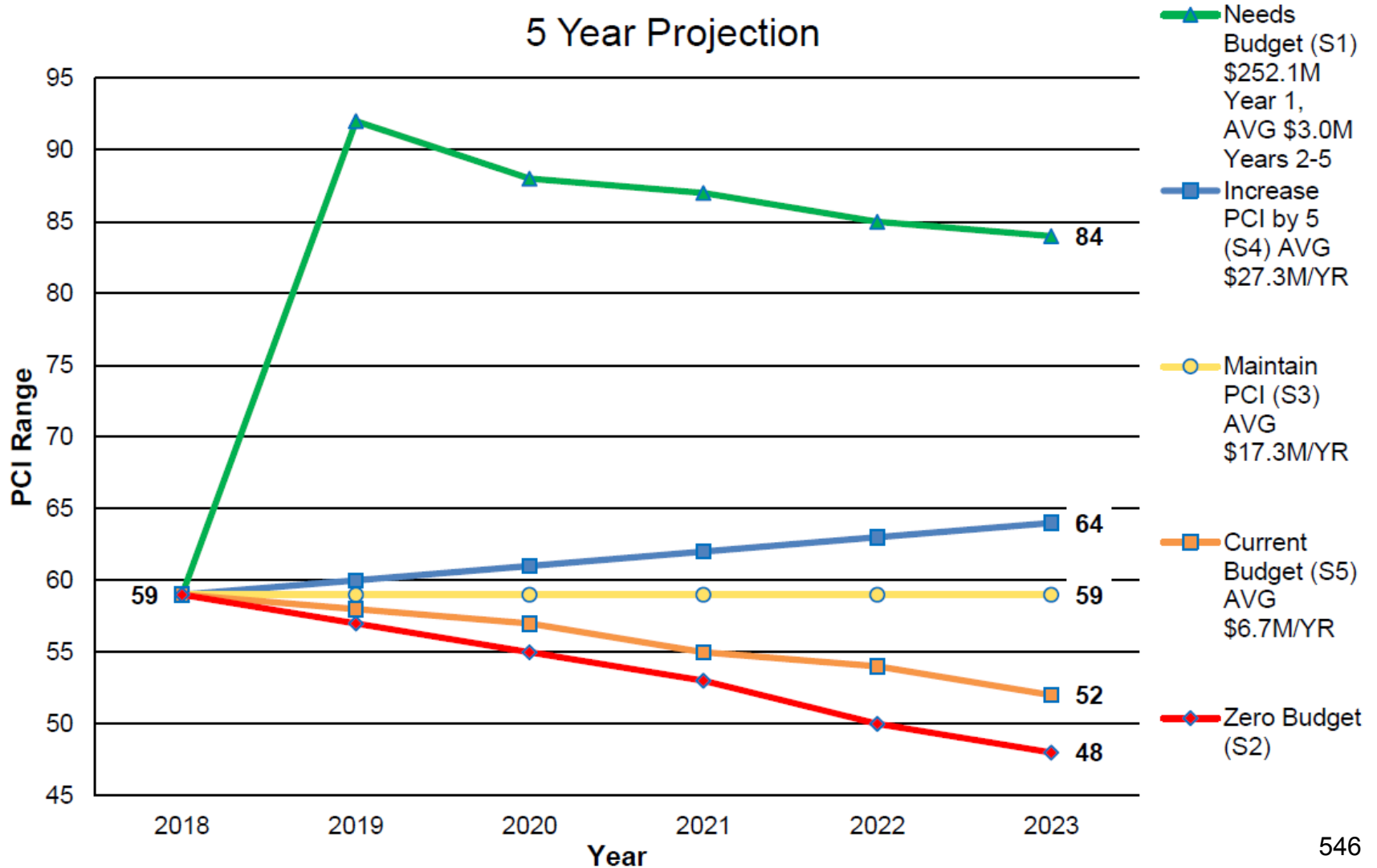
## FUNDING RESOURCES



|                                        | FY 20       | FY 21       | FY 22       | FY 23       | FY 24       |
|----------------------------------------|-------------|-------------|-------------|-------------|-------------|
| ■ State Transportation Tax             | \$495,303   | \$495,303   | \$495,303   | \$495,303   | \$495,303   |
| ■ Measure B - Local Streets & Roads    | \$700,000   | \$1,000,000 | \$700,000   | \$0         | \$0         |
| ■ Measure BB - Local Streets & Roads   | \$2,200,000 | \$1,700,000 | \$2,000,000 | \$2,700,000 | \$2,700,000 |
| ■ SB1 Gas Tax                          | \$1,500,000 | \$1,700,000 | \$1,700,000 | \$2,000,000 | \$2,000,000 |
| ■ Measure F - Vehicle Registration Fee | \$155,000   | \$155,000   | \$155,000   | \$155,000   | \$155,000   |
| ■ Capital Improvement Fund             | \$1,925,000 | \$1,925,000 | \$1,925,000 | \$1,925,000 | \$1,925,000 |

Does not include T1 or grant funds

# Berkeley Street System



# Revenue Options for Streets

| Revenue Measure                                          |                                                                                                                                                                                                                                                 |
|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>½ Cent Transaction and Use Tax</p>                    | <ul style="list-style-type: none"> <li>• Generates approx. <b>\$9M</b> per year</li> <li>• Broadens tax base (residents, employees, visitors)</li> <li>• General Tax (50%+1) vs. Special tax (2/3rds voter support )</li> </ul>                 |
| <p>Revenue Bond<br/>(½ Cent Transaction and Use Tax)</p> | <ul style="list-style-type: none"> <li>• Potential to bond for <b>\$180M</b> (assumes 30-years)</li> <li>• Broadens tax base (residents, employees, visitors)</li> <li>• General Tax (50%+1) vs. Special tax (2/3rds voter support )</li> </ul> |
| <p>General Obligation Bond</p>                           | <ul style="list-style-type: none"> <li>• Restricts tax base to property owner</li> <li>• Special tax requires 2/3rds voter support</li> </ul>                                                                                                   |

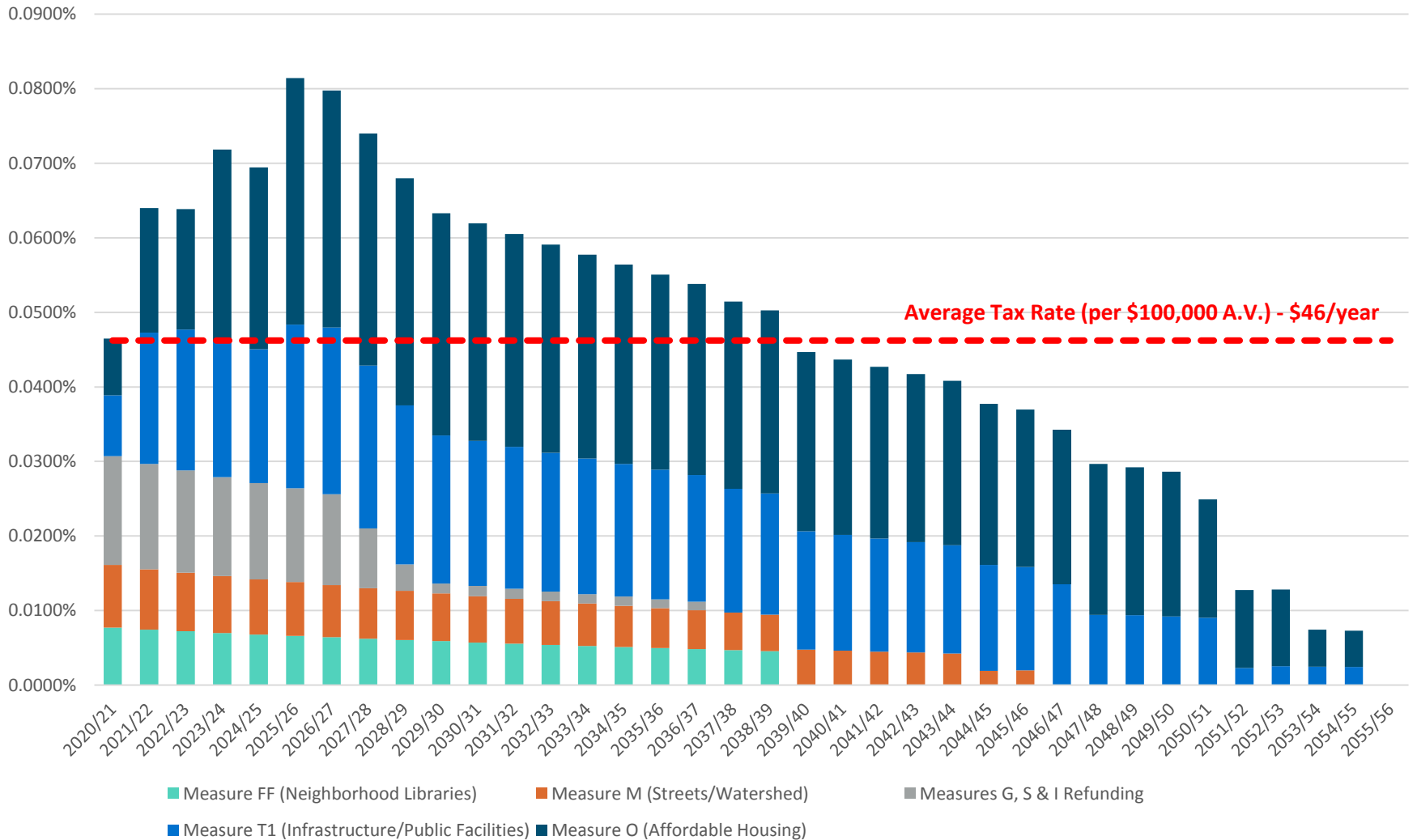
# General Obligation Bond Overview

|                              | Average Annual Assessment (1)   |                              | Maximum Annual Assessment       |                              |
|------------------------------|---------------------------------|------------------------------|---------------------------------|------------------------------|
|                              | Per \$100,000 of Assessed Value | Impact on \$485,000 Home (2) | Per \$100,000 of Assessed Value | Impact on \$485,000 Home (2) |
| Existing Bond Authorizations | \$46                            | \$221                        | \$84                            | \$403                        |
| Existing PLUS \$100M Bond    | \$61                            | \$294                        | \$103                           | \$495                        |
| Existing PLUS \$250M Bond    | \$84                            | \$402                        | \$132                           | \$629                        |

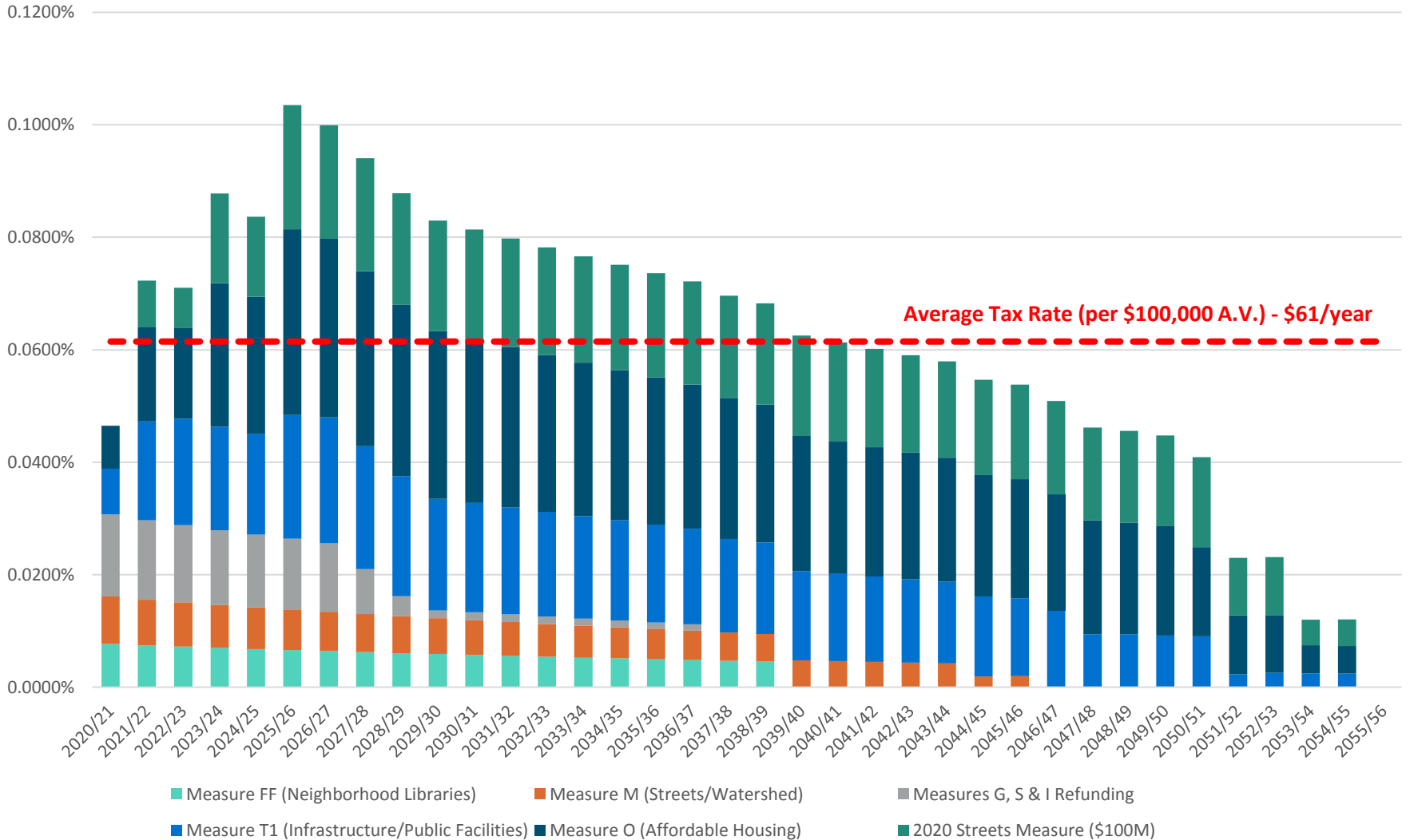
1. Represents average from FY 21 to FY 56.
2. Assumes \$485,000 median assessed value less \$7,000 homeowners exemption.



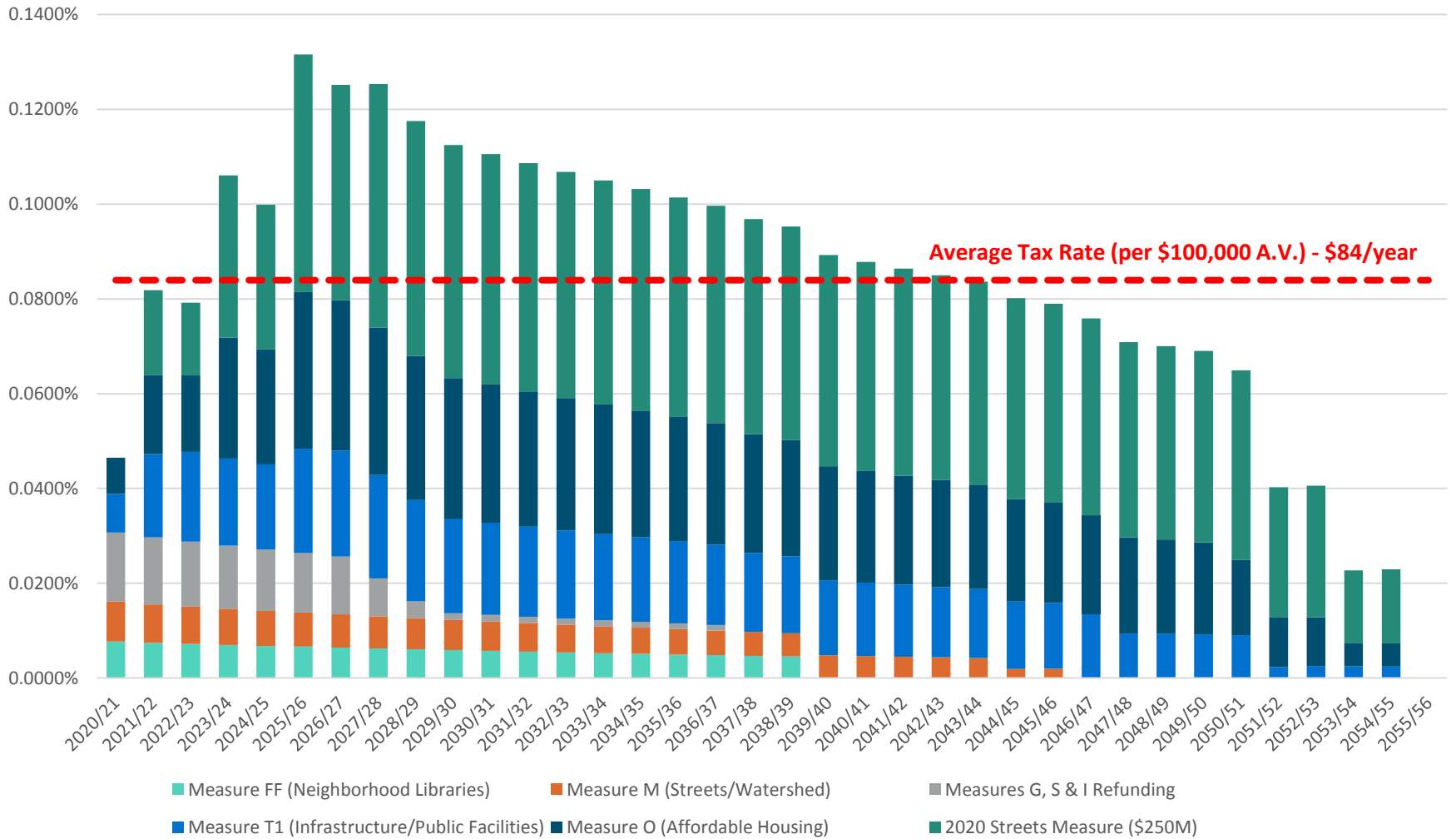
## General Obligation Bonds - Tax Rate Projections (Existing Authorizations)



## General Obligation Bonds - Tax Rate Projections (Includes \$100 Million Street Improvement Authorization)



## General Obligation Bonds - Tax Rate Projections (Includes \$250 Million Street Improvement Authorization)



# Fire Department Needs

| Service                                             | Annual Amount  | Per Sq. Ft. Parcel Tax | Comments                                                                                                                                                             |
|-----------------------------------------------------|----------------|------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Address Current Deficits                            | \$1.0M         | \$0.0118               | <ul style="list-style-type: none"> <li>General Fund subsidizes Paramedic Tax; which is anticipated to increase</li> </ul>                                            |
| Emergency Medical Dispatch                          | \$3.2M         | \$0.0393               | <ul style="list-style-type: none"> <li>Equipment, technology, and staffing</li> </ul>                                                                                |
| Increase EMS Resources                              | \$6.5M         | \$0.0798               | <ul style="list-style-type: none"> <li>1 ALS/Firefighter ambulance / 3 BLS ambulances (5150 transport)</li> <li>Funds to train and administer the program</li> </ul> |
| 4 <sup>th</sup> Firefighter on ladder trucks        | \$1.3M         | \$0.0160               | <ul style="list-style-type: none"> <li>Addresses high-rises / dense, expansive apartment buildings</li> </ul>                                                        |
| Wildfire Prevention                                 | \$2.0M         | \$0.0246               | <ul style="list-style-type: none"> <li>Safe passages, Fire inspectors, vegetation management and crew, education and training</li> </ul>                             |
| <b>Total</b>                                        | <b>\$14.0M</b> | <b>\$0.1714</b>        |                                                                                                                                                                      |
| <b>Total Annual Assessment (1,900 Sq. Ft. Home)</b> |                |                        | <b>\$325.66</b>                                                                                                                                                      |

# Community Survey

## Programs Assessed in Prior Surveys

- Infrastructure
- Streets
- Parks, Pools and Camps
- Sugar Sweetened Beverage Tax
- Public financing of elections
- Affordable Housing Tax on Multi-unit Rental Properties
- Commercial Vacancy Tax
- Residential Vacancy Tax
- Fire and Emergency Services
- Homeless Services

# Community Survey

SAMPLE: 500 likely November 2020 voters, 15 minutes

## GOALS:

- Better understand what issues voters want City to address
- Test potential components individually and as a package, as well as dollar amounts for 5-7 ballot measures

## INCLUDES:

- Top issues, economic concerns, assessment of city government
- Individual components/projects
- Different package components and costs
- Demographic information

# Survey Question: Assess Focus Issues

Tested in 2018, with people picking one (changes from 2016 noted in parentheses):

- Creating jobs and economic development
- Improving education and schools
- Managing the city budget
- Reducing crime
- Addressing homelessness
- Making the City more bike and pedestrian friendly
- Building affordable housing
- Reducing taxes
- Improving public health
- Improving parks and playgrounds (changed from parks & open space)
- Improving transportation mobility in Berkeley (changed from reducing traffic)
- Improving city infrastructure (changed from public transit)
- Don't know

# Survey Question: Areas of Investment

Based on Feb. 4 Council Discussion:

- Emergency Medical Services
- Wildland Interface Fire Reduction Measures
- Streets
- Sustainability/Climate Change



# Council Discussion

1. Items to include in the community survey
  - Programs and/or services
  - Revenue measures
  
2. Discuss cost levels for any revenue measures

# Extra slide

# Other Possible Ballot Measures or Charter Amendments

|                                        |                                                                |
|----------------------------------------|----------------------------------------------------------------|
| <b>Potential City Ballot Measures</b>  | Gender Neutral Terminology (Charter & BMC)                     |
|                                        | New Article Regarding Police Review Commission (Charter)       |
|                                        | Eliminating Sworn Firefighter Residency Requirements (Charter) |
|                                        | GANN Limit Authorization                                       |
| <b>Outside Agency Revenue Measures</b> | State Ballot Measures                                          |
|                                        | Alameda County Measure: ½ cent sales tax for Homeless Services |





Office of the City Manager

ACTION CALENDAR  
April 28, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: Placing Charter Amendment Measure on the November 3, 2020 Ballot  
 Related to Full-Time Status and Salaries for the Mayor and  
 Councilmembers

RECOMMENDATION

1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

FISCAL IMPACTS OF RECOMMENDATION

The table below shows the year-by-year costs for elections since 2012. Significant cost increases occurred in 2012 and 2014 due primarily to general year-over-year increases, and the addition of two more required languages (Vietnamese and Tagalog). The cost increase in 2016 is due to a new, permanent surcharge from the Registrar of Voters to fund the County’s voting equipment replacement account.

| Date                     | Election         |                  |                  |                 |                  |
|--------------------------|------------------|------------------|------------------|-----------------|------------------|
|                          | Nov. 2012        | Nov. 2014        | Nov. 2016        | Mar. 2017       | Nov. 2018        |
| <b>No. of Measures</b>   | 10               | 7                | 11               | 0               | 4                |
| <b>No. of Candidates</b> | 26               | 23               | 29               | 2               | 30               |
| <b>General Costs</b>     | \$367,884        | \$392,331        | \$706,901        | -               | \$385,246        |
| <b>RCV Costs</b>         | \$101,041        | \$189,148        | \$181,954        | -               | \$185,578        |
| <b>Total Costs</b>       | <b>\$468,925</b> | <b>\$581,479</b> | <b>\$888,855</b> | <b>\$85,628</b> | <b>\$570,824</b> |

### CURRENT SITUATION AND ITS EFFECTS

At the May 29, 2018 City Council meeting, the council discussed the results of a second community survey and proposed language for an amendment to the City Charter regarding the salary and full-time status of the City Council. The Council directed the City Manager to return with draft ballot measure language for the November 6, 2018 General Election. The Council elected not to place this measure on the November 2018 ballot.

On February 4, 2020, during a City Council work session on potential ballot measures, a majority of the Council expressed interest in placing a measure on the ballot to amend the City Charter to make the office of Mayor and City Councilmember full-time positions, with remuneration set at a level reflecting full-time employment. The proposed Charter Amendment would provide that the office of Mayor and Councilmember are full-time positions, and that the Personnel Board shall set the salary of the Mayor and Councilmembers initially after adoption and every five years thereafter based on a salary survey of other full-time Mayors and City Councils in California and it shall consider the Consumer Price Index (CPI).

Remuneration may be reduced in defined instances, including unexcused absences from Council meetings or negotiated salary reductions for City employees. If adopted, the attached resolution will request that the Registrar of Voters place the matter on the ballot for consideration by Berkeley voters.

Additionally, according to California Elections Code 9282(b), for measures placed on the ballot by the legislative body, the legislative body, or a member or members of the legislative body authorized by that body, or an individual voter who is eligible to vote on the measure, or bona fide association of citizens, or a combination of voters and associations, may file a written argument for or against any city measure.

### BACKGROUND

The current Charter provisions do not designate the offices of Mayor and Councilmember as full-time positions. This amendment would designate the offices as full-time and task the Personnel Board with setting the salaries of Mayor and Council based on surveys of other full-time Mayors and City Councils.

### ENVIRONMENTAL SUSTAINABILITY

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

### RATIONALE FOR RECOMMENDATION

The City Clerk is presenting this action in accordance with the direction given by Council.

### ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

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

Attachments:

1: Resolution

Exhibit A: Text of Measure

RESOLUTION NO. -N.S.

SUBMITTING TO THE BERKELEY ELECTORATE AN AMENDMENT TO THE SALARY PROVISIONS IN ARTICLE V OF THE BERKELEY CITY CHARTER ON THE NOVEMBER 3, 2020 BALLOT

WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 3, 2020 General Municipal Election, a measure to amend Article V of the Berkeley Charter related to the salary for Mayor and City Council; and

WHEREAS, in accordance with the provisions of Section 10002 and 10403 of the Elections Code of the State of California, the Alameda County Board of Supervisors is requested to consolidate the City of Berkeley General Municipal Election with the Statewide General Election to be held November 3, 2020; and

WHEREAS, the City of Berkeley hereby requests that the Alameda County Board of Supervisors permit the Registrar of Voters of Alameda County to perform services in connection with said election at the request of the City Clerk. These services to include all necessary services related to official ballot creation, sample ballot and voter information pamphlet preparation, vote-by-mail, polling places, poll workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the consolidated election; and

WHEREAS, the Council desires to submit this measure to be placed upon the ballot at said consolidated election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley.

BE IT FURTHER RESOLVED that the full text of the measure shall be printed in the Voter Information Pamphlet mailed to all voters in the City of Berkeley.

BE IT FURTHER RESOLVED that the above enumerated measure requires a majority vote threshold for passage.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Berkeley, the Government Code and the Elections Code of the State of California.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to obtain printing, supplies and services as required.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services,



printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

BE IT FURTHER RESOLVED that Pursuant to Elections Code Section 9285 (b), the City Council hereby adopts the provisions of Elections Code Section 9285 (a) providing for the filing of rebuttal arguments for city ballot measures.

BE IT FURTHER RESOLVED that the City will reimburse the Registrar of Voters for the costs associated with placing the measure on the ballot.

BE IT FURTHER RESOLVED that said proposed Charter Amendment measure shall appear and be printed upon the ballots to be used at said election as follows:

| <b>CITY OF BERKELEY CHARTER AMENDMENT</b>                                                                                                                                                                                                                                                                                                                                                                                                                            |     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Shall the measure amending the City Charter to provide that the offices of Mayor and Councilmember are full-time positions and shall receive a salary for performance of their official duties set by the Personnel Board based on salaries of other full-time California Mayors and Councils, but which may be lowered in defined instances, including for unexcused absences from Council meetings or negotiated salary reductions for City employees, be adopted? | YES |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | NO  |

BE IT FURTHER RESOLVED that the text of the Charter Amendment be shown as Exhibit A, attached hereto and made a part hereof.

Exhibits

A: Text of Charter Amendment

**AMENDMENTS TO ARTICLE V OF THE BERKELEY CITY CHARTER RELATED TO FULL-TIME STATUS AND SALARIES FOR THE MAYOR AND CITY COUNCIL**

The People of the City of Berkeley hereby amend Section 19 of the Charter of the City of Berkeley to read as follows:

Section 1. Section 19 of Article V of the Charter of the City of Berkeley is amended to read as follows:

**Section 19. Salaries.**

The Mayor and Councilmembers shall receive remuneration for the performance of their official duties. at the rate of up to \$1,800 per month, and the Mayor shall receive up to \$2,850 per month, effective the Council term beginning in December 1998. Such amount shall be adjusted upward by the increase in the cost of living for the San Francisco Bay Area as verified by official United States economic reports. The office of Mayor and Councilmember are full-time positions. The Personnel Board shall set the salary of the Mayor and Councilmembers initially after the effective date of this Charter Amendment and every five years based on a salary survey of other full-time California Mayors and City Councils and it shall consider the Consumer Price Index (CPI).

The Personnel Board shall establish dates for an appropriate five-year cycle for making the determinations required by this Section, in order to efficiently coordinate with City budget processes and related procedures. In order to institute this five-year cycle, the initial determination may be for less than a five-year period, as determined by the Personnel Board.

If the City and employee organizations agree to amend the compensation provisions of existing memoranda of understanding to reduce costs, the Personnel Board shall review and amend the Mayor and Councilmembers' salary as necessary to achieve comparable cost savings in the affected fiscal year or years.

Either the Mayor or any Councilmember may, at his or her sole discretion, reduce the remuneration paid himself or herself. In any such case, the difference between the reduced amount actually paid to such Mayor or Councilmember and the amount of remuneration authorized by this Article shall be appropriated as part of the budget of the Mayor or Councilmember taking the voluntary reduction in remuneration and such differential may be expended for any purpose otherwise authorized for the expenditure of sums so budgeted. ~~If the Mayor or any member of the Council is absent from one or more regular meetings of the Council during any calendar month, unless excused by the Council in order to attend to official business of the City, or unless excused by the Council as a result of illness from attending no more than two regular meetings in any~~

~~calendar year, he or she shall be paid for each regular meeting attended during such months in an amount equal to the monthly remuneration divided by the number of regular meetings held during such month.~~

For each member of the Council and the Mayor, a sum, as established by the Personnel Board, shall be deducted from the salary of such member for each regular or special meeting of the full Council, which they fail to attend in each such calendar month; provided, however, that such deduction shall not be made for their failure to attend any meeting during which they are away on authorized City business, or from which they are absent because of their own illness or the illness or death of a "close family member" as defined in the City's bereavement leave policy.





Energy Commission

## ACTION CALENDAR

April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Energy Commission

Submitted by: Cate Leger, Chairperson, Energy Commission

Subject: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in response to the Fossil Fuel Free Berkeley referral

### RECOMMENDATION

The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel Free, and to respond to the Climate Emergency.

### FISCAL IMPACTS OF RECOMMENDATION

Development of the referendum would involve work time of staff and City Council members, plus members of the public. The Council should survey voters about fundraising options, as part of polling on ballot measures. Adoption of the referendum by voters would result in a new Climate Action Fund of \$5 million to \$10 million per year to be spent on measures to reduce carbon pollution.

### CURRENT SITUATION AND ITS EFFECTS

On June 12, 2018, the Council adopted a goal of creating a “Fossil Fuel Free Berkeley” and a “Declaration of a Climate Emergency,” which together reinforced the Council’s desires to make Berkeley a global leader on reducing the threat of climate change.

Rising greenhouse gas concentrations in the atmosphere are leading to rising global average temperatures and greater incidence of drought, wildfire, extreme weather events, and other impacts. Berkeley is a significant contributor to greenhouse gas emissions, due to heavy reliance of its citizens on gasoline and diesel vehicles, natural gas in homes and businesses, consumption of goods with high levels of “embedded emissions” from manufacturing and distribution, and other sources. New technologies, along with changes to infrastructure and human behavior, offer significant potential to cut fossil fuel use and carbon emissions in Berkeley.

The Energy Commission submitted to Council “Recommendations for a Fossil Fuel Free Berkeley” in January 2019, in response to the Council’s Fossil Fuel Free Berkeley proclamation and Declaration of a Climate Emergency. In that report, the Commission recommended, among other things, that the Council put a referendum on the November

2020 ballot that “would include binding mandates and specific priorities for emissions reductions.” This recommendation provides further ideas about the content of that referendum.

At its meeting of February 26, 2020, the Energy Commission voted to recommend to the City Council that a referendum be placed on the ballot to ask voters to create an ongoing funding stream for carbon reduction activities, called a Climate Action Fund, with annual revenues of \$5 million to \$10 million. (Moved by Paulos, second by Stromberg. Ayes: Zuckerman, Bell, Weems Paulos, Stromberg, O’Hare; Nays: None; Abstentions: None; Absent: Schlachter Leger, Gil; 6-0-0-3).

The key issues for Council to explore are 1) how to raise revenues for the Fund, and 2) how to spend the funds. The Council should initiate a public process to explore funding and spending options. The Commission recommends the following principles: Revenues for the Fund should be raised in accord with the “polluter pays principle,” such as by imposing a higher price on fossil fuels, and as progressively as possible, with reduced burdens on low-income citizens. Preliminary ideas for funding sources include:

- An increase in the Utility Users Tax (UUT) for natural gas consumption, along with a reduction in the UUT for electricity, to encourage switching from a fossil fuel to renewable electricity;
- A tax on “transportation network companies” like Uber and Lyft, who have caused a drop in transit use and an increase in carbon emissions and traffic congestion, and on delivery services and fleets;
- Taxes aimed at internal combustion vehicles, such as a tax on gasoline and diesel fuel, vehicle registration fees, oil changes and smog inspections; and
- An increase in parking fees and a tax on privately-owned parking lots.

Funds would be administered by City offices with input from current Commissions or a new expert panel, similar to the panels that guide funding for the Sugar-Sweetened Beverages Tax and Measure O. The Fund would be spent on activities that reduce climate emissions, as described in the Berkeley Climate Action Plan. Funds would be used to fill gaps in regional, state, and federal policy, and leverage local, state, federal, philanthropic, and private-sector funds. Proposals for funding would be accepted from businesses, non-profits, and government agencies, and scored based on a) their effectiveness at reducing carbon emissions, b) equity benefits, c) cost effectiveness, and d) local economic benefits. Funds would not be used to backfill existing City budgets. Some potential areas for funding could include:

- Electric mobility and charging infrastructure;
- Renewable energy in homes and businesses;

- Accelerated deployment of bicycle, micro-mobility and pedestrian improvements, such as protected bike and micro-mobility lanes, and safer street crossings; and
- Building electrification and energy efficiency.

Funding allocation strategies would be reassessed annually. Berkeley would join other communities with similar voter-approved funds, including Boulder, Colorado; Athens, Ohio; and Portland, Oregon.

### BACKGROUND

The City of Berkeley adopted the Climate Action Plan in June 2009. While the City has made good progress in some areas, it has lagged overall and is behind schedule in achieving interim goals. In addition, many of the gains have been caused by state and federal policy and market and technology developments, rather than by City actions.

One impediment to greater progress on the Climate Action Plan is the lack of dedicated funding for it. While City departments sometimes implement measures that cut carbon emissions, their budgets do not have line items for climate action, and rarely are actions prioritized solely because of the carbon reduction benefits. Instead, the City's sustainability programs are often forced to seek support from outside funding sources, such as state and philanthropic grants.

Having a dedicated funding source would give the City greater ability to be proactive; to take advantage of local opportunities and create more local benefits; to expand upon or fill in gaps left by state, regional and federal policies; and to leverage outside funding opportunities.

### ENVIRONMENTAL SUSTAINABILITY

These recommendations are intended to accelerate citywide reductions in greenhouse gases and reduce the impact of global warming.

### RATIONALE FOR RECOMMENDATION

Creation of a Climate Action Fund would increase the City's ability to meet the goals of the Climate Action Plan, the Fossil Fuel Free Berkeley declaration, and the Climate Emergency declaration.

### ALTERNATIVE ACTIONS CONSIDERED

The Commission's report to Council on the Fossil Fuel Free Berkeley and Climate Emergency resolutions explored many options. The idea for a climate referendum was included as a "fast track proposal." This memo supplements the previous Energy Commission recommendation.

### CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Billi Romain, Energy Commission Secretary, (510) 981-7432

Attachments:

1: Fossil Fuel Free Berkeley Report of the Berkeley Energy Commission, January 23, 2019



# Fossil Free Berkeley Report

Berkeley Energy Commission January 23, 2019

## Council Referral

On June 12, the Berkeley City Council passed item 30 “Fossil Free Berkeley” which refers “to the Energy Commission and Transportation Commission consideration of the proposed resolution or similar action to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley, and further consider:

Establishing a date by which we are committed to being a Fossil Fuel Free City;

Opposing further transportation of oil, gas, and coal;

Fully implementing Berkeley Deep Green Building, raising the citywide LEED certification requirement above the current LEED Silver, and applying the same requirements to newly constructed city facilities, and major renovations;

Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city’s vehicle fleet to all electric vehicles;

Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030;

Formally opposing the recent expansion of offshore drilling by the Trump Administration; and

Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure.”

On June 12, the Berkeley City Council also passed item 49 “Declaration of a Climate Emergency” which refers “to the Energy Commission to study and report back to Council on a path for Berkeley to become a “Carbon Sink” as quickly as possible, and to propose a deadline for Berkeley to achieve this goal” ideally by 2030.

This Report is the Energy Commission’s response to Council’s June 12 referrals.

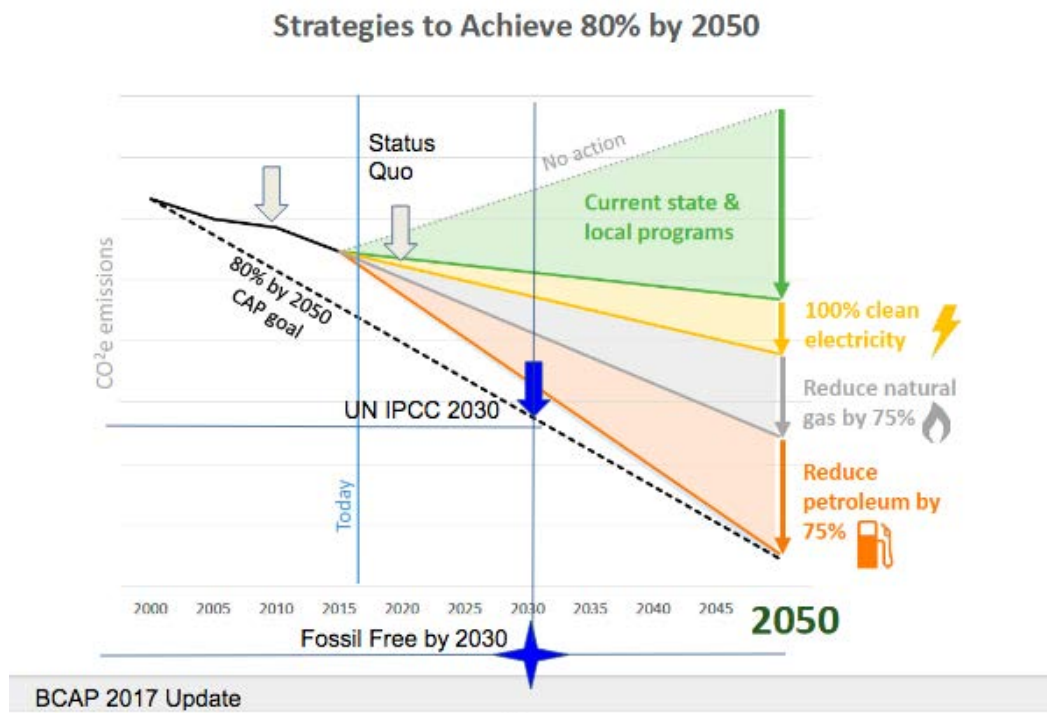
## Executive Summary

The City Council's Climate Emergency Resolution lists record breaking climate related catastrophes and urges 'out of the box' thinking for solutions.

As if intended to support the Council's climate emergency declaration, the UN IPCC issued a heart rattling Special Report ([IPCC-SR15](#), 10/9/2018) noting global temperatures are rising faster than predicted and a myriad of cascading effects are happening sooner, and reiterating a worldwide goal to keep warming to no more than 1.5 °C. It asserts Greenhouse pollution must be reduced 45 percent from 2010 levels by 2030 and 100 percent by 2050.

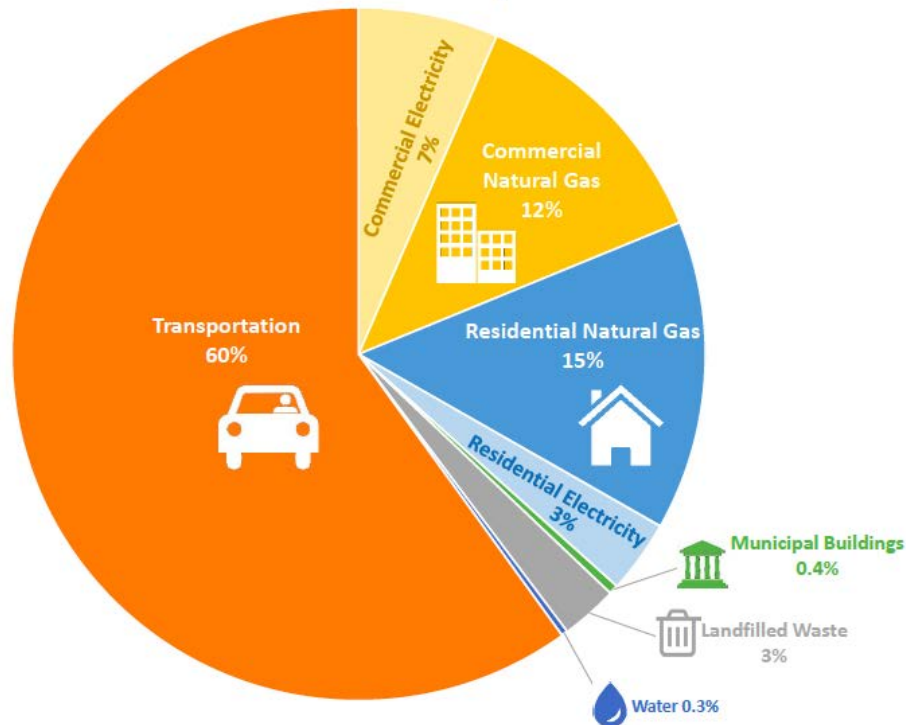
The trajectory of the Berkeley Climate Action Plan's 2020 emission reduction targets, extended to 2030, is roughly in line with the IPCC-SR15 goal. However, according to the city's 2018 [Annual Progress Update](#) Berkeley is significantly behind in achieving the Climate Action Plan 2020 reduction goals, let alone extending that trajectory through 2030 as recommended by IPCC-SR15, or doubling down to become 100% fossil free by 2030 as to be considered in the Fossil Fuel Free Berkeley Resolution Council adopted in June.

### IPCC and Fossil Free by 2030 goals superimposed on 2017 CAP update



Clearly in order to meet any of these 2030 goals we need a sea change in commitment. Specifically, we must exert the will to honestly accept and meet the challenge we face. The 2018 CAP Update shows where we need to act:

## 2016 Community Emissions



Given statutory limitations on specific authorities held by the City, the Energy Commission is not able to determine a date by which Berkeley could be completely fossil fuel free. However, aiming to be fossil fuel free by 2030 to the fullest extent possible is a compelling goal. Urgency prompts the Commission to recommend aggressively prioritizing options with high early impacts. Lastly, Berkeley will only become a carbon sink if it is also virtually fossil free. The City has little capacity to sequester carbon.

### ***Four Fast Track Proposals***

- Opt all East Bay Community Energy accounts to 100% renewable electricity in 2019. This would result in an immediate 10% reduction in GHGs.
- Integrate greenhouse gas (GHG) reduction goals into the objectives and responsibilities of every city department. Amend funding priorities to support this initiative.

- Develop an updated Climate referendum to put before the voters that doesn't soft pedal very challenging proposals and why they are necessary. A successful referendum campaign would provide the platform for massive public education and support Council decision making. This referendum would be submitted to the voters in November 2020 and would include binding mandates and specific priorities for emissions reductions.
- Lead a regional effort to make changes to the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage. Once complete, the City should submit a referendum to voters that would raise the tax on natural gas usage and dedicate the funds to decarbonization efforts.

## ***Summary of Recommendations***

### **Citywide Transportation**

1. Accelerate infrastructure changes to support walking, biking, and small electric and human powered vehicles.
  - a. Build all high priority projects in the city's bicycle, pedestrian, and BeST plans including tier 1 projects in the bike plan by 2025.
  - b. Re-prioritize road and sidewalk capital expenditures to accelerate changes in favor of walking, human powered vehicles, and other low carbon footprint mobility alternatives.
  - c. Add 3 FTE to the Transportation Division to expedite implementation.
2. Adopt financial incentives and disincentives to reduce transportation carbon emissions such as: free transit passes for youth, restricted vehicle access to certain streets, and additional parking fees. Funds raised would be used to support fossil fuel free transportation programs.
3. Explore developing Berkeley shuttle services similar to the Emery Go-Round using EVs.
4. Develop effective communication and education strategies. Continue to expand programs that encourage residents to shift to fossil fuel free modes of transport.

### **Residential and Commercial Buildings**

1. Opt all accounts in Berkeley up to 100% renewable EBCE electricity with a policy of no added cost for CARE customers and an outreach campaign to enroll all eligible customers in the CARE program. This is the most significant immediate thing the city can do reduce greenhouse gas emissions. A ton of GHG gases eliminated in 2019 is far more impactful in slowing climate change than a ton eliminated in 2025 or even in 2020 because of the impact of positive feedback loops.
2. Expand BESO and include electrification along with energy efficiency. Consider instituting more triggers that require an energy audit, more detailed energy

- audits, not allowing the seller to transfer the audit to the buyer, and required implementation of some of the measures recommended in the energy audit.
3. Stop expansion of natural gas infrastructure by prohibiting gas cooktops and dryers in new residences. Place a moratorium on new gas hook ups if possible.
  4. Funding options for electrification and energy efficiency upgrades:
    - a. Sales transfer tax rebates, similar to the seismic rebate but tied to implementation of BESO recommendations.
    - b. A new, very low interest revolving loan fund.
    - c. Strategic relaxation of the Planning Code, such as density and/or parking requirements, or accelerated review in exchange for electrification and energy efficiency measures.
  5. Develop an effective communication and education strategy that reaches the Berkeley community at large. This strategy should include updating the City's website to reflect the City's prioritization of electrification, and low carbon footprint and low toxic construction. Updated green building information should be easily found on the Permit Service Center home page. The City's website needs to offer clear guidance reflecting the urgency of the climate crisis.

### **Regional Action**

1. Lead a regional effort to make changes to the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage. The City Council adopted a resolution in favor of this change and is awaiting support from other cities in the region to share the fees PGE would charge to modify the billing. It is time to look aggressively for the necessary funds and initiate the process. Once complete, the City should submit a referendum to voters that would raise the tax on natural gas usage and dedicate the funds to decarbonization efforts.
2. Encourage the Bay Area Air Quality Management District (BAAQMD) to adopt rules with future effective dates to prohibit sale of gas powered appliances. It has used the authority in the past to prohibit the sale of polluting products like high VOC paints and to restrict installation of wood burning fireplaces. Prohibiting sale of gas powered appliances would support electrification.
3. Increase regional and support state efforts to expand availability of low global warming potential refrigerant heat pump space and water heaters for the retrofit markets.
4. Initiate regional policy consistent with fossil free goals for ride hailing services and the introduction of autonomous vehicles. Support state programs that restrict the use of fossil fuel by ride hailing services and autonomous vehicles. Regulate these services to reduce overall per capita VMT.
5. Explore viability of reducing R-1 zoning to increase housing availability, opportunities for home ownership and improve transit access through increasing densification. Such transit oriented development can be adopted

throughout the region to reduce development pressure on open spaces, provide more housing near jobs, and provide the density to support expansion of regional transit.

## Analysis

### I. Establishing a date by which we are committed to being a Fossil Fuel Free City

#### Recommendations

1. Consider a new ballot initiative for updating the Climate Action Plan in order to engage Berkeley residents in the comprehensive and ambitious efforts that will be needed.
2. The City should take aggressive, immediate, and sustained action to achieve the goal of a fossil free Berkeley to the fullest extent possible while simultaneously calling for necessary and immediate complementary emergency actions by other local, regional (e.g. MTC/ABAG, BAAQMD, BayREN) state and federal governmental bodies.

#### Discussion

The Energy Commission believes that the Berkeley Residents who initiated “Fossil Free Berkeley” intend it to apply to the entire city, not just municipal operations. Our comments reflect this point of view.

The two Council items 30 and 49 taken together suggest a goal of 2030 for Berkeley to become fossil free. It should be noted that this is far more ambitious than recommendations by the IPCC and recently adopted state laws<sup>1</sup> which taken together would suggest a goal of 50% reduction of greenhouse gas (GHG) emissions by 2030.

In some ways, Berkeley is better positioned than many cities to take the initiative to make accelerated and meaningful reductions in fossil fuel consumption.

- Unlike many other GHG emissions sectors, techniques for eliminating building GHGs--specifically improving energy efficiency, electrifying remaining energy uses, and using renewably generated electricity--are all commercially available, and can improve comfort and safety and offer property owners economic savings over time. Energy efficiency programs have been around for decades and the city’s unique BESO energy audit program helps property owners prioritize efficiency upgrade spending. Because of recent developments in heat pump technologies making electric heat pump space and water heating more than 3 times as efficient as their gas equivalents and the dramatic

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<sup>1</sup> SB 100 commits state utilities to provide 60% renewable electricity by 2030, and zero carbon electricity by 2045.

AB 3232 charges the California Energy Commission with assessing how to reduce emissions from the state’s building stock by 40 percent below 1990 levels by 2030.

SB 1477 will expand the accessibility of clean heating technologies by promoting them in the market with incentives and training.

Executive Order B-55-18 commits California to economy-wide carbon neutrality by 2045.

increase of renewables on the electricity grid, all electric homes, even without solar panels, can produce substantially less GHGs than natural gas powered ones.

- Berkeley's size, density, mild and dry climate, and mass transit infrastructure make it ideally suited for an accelerated reduction in transportation related GHGs. The recent commercial introduction of vehicle sharing programs and proliferation of small electric vehicles such as electric bikes, scooters, and tricycles solve two of the main long time challenges to rethinking the transportation picture in Berkeley. They dramatically reduce costs of electric transport and offer small scale power assisted options, particularly for hills residents.

According to the 2017 Bicycle Plan a "2015 survey of Berkeley residents showed 90 percent of Berkeley residents already bicycle or would consider bicycling if the right bikeway facility or roadway conditions were available. That is a larger percentage than any other city that has conducted a similar study, including Portland...."

- Finally, residents voted overwhelming in favor of the Berkeley Climate Action plan in 2006 and are likely to support new targeted programs to accelerate reductions in GHGs.

The challenges to accelerating GHG reductions cannot be overstated. They are technological, political and social. And, the more ambitious the reduction goals the greater the challenges. While Berkeley is better set up to meet a goal of 100% reduction by 2030 than many communities, it is still a very difficult task.

- The vast majority of buildings rely on natural gas for operation. Every one of them will need to be shifted from gas to all electric operation. Every fossil fuel operated vehicle on the roads will need to be eliminated. How do we motivate ourselves to electrify our buildings and give up our fossil fuel vehicles?
- As much as a quarter of Berkeley's past GHG reductions are a result of state programs such as the renewable fuels portfolio standard. To push ahead with an accelerated GHG reduction goal, the city will need to rely on local programs.
- There are real technological hurdles that need to be solved before complete electrification of the California or US economy can occur. It is hoped these problems will be solved by 2030 or much sooner. While they do not prohibit Berkeley from being fossil free by 2030 as an isolated entity, they do drive up the cost for some of the needed technologies, particularly in relationship to vehicles and battery storage. In addition, regional and state governments will be reluctant to set goals without confidence that the technologies are in place to meet them, so Berkeley will likely be out of step with others the more aggressively it pursues accelerated GHG reductions.



Finally, the urgency of the climate crisis requires use of the simplest, cheapest and most available tools at hand to achieve high early results. A ton of GHG gases eliminated in 2019 is far more impactful in slowing climate change than a ton eliminated in 2025 or even in 2020. Because of positive feedback loops, the effects of GHG emissions are amplified. For example warmer, dryer forests burn more which releases more CO<sub>2</sub> which contributes to more forest fires. Establishment of new manufacturing facilities and a city scale power company would take decades. It will be far more effective to work with existing programs such as East Bay Community Choice Energy, BESO, and the Berkeley Bicycle Plan.

## **II. Opposing further transportation of oil, gas, and coal**

### **Recommendations**

1. In order to put the brakes on the transport of refinery feedstock and refined products traveling through Berkeley, call for a plan to responsibly wind down all Bay Area refineries as California demand wanes.
2. Consider a ban on the storage and transport of coal within the City

### **Discussion**

It should be noted that the City of Berkeley has already adopted a more specific position in opposition to transport of oil, gas and coal: joining neighboring communities in September in calling for a ban on coal shipments through East Bay Communities.

Unfortunately, the Federal Government has jurisdiction over rail transport limiting the City's options for preventing travel by rail through Berkeley.

Eliminating transport of fossil fuels would require the shutdown of all Bay Area oil refineries, because their products are trucked to and through Berkeley for cars, trucks, planes and trains operating in the Bay Area. It would also mean that all ground vehicles, including trains would have to be converted to run on 100% carbon-free electricity, and air transport be fueled by bio-fuel or by imported fossil fuels.

Regarding the shutdown of local refineries, Communities for a Better Environment has drafted a California Refinery Study and will soon launch a campaign to responsibly wind down all California refineries by 2035, by requiring annual emission reductions of 5% beginning in 2020. Mayors of Benicia and Richmond, home to the Valero and Chevron refineries, are already making public statements in support of winding down Bay Area refineries. As California electrifies its vehicles, we must ensure refineries are not permitted to maintain or increase refining activities such that fossil fuel exports increase and frontline communities remain subject to the health consequences of this dirty, outdated industrial sector.

## **III. Fully implementing Berkeley Deep Green Building plan, raising the citywide LEED certification requirement above the current LEED Silver,**

**and applying the same requirements to newly constructed city facilities, and major renovations****Municipal Buildings Recommendations**

1. Immediately convene a citywide departmental summit including Public Works and Planning and Development to establish a timeline and budget for electrifying all city owned buildings and installing solar plus storage at City buildings wherever possible.
2. Review and re-prioritize all funds currently earmarked for capital improvements to facilitate rapid electrification of municipal buildings.
3. Work with East Bay Community Energy to secure grants for solar with storage.
4. Use the 2 x 2 process to coordinate with BUSD in establishing a fossil fuel free goal and providing BUSD with technical and policy assistance to achieve it.
5. Set higher goals for municipal buildings related to indoor air quality, lowered carbon footprint, and all electric as outlined in Berkeley Deep Green Building and Healthy Building Network's HomeFree Spec guidance.<sup>2</sup> In addition to developing expertise that can be shared with Berkeley residents and property owners, these changes would have health, environmental, and economic benefits. The City can decide the standards which municipal buildings must be built or remodeled to. It is our understanding that currently, there is no requirement beyond meeting minimum state building codes.

**Residential and Commercial Buildings Recommendations**

1. Develop options for expanding the coverage of the current LEED requirements to other areas of the City including mandatory points in certain sections.
2. Strategically relax the Planning Code, such as density and/or parking requirements or accelerated permit review in exchange for electrification and energy efficiency measures.
3. Place moratorium on natural gas cooktops and dryers in new residences or on new gas hook ups if possible.
4. Institute a transfer tax rebate for energy efficiency upgrades and electrification at time of sale.
5. Ensure every plan checker is trained in methods of electrification, and instructed to present that information to property owners at the beginning of the permit application process. In this way, every interaction with property owners becomes an opportunity to educate them on their options for home energy efficiency and

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<sup>2</sup> <https://homefree.healthybuilding.net/reports>

electrification and their importance. Building owners need to understand the importance of reducing energy consumption and electrification and to switch out fossil fuel appliances for electric whenever possible.

6. Expand BESO and shift focus to include electrification along with energy efficiency. To be considered are: instituting more triggers that require an energy audit, more detailed energy audits, not allowing the seller to transfer the audit to the buyer, and required implementation of some of the measures recommended in energy audit.
7. Develop an effective communication and education strategy that reaches the Berkeley community at large. This strategy should include updating the City's website to reflect the City's prioritization of electrification, and low carbon footprint and low toxic construction. Updated green building information should be easily found on the Permit Service Center home page. Many architects, builders and homeowners begin the design process online, making key decisions based on information found online. It is critical the City's website offer clear guidance reflecting the urgency of the climate crisis.
8. Work with PG&E to develop a plan for eventually shutting down natural gas service in Berkeley. Priority should be given to areas most vulnerable to the effects of climate change and earthquakes and those where infrastructure has not yet been upgraded to plastic. Funds that would be spent on upgrading gas infrastructure can instead be used for electrifying buildings and under-grounding electrical lines.
9. Consider the development of a long term funding plan such as a very low interest revolving loan fund to assist property owners to decarbonize their buildings.
10. The City should work with the BAAQMD to adopt rules with future effective dates to prohibit sale of gas powered appliances.
11. Increase regional and support state efforts to expand availability of low global warming potential refrigerant heat pumps space and water heaters for retrofit markets.

## Discussion

The Berkeley Deep Green Building (BDGB) initiative, adopted by the City Council in 2017, outlines best practices for green building including zero net energy and all electric construction, low carbon footprint and low toxicity building materials, and water conservation. City staff has provided a detailed analysis and review of progress in implementation. See the [Energy Commission](#) Agenda from 4-25-18 for copy of this review.

Energy efficiency measures including: low toxic, low carbon footprint insulation, air sealing, and replacing incandescent with LED lights, have long been recognized as important to greenhouse gas reduction. BDGB argues in addition that going all electric is foundational to achieving fossil fuel free goals. Historically energy efficiency standards and incentive programs have been based on the assumption that natural

gas appliances have lower environmental impacts than electric appliances. However, this is no longer the case. The dramatic increase of renewables in supplying electricity and the development of heat pump technologies for space and water heating, which are more than 3 times as efficient as their gas equivalents, have turned this balance around. If the significant fugitive emissions from gas infrastructure and their concomitant climate changing and indoor air quality impacts are added to the equation, the scale definitely tips in favor of all electric buildings.

Natural gas is also a safety issue in Berkeley. The recent gas line explosions around Lawrence Massachusetts are only the most recent in a long line of such incidents. Even though PG&E is working to upgrade existing infrastructure, rising sea levels in West Berkeley and the overdue earthquake on the Hayward fault threaten Berkeley. Electricity infrastructure has its safety issues as well. Money saved on gas infrastructure could be used on improving the safety and reliability of electric power.

One of the stumbling blocks to a fossil free California is energy storage. All electric, energy efficient buildings can be key in addressing this problem by reducing overall energy demand and drawing energy for space and water heating in the middle of the day when it is most abundant and storing it for use in the evening after the sun goes down. As a quarter of all energy used in the home is for water heating, state policymakers and manufacturers are already working on ways to incorporate tanked electric water heaters into energy management programs.

Heat pump space and water heaters are commercially available and can be economical. Recent studies of homes by Rocky Mountain Institute and NRDC<sup>3</sup> have found that all electric construction can be cost effective, especially in new construction where there are significant savings from not installing natural gas plumbing and infrastructure. All electric construction can also be economical in remodels in cases where natural gas equipment is older and needs replacing and where electrification is coupled with solar PV installation.

As the city is largely built out, construction tends to focus on remodels and new construction of high rise apartment buildings. Every effort needs to be made to guide these projects to be all electric. Currently it appears the economics for high rise residential buildings in Berkeley favor electric heating and air conditioning paired with central gas heat for water. Though adding significant cost to construction, some developers will run natural gas to individual units for the perceived increased value of a gas cooktop. It should be noted that building owners who install natural gas heating and appliances now will be left with stranded assets as society is quickly shifting to all electric operation.

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<sup>3</sup> <https://rmi.org/insight/the-economics-of-electrifying-buildings/>  
<https://www.nrdc.org/experts/pierre-delforge/new-report-heating-next-clean-energy-frontier-ca>

The biggest challenge in Berkeley is electrifying existing buildings -- particularly where no work is anticipated or no permit is obtained for the work. This is a major source of greenhouse gases in our city and across the state. Several state level assistance programs can help property owners with improvements. However they generally fall short of amounts needed and currently rebates are not available for switching gas appliances to electric.

California has been a leader in improving energy efficiency and expanding renewable electricity generation. Several state laws from 2018 will continue that effort:

- SB 100 commits state utilities to provide 60% renewable electricity by 2030, and zero carbon electricity by 2045.
- AB 3232 charges the California Energy Commission with assessing how to reduce emissions from the state's building stock by 40 percent below 1990 levels by 2030.
- SB 1477 will expand the accessibility of clean heating technologies by promoting them in the market with incentives and training.
- Executive Order B-55-18 commits California to economy-wide carbon neutrality by 2045.

While California has been a leader in improving energy efficiency, state laws and regulations have been slow to guide and in some cases act as barriers to the transition to all-electric construction. Many of these barriers are obscure and buried deep in regulatory policy:

- 3 prong test. The 3 prong test is policy established in the early 1990s originally intended to ensure fuel switching did not occur that caused adverse effects on the environment. At the time it generally meant discouraging shifts from natural gas to electric. However the policy assumptions continue to serve the same purpose even as the climate impacts of the two fuels have completely changed places. This policy is the core of why PG&E will not provide energy upgrade rebates when changing gas to electric heat.
- Title 24 assumptions. Title 24 is the shorthand name for the energy efficiency standards of the California Building Code. These are updated every 3 years and currently include several assumptions that favor gas heating and air conditioning over electric.
- Energy rate structure. Retail prices for natural gas do not reflect the GHG emissions of gas compared to electricity, or the grid benefits of flexible electric loads like tanked electric water heaters.

Of these barriers, only the assumptions in title 24 have begun to shift in PG&E territory. The standards that will go into effect in 2020 will no longer penalize use of

heat pump water heaters in low rise residential construction. However many other assumptions within the new standards will continue to support use of natural gas such as the climate benefits of electricity in the TDV and the lack of credit given to tanked electric water heaters for energy storage.

At the regional level, BAAQMD has the authority to regulate air pollution including GHGs. It has used the authority in the past to prohibit the sale of polluting products like high VOC paints. It could prohibit sale of gas powered appliances to support electrification and elimination of GHG emissions.

Working within state level constraints, planning staff have developed and pushed policies that improve the energy efficiency of buildings in Berkeley and encourage a shift to all electric, carbon free operation. Policies they have developed unique to Berkeley include:

- New non-residential construction and additions in the downtown area need to be LEED Gold or equivalent.
- Free advice and consultation on green building design and strategies.
- Building renovation and new construction over 10,000 square feet needs to have an energy analysis and a completed green building checklist.
- Under the BESO program, at time of sale for residences and more frequently for commercial properties, owners must complete an energy audit of the building.

City staff are pursuing many additional efforts:

- Reviewing the BESO program to improve effectiveness. Scope of review to include requiring energy audits sooner for more properties, expanding the triggers that require an audit to include remodeling, more detailed energy audits including electrification, elimination of the option of allowing the buyer to perform the audit, and implementation of some of the upgrades recommended by the energy audits.
- Expanding heat pump water heater availability through collaboration on BayRen's mid-market expansion grant program.
- Pursuing "reach" building codes for the 2020 building codes that give regulatory advantage to all electric construction. The most important priority for this effort is new multi-unit high rise apartment buildings and major remodels.
- Advocating for state level policies that allow building owners to receive energy efficiency rebates when switching fuels.

- Advocating for removal of all biases against electrification within the state building energy codes including Total Daily Value (TDV) and computer modeling assumptions.

Care should be taken that solutions do not create additional problems. Many building materials are coming under increasing scrutiny for their long trail of environmental and health impacts, such as polystyrene and PVC plastics and organo-halogenated materials. Others have such a high global warming footprint, such as certain foam plastic insulations that their use minimizes the GHG reduction benefits of the projects. The refrigerants commonly used in most heat pumps in the U.S.A. also have very high global warm potential. While heat pumps still have dramatic energy saving benefits over other options, phase out of these chemicals under state Air Resources Board programs will improve their GHG benefits.

**IV. Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles**

*See V. for discussion and recommendation concerning 100% renewable energy for municipal vehicles.*

**V. Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.**

*See III. for discussion and recommendation concerning 100% renewable energy for buildings.*

**Municipal Transportation Recommendations**

1. Assess the city's transportation vehicle needs and develop an aggressive timeline for transitioning to all electric.<sup>4</sup> This assessment would include consideration of: 1) Switching to lower carbon transport options such as electric carts or bicycles where possible and 2) the timing of technology development and commercialization for car batteries.
2. Immediately switch diesel vehicles to run on renewable diesel in the interim until fossil fuel free options are available for the tasks they perform.

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<sup>4</sup> Ref: San Francisco Ordinance 115-17 Administrative Code Section 4.10-1:

c) By December 31, 2022, all light duty vehicles in the City fleet must be Zero Emission Vehicles in compliance with Environment Code Section 404, unless there is a waiver, exemption, or applicable exception. detailed in Environment Code Chapter 4.

## Citywide Transportation Recommendations

*The Energy Commission would like to coordinate recommendations with the Transportation and Public Works Commissions to accelerate a reduction in fossil fuel vehicles in Berkeley. To begin the process, the Energy Commission makes the following recommendations:*

1. Re-prioritize road and sidewalk capital expenditures to accelerate changes in favor of walking, human powered vehicles, and other low carbon footprint mobility alternatives. The Council should amend funding priorities to reflect the climate emergency.
2. Adopt financial incentives and disincentives to reduce transportation carbon emissions such as: free transit passes for youth, restricted vehicle access to certain streets, and additional parking fees. Funds raised would be used to support fossil fuel free transportation programs.
3. Develop and implement a transit plan in support of the Climate Action Plan. The transit plan could include detailed accountability metrics such as required dates for identified new routes, dates for replacement of fossil fueled busses and shuttles with electric busses and shuttles, and smaller intra-neighborhood subsidiary transit (shuttles). The city should explore developing its own shuttle services similar to the Emery Go-Round using EVs as part of the transit plan.
4. Add 3 FTE to the Transportation Division to expedite implementation of the city's bicycle, pedestrian, and BeST plans.
5. Build all high priority projects in the city's bicycle, pedestrian, and BeST plans including tier 1 projects in the bike plan by 2025.
6. Develop a communication strategy to inform residents of fossil free and lower carbon footprint personal mobility options and the desirability of prioritizing these options.
7. Continue to develop and expand programs that encourage residents to shift to fossil fuel free modes of transport, such as electric bike and scooter sharing, Waterside Workshop, and Safe Routes to School.
8. Work with State authorities to prohibit operation of autonomous vehicles within city limits unless they are electric vehicles.
9. Use the 2x2 process to encourage the BUSD to develop a plan for phasing out fossil fuel vehicles and supporting families to safely get to and from school without cars.
10. Lobby and work collaboratively with public and private transportation providers and the commercial sector to convert all vehicle fleets to electric power.



11. Support state programs that restrict the use of fossil fuel vehicles by ride hailing services such as Uber and Lyft.

## Discussion

One of the greatest challenges we face is how to eliminate emissions from transportation. By far the most promising way to make transportation renewable is with electric vehicles.

The vast majority of fossil fuel powered vehicles operated in the city are owned by individuals and companies and government entities outside of the city simply driving through the city or entering the city for business or pleasure. For the purposes on this report, the fossil fuel free goal will be focused on reducing fossil fueled vehicular traffic on city streets. It should be noted that for Berkeley to be truly fossil free, all ground vehicles, including trains, must be converted to electric power. We recognize the City has no independent way to get Amtrak and freight trains off fossil fuels.

The Commission believes that the goal of 100% emission reduction from vehicles is most likely to happen using batteries. Fuels other than electricity are possible but less likely to be adopted. Biofuels have a limited role because of lack of feedstock availability without associated environmental damage (the food vs. fuel problem).

Electric automobiles are quieter and more economical to operate than gas cars. Although only 2% of new car sales in the United States in 2018 were electric, that represented an 81% increase in sales over 2017. Electric auto sales were about 6% of new cars in California in 2018, and reached 10% in December. Because of their lower operating and maintenance costs, electric cars are competitive in lifetime costs of ownership. Residents of homes without garages (of which there are many in Berkeley), and apartments without charging stations, face a serious challenge to find a place to plug in. We encourage further city action on this.

Another option is hydrogen. To be emission-free the hydrogen has to be produced from renewable electricity or directly from sunlight with a catalyst. The problem is that hydrogen storage is very expensive either as a liquid or as a high pressure gas, both because it is energy intensive and because the container is expensive. Furthermore, the likelihood of leakage is much higher than, say, natural gas and the likelihood of explosive ignition in the presence of oxygen is also much higher than natural gas.

One biofuel that can play a useful role in Berkeley as bridge to electrification is renewable diesel. Renewable diesel though made entirely from vegetable oils is not biodiesel. It is processed to meet the exact performance specifications required for diesel motors. It does not void manufacturer warranties and can be used in any diesel vehicle. The emissions are much cleaner, the carbon footprint is lower and it is cheaper than diesel. While its use should be minimized because of the potential food vs fuel concerns, it can be used immediately in all city diesel vehicles until they can be replaced with fossil fuel free alternatives.

The city already has advocated walking, human powered vehicles, electric vehicles and mass transportation accessibility to all in its 2009 Climate Action Plan. In achieving a fossil fuel free goal, there are important timing issues. Several significant transportation changes are just over the horizon that will dramatically reshape our city street experience including:

- Expanded ride hailing operations such as Uber and Lyft, especially as autonomous vehicle operation is perfected;
- Docked and undocked ride sharing vehicles; and
- Proliferation of varied electric vehicles including electric golf carts, bicycles, tricycles, stand-up scooters, hoverboards, Segways, and wheelchairs.
- Breakthroughs in battery technologies that will dramatically lower the cost and improve performance of electric vehicles.

The city should be careful about engaging in longer term contracts and that decisions be revisited regularly as new technologies mature and the economics change for different transportation modes.

## **VI. Formally opposing the recent expansion of offshore drilling by the Trump Administration**

### **Offshore Drilling Recommendation**

Formally endorse California laws intended to block offshore drilling if it has not done so already.

### **Discussion**

The State legislature has passed and the Governor has signed SB 834 (an act to add Section 6245 to the Public Resources Code, relating to state lands) and SB 1775 (an act to add Section 6245 to the Public Resources Code, relating to state lands). Both Sections are entitled State lands: leasing: oil and gas. These new laws are intended to block the Trump administration's plan to expand offshore oil drilling by prohibiting new leases for new construction of oil and gas-related infrastructure, such as pipelines, within state waters if the federal government authorizes any new offshore oil leases.

## **VII. Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure**

The Council has rightly included the need for regional coordination to address energy supply, housing and transportation. It's safe to say all Bay Area cities are grappling with these issues in one way or another, with significant disparities among them in both priorities and resources. It will take trust, willingness to move away from a

provincial mentality, leadership from MTC/ABAG and BAAQMD and probably some State action to facilitate deep progress in these areas.

## VII.1. Renewable Energy Sources

### Renewable Energy Sources Recommendations

1. Opt up all Berkeley's municipal, commercial and residential accounts to EBCE's<sup>5</sup> 100% Renewable electricity with a policy of no added cost for CARE customers and an outreach campaign to enroll all eligible customers in the CARE program in 2019.
2. Partner with all cities in CCAs to influence state legislators, the Governor, and CPUC Commissioners to develop guiding legislation, policies, and rules that support the continued existence of CCAs.

### Discussion

It is critical to move toward 100% clean energy generation sources as soon as possible in order to fully realize GHG emission reductions through "fuel switching" from combustion to electricity in all spheres. There is long established worldwide consensus that the path to climate stabilization requires, in this order:

1. Deep reductions in energy demand through conservation and efficiency,
2. Conversion to clean electricity generation, and
3. Massive electrification.

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<sup>5</sup> A regional approach to increase reliance on renewable energy sources is possible through our new energy provider: East Bay Community Energy (EBCE). EBCE was initiated under a state law passed in 2002 that allowed government jurisdictions to create agencies (called Community Choice Aggregators or CCAs) to purchase power on their residents' behalf as a way to provide energy options to Californians. As a local government agency, EBCE is not for profit and is entirely devoted to the community. Even before EBCE was providing electricity, it was developing a plan to invest locally in energy development. In July 2018, the Board of EBCE adopted a groundbreaking Local Development Business Plan which spells out strategies for local clean energy, energy efficiency, and energy storage projects specifically to help address the environmental, economic, and social justice needs of the East Bay community.

Once established, a CCA is authorized to automatically enroll all accounts in its jurisdiction in the new energy program. Customers have the option of changing the product they are enrolled in or switching back to PG&E. EBCE currently offers three electricity supply products to its residential, commercial and municipal customers:

- Bright Choice - a mix of electricity generated by fossil fuels, renewable sources and large scale hydro, which the State of California does not classify as renewable. It is offered at a slightly lower in price than electricity from PG&E;
- Brilliant 100 - a mix of renewable energy and large hydropower at the same price as PG&E power; and
- Renewable 100 - 100% renewable energy at a slightly higher price.

Both Berkeley (through BESO and other programs) and California (largely through frequent Energy Code updates) have long standing, successful conservation and efficiency requirements. We are national leaders in this and continue to press forward with program improvements and new initiatives. Now that a 100% renewable option is available from EBCE, Berkeley can immediately convert the entire city to clean electricity generation, and turn its focus to the challenge to ‘electrifying everything.’ Shifting accounts to 100% renewable will reduce community-wide GHG emissions by a whopping 10%.<sup>6</sup>

Under the Climate Emergency Resolution, Council has signaled the intention to act boldly. Berkeley has already fallen significantly behind in achieving its 2050 GHG emission reduction goal as set forth in the 2009 Climate Action Plan.<sup>7</sup> Opting all its EBCE customers to the Renewable 100 plan is the single most impactful and timely action the City can take in 2019, both because of immediate emission reductions, and to avoid GHG emissions from future increases in demand due to electrification. It is critical to do this now because by the end of 2020, EBCE will be required to sign long term contracts for 65% of its supply portfolio. Once these long term contracts are signed, it will be more difficult for EBCE to shift the sources of its power mix. For these reasons, the Energy Commission recommends that Berkeley move to 100% renewable electricity in 2019.

While EBCE energy mix options were being established last spring, the Berkeley City Council, as did most EBCE cities, chose to enroll all residential and commercial accounts in Bright Choice. Berkeley enrolled its municipal accounts in Brilliant 100. The City of Albany enrolled all accounts in Brilliant 100, Hayward enrolled its residential accounts in Brilliant 100, and the City of Piedmont enrolled all accounts in Renewable 100. We note that ten jurisdictions in Los Angeles and Ventura counties served by Clean Power Alliance (CPA, a CCA) were enrolled in Green Power, its 100% renewable product, as the default. These ten jurisdictions cover a third of CPA’s one million customers.<sup>8</sup>

CPA, like EBCE, also has a Community Advisory Committee to help prioritize local renewable energy development and job creation, rebates and incentives. For California’s progressive cities and counties, enrollment in 100% renewable energy is a climate action whose time has clearly come. Because 35% of EBCE’s power purchase agreements are not required to be long term and electrification will increase demand, we anticipate ample opportunities for EBCE to make significant investments in local

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<sup>6</sup> Berkeley Climate Action Plan Annual Progress Update, Office of Energy and Sustainable Development, Planning Department, Slide 5, December 6, 2018

<sup>7</sup> Berkeley Climate Action Plan Annual Progress Update, Office of Energy and Sustainable Development, Planning Department, Slide 14, December 7, 2017

<sup>8</sup> Clean Power Exchange, Alliance will provide clean, competitive energy, January 12, 2019 <https://cleanpowerexchange.org/alliance-will-provide-clean-competitive-energy/>

energy development. As the local development market matures, there will be rolling opportunities to incorporate locally generated power into long term contracts.

There were initial concerns that new EBCE customers would opt out and go back to PG&E. There were also worries that customers would opt out if enrolled in a cleaner mix of energy generation priced at the same or slightly higher cost than PG&E rates. Both of these fears have been shown to be unfounded for the inner East Bay cities of Alameda County. In fact, among all Alameda County cities in EBCE, only the City of Livermore, at 5.56%, has had an opt out rate greater than 2.07%.<sup>9</sup> Piedmont's experience in making Renewable 100 the default level is instructive. As of December 2018, 6.8% of customers opted down to Brilliant 100 or Bright Choice, and only 2.07% opted out and went back to PG&E. The takeaway is that few customers took any action, and of those who did, the overwhelming majority (77.7%) chose to stay in EBCE.

Concerns have also been raised that opting all customers to the 100% Renewable product would harm low-income customers. The Energy Commission recommends that EBCE follow CPA's lead in which "customers in 100 percent renewable energy communities who are enrolled in CARE, FERA or Medical Baseline will get Green Power at no extra charge."<sup>10</sup> We understand that EBCE is reporting strong net revenues which could be allocated to subsidize CARE customers. Alternatively, non-CARE customers could absorb the additional cost. Furthermore, the value of the non-binding nature of the enrollments is that price sensitive customers can opt down. Unlike an increase in property taxes, nonCARE customers who cannot afford to pay any more for power can simply opt down to the lower priced option.

It has recently come to light that Bright Choice power may in fact have a higher carbon content than electricity provided by PG&E.<sup>11</sup> The City Council has the opportunity right now, while the nascent EBCE is locking in long term contracts for power, to opt all accounts to fossil fuel free power to ensure that joining the CCA does in fact reduce citywide GHGs.

The political landscape for CCAs is fraught with heavy opposition from PG&E and its entrenched allies in State government even as they supply electricity that is cleaner and cheaper than their for-profit counterparts.<sup>12</sup> Berkeley needs to partner with all Bay

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<sup>9</sup> EBCE Enrollment Update, December 5, 2018

<sup>10</sup> Clean Power Exchange, Alliance will provide clean, competitive energy, January 12, 2019 <https://cleanpowerexchange.org/alliance-will-provide-clean-competitive-energy/>

<sup>11</sup> See comments in: <https://www.berkeleyside.com/2018/12/11/why-does-your-december-electricity-bill-look-different>

<sup>12</sup> [A 2016 UCLA study](#) found that CCAs in California offered 25% more renewable energy compared to the investor-owned utility (IOU) in the same area resulting in an estimated reduction of 600,000 metric tons of CO2 in 2016.

Area cities in CCAs to work with our elected representatives to defeat legislative threats and overcome obstacles at the California Public Utilities Commission. Also, the CCA's themselves need to ensure unity and coordinated responses to initiatives aimed at undermining success.

## VII.2. Affordable Densification of Cities

### Affordable Densification Recommendations

1. Work with MTC/ABAG, BART cities and counties to reframe and expand Transit Oriented Development concepts to conform with internationally used approaches that look beyond infill at already heavily used transit hubs, and prioritize infill housing everywhere developed in concert with expanded transportation strategies and expanded services (educational, recreational, commercial and environmental enhancement).
2. Work with Bay Area cities and counties to develop a regional funding mechanism to subsidize low income and affordable housing in all jurisdictions.
2. Explore viability of reducing R-1 zoning to increase housing availability, opportunities for home ownership and improve transit access through increasing densification. In addition, support adoption of such transit oriented development throughout the region to reduce development pressure on open spaces, provide more housing near jobs, and provide the density to support expansion of regional.

### Discussion

In order to provide affordable densification we need massive housing construction, housing subsidies and expanded transit opportunities. The high cost of living in the Bay Area includes the high cost of construction. If we want to reduce vehicle miles traveled (VMT) and the unhealthy stress of long commutes we must find ways to subsidize housing for average people, because at the present time people living on average incomes who do not already own homes cannot afford to live in the Bay Area either as renters or homeowners, forcing many into ever longer vehicular commutes. This is something that needs to be addressed by both the region and the state. There is too much disparity in wealth across the region for the problem to be completely solved by individual cities.

A desire for walkable neighborhoods and transit access has contributed to gentrification in Berkeley and San Francisco. This new gentrification is fueled by the migration of young professionals from the suburbs to these two cities in particular because they both have ample neighborhood scale services. Remarkably, the median price paid per square foot of living space is no longer significantly higher in most R-1 zones where access to transit is often limited.<sup>13</sup> This indicates that the hunger for the amenities of a more urban lifestyle is widespread. It's quite possible that there is an

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<sup>13</sup> ([https://www.trulia.com/real\\_estate/Berkeley-California/market-trends/](https://www.trulia.com/real_estate/Berkeley-California/market-trends/))

untapped openness to neighborhood-scale services and transit development in existing suburbs too. This possibility needs to be explored. Any such nascent cultural shifts should be identified and reinforced. The suburbs have already absorbed job growth in the form of large business parks. Likewise, rails to trails conversions have acculturated suburban residents to walking and biking where convenient. Managed thoughtfully, initiatives to increase suburban infill housing coupled with increased transit, active transportation options and some small scale services could be welcome developments.

The push for housing densification in the Bay Area has relied on a concept of transit-oriented development (TOD) defined by MTC as [emphases added]:

“the clustering of homes, jobs, shops and services near *rail stations, ferry terminals or bus stops with high-frequency service*”

defined by BART as:

“mixed-use, higher density development *adjacent to frequent transit.*”

and directed by Berkeley’s General Plan to:

“[e]ncourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in *areas with above-average transit service* such as Downtown Berkeley.”

This perspective pre-supposes that densification is not a serious goal beyond existing heavily used transit corridors, or beyond cities that are already dense. Plan Bay Area forecasts the need for 800,000 new housing units by 2040. It seems doubtful that so much new housing can be built only around existing transit lines. Recent state legislation for infill housing fell victim to this kind of limited thinking.

In other parts of the world, TOD includes community scale planning with new transit service in mind, not just placing new homes near existing heavily used transit. We need to expand the mindset of housing development in the Bay Area to one of transit *coordinated* development (TCD). We need suburban infill housing developed in concert with public transit strategies, and educational, recreational and commercial services. Infill housing and transit alone do not address human needs for social, commercial and fitness activities. Enhancement of ecological surroundings is also important. A comprehensive TCD approach would improve the quality of life in many ways, serve as an attractor to development and significantly reduce GHG emissions.

Note that a substantial amount of new housing units in the suburbs will need to be subsidized for the reasons described above. Affordable and workforce housing is critical for every Bay Area city and county. Plan Bay Area has set forth affordable housing goals for the whole region, but so far every city is failing. Taking a comprehensive TCD approach would make such infill projects more relevant and attractive to existing residents.

One action cities such as Berkeley can take is to change zoning restrictions to eliminate R-1 zoning. Berkeley's General Plan institutionalizes R-1 low density housing:

"These areas are generally characterized by single-family homes. Appropriate uses for these areas include: residential, community services, schools, home occupations, recreational uses, and open space and institutional facilities. Building intensity will range from one to 10 dwelling units per net acre, not including secondary units, and the *population density will generally not exceed 22 persons per acre.*"[Emphasis added.]

The recent move to allow Accessory Dwelling Units is too restrictive to increase density to the extent needed on the land that is most available. It also preserves privilege, in failing to foster home ownership for additional residents.

Berkeley's R-1 zoning is visually correlated with the legacy of red-lining. Its perpetuation restricts growth in areas with the most open land that could support densification. There is quite a lot of aging housing stock in the Berkeley that needs significant renovation, including in R-1 zones. Under current policies, large houses in R-1 cannot be subdivided to allow for more occupants. As a result when modernized they grow larger and more luxurious, a sort of "deep gentrification." It's well documented, but rarely acknowledged, that such consumption drives GHG emission increases.

If the zoning was changed and subsidies provided, we could see small scale condo development like is happening in areas with higher density zoning, and much lower average household CO2e emissions because all the infill would be natural gas free as well as house more people. We could also reverse gentrification and truly become a city that prioritizes diversity. Increased density in R-1 areas would facilitate increased transit service and car sharing, and reduce congestion in shopping corridors. The fact is, many people actually spend little free time in their homes and gardens, preferring to recreate elsewhere, and even when self or contractually employed, preferring to go to work spaces and coffee shops with other people. Children in R-1 zones don't generally play in their neighborhoods, but are shuttled daily to many activities, increasing VMT. Densifying housing in R-1 areas could eventually prompt further zoning changes along the more major roads already served by public transit leading to infill services and commercial development there as well such as the two small and well used commercial districts in Kensington. The result could very well be both environmentally preferable and lead to an increase in our city-wide happiness quotient. Human happiness is correlated with low economic disparity. Our zoning ordinances should be reviewed to see how they amplify disparity and/or inhibit community happiness and act as a bias toward creating GHGs.

### **VII.3. Low Emissions Public Transportation Infrastructure**

#### **Public Transportation Recommendations**



*The Energy Commission would like to coordinate recommendations with the Transportation and Public Works Commissions for accelerating a reduction in fossil fuel vehicles in Berkeley. To begin the process, the Energy Commission makes the following recommendations.*

1. Work with AC Transit to convert all public transit to EVs.
2. Work with AC Transit and major employers to expand existing bus service and add all manner of appropriately sized bus and shuttle services, including into the suburbs.
3. Work to create dedicated bus/shuttle-only lanes on all bridges, freeways and major streets.
4. Work to normalize ride sharing.
5. Work with MTC, regional transit providers and the state to augment subsidies such that public transit is affordable for all.
6. Lobby the state to regulate ride hailing services to reduce overall per capita VMT.

### **Discussion**

MTC distributes enormous sums of money and wields huge power over regional transportation decisions but has not seriously addressed how the region can mitigate climate pollutants from transportation. As a start we need to press MTC to set clean transportation goals commensurate with the damage to our climate that dirty transportation has wrought and the urgency to make drastic emission cuts by 2030. The goal setting process must include a planning document showing the path to take, and policy commitment to achieve the goals.

The Bay Area's freeways are already some of the most crowded in the nation. As housing affordability has worsened, more people are commuting farther distances to their Bay Area jobs. According to MTC, time spent in weekly traffic in the Bay Area shot up 80% between 2010 and 2016. All this traffic is increasing transportation emissions, with no end in sight. Clearly there is a need for increased transportation options, and they need to be carbon free. To expand clean public transits as quickly as possible, light rail is not likely to play a large role. EV buses and shuttles can be built and routed in the time frame we need.

Given the number of tech workers (living all over the region, including the suburbs) who now take buses to their jobs, it is clear that old ideas about who will use bus transit is completely obsolete.

Like housing, transportation is an equity issue. All driving services, public or private, should be required to provide a living wage to drivers. Likewise, we cannot expand public transportation services without massive investment to assure affordability for all. This is a wealthy region that can afford such investments. Significant wealth generated

in this region is also sent to Sacramento. We need the state to assist in subsidizing the transition to clean, affordable public transit available to all.

**On June 12, the Berkeley City Council also passed item 49 “Declaration of a Climate Emergency” which refers “to the Energy Commission to study and report back to Council on a path for Berkeley to become a “Carbon Sink” as quickly as possible, and to propose a deadline for Berkeley to achieve this goal.”**

### **Carbon Sink Recommendations**

1. Plant more trees.
2. Apply compost (and biochar where possible) to city parks, median strips and generally all planted areas.
3. Support use of low carbon construction materials both in municipal buildings and commercial and residential projects.
4. Support urban farming: for example through recently adopted urban farming policies and also planting suitable edible perennials in public spaces.
5. Support citywide programs, such as the Ecology Center’s farmers market program, that give all residents access to fresh, organic, regionally grown foods.

### **Discussion**

Carbon sequestration is an essential component of comprehensive state, national and global efforts to meet climate change reduction goals. The October 9, 2018 UN IPCC report recommends that at least 1000 gigatons of CO<sub>2</sub> be removed from the atmosphere and sequestered by the end of the century. A wide range of strategies are being looked at to remove and sequester atmospheric carbon. The most promising strategies, biological sequestration, rely on natural processes, including afforestation and carbon farming. The California Air Resources Board is already providing Cap and Trade funds to support and expand these promising approaches to carbon sequestration.

Because of the density of habitation, Berkeley is unlikely to be able to be a carbon sink until annual emissions have been reduced by about 99%. Citywide CO<sub>2</sub> emissions totaled 640,000 metric tons in 2015. With roughly 6 square miles of space not covered with buildings and roads, only a very small fraction of these annual emissions could be offset with biological sequestration.<sup>14</sup>

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<sup>14</sup> Background for Carbon Sink section:

*Carbon sequestering buildings:* While using rapidly renewable materials such as wood, straw and bamboo can sequester carbon in buildings, the amount is quickly offset by the vastly greater energy intensity of metals, plastics and concrete required in taller buildings and

While not having significant climate benefits, carbon sequestering strategies such as afforestation and application of biochar to the soil can have health and resilience benefits for the city residents improving air quality and local sources of food.

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seismically active zones. In Berkeley, the effects of low carbon footprint construction can at best lower the carbon footprint of an individual building, which is important. However, it cannot provide a means to offset carbon emissions in the city generally.

*Biological sequestration in soil:* It is practical to sequester carbon from the atmosphere in two ways, changing farming practices to capture more carbon in soils, and reversing deforestation. (It is also possible to capture CO<sub>2</sub> from the air but because of the low concentration of CO<sub>2</sub> in the air, the cost is prohibitive. Sequestering the captured CO<sub>2</sub> is also expensive, , requiring either mineralization or pressurization in a natural cavern (think Aliso Canyon) which is not present in Berkeley.)

Berkeley is 10.5 square miles. If 40% is impervious surfaces, then approximately 6.3 square miles would be available for carbon sequestration.

( [https://en.wikipedia.org/wiki/Impervious\\_surface#Total\\_impervious\\_area](https://en.wikipedia.org/wiki/Impervious_surface#Total_impervious_area) ) If the City and its residents were to implement ambitious carbon building land management practices, the land could optimistically sequester 2 metric tons of CO<sub>2</sub> per acre annually or about 8000 metric tons of CO<sub>2</sub>. ( Soil Carbon Restoration: Can Biology do the Job? by Jack Kittredge, policy director, NOFA/Mass [www.nofamass.org](http://www.nofamass.org) August 14, 2015) This compares to annual emissions of approximately 640,000 metric tons.

*Purchasing carbon offsets:* Carbon offsets cost between \$5.50 and \$29 per ton of CO<sub>2</sub>. Taking the average, it would cost \$1.1 mill to offset 640,000 metric tons or about \$90 per resident. ( <https://www.whatitcosts.com/carbon-offsets-cost-prices/> ) However, purchasing carbon offsets should be discouraged since it transfers money away from Berkeley without addressing our local objective of becoming fossil free.





Cheryl Davila  
Councilmember  
District 2

ACTION CALENDAR  
April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Placing a Measure on the November 3, 2020 Ballot to Introduce Term Limits for the Mayor and City Councilmembers.

#### RECOMMENDATION

Adopt a Resolution to draft an Amendment to Article V, Section 14 and 15 of the City Charter for the November 3, 2020 General Municipal Election, limiting the terms of service for the Mayor and City Councilmembers to no more than three consecutive four-year terms or twelve years, with a required two-year hiatus in order to serve additional terms.

#### FISCAL IMPACTS OF RECOMMENDATION

The salaries of the staff who draft the ballot measure and the cost of placing the measure on the ballot are the fiscal impacts. Actual costs to be determined.

#### BACKGROUND

Per Berkeley City Charter Article V. Section 14 and 15, the current law allows the Mayor and City Councilmembers to serve an unlimited number of terms<sup>1</sup>.

This proposed measure imposes a limit of three consecutive four-year terms or twelve years of uninterrupted service for the elective offices of Mayor and City Council. These limits only apply to serving in the exact same position for three consecutive terms. By being elected into a new position, for example transitioning from a Councilmember to the Mayor, the term limits start over. Once an individual Mayor or Councilmember has served three consecutive terms, they shall not serve again until a two year hiatus has been satisfied since their last term date of the office held.

This measure will add the underlined amendment to Berkeley City Charter Article V. Section 14 to read as follows:

“The Mayor shall hold office for a term of four years from and after the first day of December after his/her/their election is certified by the City Clerk and until a successor is elected and qualified. However, the term of the Mayor elected in the November 2006 general municipal election shall expire on the first day of December, 2008 after a successor is elected in the November, 2008 general municipal election. Thereafter, mayoral elections shall coincide with presidential elections. The Mayor shall not hold office for more than three consecutive four-year terms, or twelve years. Any Mayor who has served the maximum number of terms as set forth in this Section shall not serve again until a two year hiatus has been satisfied since their last date in office.”

<sup>1</sup> <https://www.codepublishing.com/CA/Berkeley/>

In addition, this measure will add the underlined amendment to Berkeley City Charter Article V. Section 15 to read as follows:

“Except as provided in this section, Councilmembers shall hold office for a term of four years from and after the first day of December after their election is certified by the City Clerk and until their successors are elected and qualified. However, the terms of the Councilmembers elected in the November, 1994 general municipal election shall expire on the first day of December, 1996 after their successors are elected and qualified in the November, 1996 general municipal election. In addition, four of the eight Councilmembers elected at the November, 1996 general municipal election shall serve two year terms which shall expire on the first day of December, 1998 after their successors are elected and qualified in the November, 1998 general municipal election. The remaining four Councilmembers elected at the November, 1996 general municipal election shall serve four year terms which shall expire on the first day of December 2000, until their successors are elected and qualified in the November 2000 general municipal election. At the City Council meeting which occurs immediately after the effective date of this charter amendment establishing four year terms commencing with the November 1996 general municipal election, the City Clerk shall conduct a drawing by lot to determine the four Council districts in which Councilmembers shall serve the two year terms which expire on the first day of December, 1998. In the remaining Council districts, the Councilmembers from those districts shall serve four year terms commencing with the November, 1996 general municipal election. Commencing with the November, 1998 general municipal election, and at each general municipal election thereafter, each Councilmember elected at each general municipal election shall serve a four year term. Each Councilmember shall not hold office for more than three consecutive four-year terms. Any Councilmember who has served the maximum number of terms as set forth in this Section shall not serve again until at least two years have passed since his/her/their last date of holding office.”

#### CURRENT SITUATION AND ITS IMPACTS

Past Berkeley Mayors and Councilmembers have served over three terms, some over twenty years. Some of the long-term Council decisions contributed to the current issues Berkeley is facing, today, such as exorbitantly high rents, gentrification, massive homelessness, displacement, and discrimination. Career politicians can cause stagnation in policy as they become disconnected from their constituents and community. Term limits enable an opportunity for equity, diversity, new vision, new ideas, and achieve forward momentum.

City of Berkeley term limits would bring us into alignment with established term limits for the California State Legislature, and other counties and cities. Several cities in our state, like Carson, Camarillo, Chico, Chula Vista, Anaheim, Downey, Irvine, La Mesa, Los Angeles, Lynwood, Palmdale, Pinole, Redondo Beach, San Marino, Santa Ana, Tracy, West Hollywood, Folsom, Walnut, Vernon, Thousand Oaks, Stockton, Santa Monica, Folsom, Foster City, Los Gatos, Long Beach, Coalinga, Desert Hot Springs, Pinole, San Diego, Santa Clara, and Santa Monica, have adopted term limits for their Mayors and City Councilmembers in the last several years.

In the nearby City of Pinole, a whopping 73 percent of Pinole voters passed their Term Limits measure in their recent November elections. This measure imposed term limits of three successive terms in office for any City Council member, and then required a break of two years out of office before that official could run for office again.

In the spirit of good governance for the City of Berkeley, term limits are a necessary tool to encourage greater citizen involvement, allowing new candidates the opportunity to contribute to their community and enter the political arena.

#### ENVIRONMENTAL SUSTAINABILITY

There are no impacts.

CONTACT PERSON

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[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

ATTACHMENTS

1. Resolution
2. Exhibit A: Proposed Amendments to Article V, Section 14 and 15 of the Berkeley City Charter

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY TO SUBMIT A BALLOT MEASURE FOR THE NOVEMBER 3, 2020 ELECTION, AMENDING THE BERKELEY MUNICIPAL CODE CHARTER ARTICLE V. SECTION 14 AND 15 TO LIMIT THE NUMBER OF TERMS FOR THE MAYOR AND CITY COUNCIL TO NO MORE THAN 3 CONSECUTIVE TERMS.

WHEREAS, Per Berkeley City Charter Article V. Section 14 and 15, the current law allows the Mayor and City Councilmembers to serve an unlimited number of terms; and

WHEREAS, Past long-termed Berkeley Mayors and Councilmembers have served over three terms, and in some cases over twenty years, leading to significant decisions that have had long-term implications and ushered in some of the current challenges Berkeley is facing, for examples with gentrification and displacement; and

WHEREAS, In the spirit of good governance for the City of Berkeley, term limits are a necessary tool in the political environment, and encourage greater resident involvement, allowing new people the opportunity to contribute to their community; and

WHEREAS, While they are a simultaneously a resource for institutional knowledge, career politicians can cause stagnation in policy and become disconnected from their constituents; and

WHEREAS, Term limits enable an opportunity for city governance to become an arena for greater equity, diversity, new vision, new leadership, new ideas, and potential forward momentum; and

WHEREAS, The term limits for the City of Berkeley proposed here aligns with established term limits for the California State Legislature and other surrounding counties and cities; and

WHEREAS, Throughout the state, Cities of Carson, Camarillo, Chico, Chula Vista, Anaheim, Downey, Irvine, La Mesa, Los Angeles, Lynwood, Palmdale, Pinole, Redondo Beach, San Marino, Santa Ana, Tracy, West Hollywood, Folsom, Walnut, Vernon, Thousand Oaks, Stockton, Santa Monica, Folsom, Foster City, Los Gatos, Long Beach, Coalinga, Desert Hot Springs, Pinole, San Diego, Santa Clara, and Santa Monica have adopted term limits for their Mayors and City Councilmembers; and

WHEREAS, Terms for the Mayor and members of the City Council are set by the City Charter, Article 5, Section 14 and 15, and amending the Charter would require a Ballot Measure;

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Berkeley adopt a resolution to submit a Ballot Measure for the November 3, 2020 Election to amend the Berkeley Municipal Code Charter Article 5. Section 14 and 15, limiting the terms of service for the Mayor and City Councilmembers to no more than three consecutive four-year terms, requiring a two year hiatus has been completed before running again for office.



**EXHIBIT A**

**AMENDMENTS TO ARTICLE V OF THE BERKELEY CITY CHARTER RELATED TO  
MAYOR'S TERM OF OFFICE AND COUNCILMEMBER'S TERM OF OFFICE**

The People of the City of Berkeley hereby amend Article V, Sections 14 and 15 of the Charter of the City of Berkeley to read as follows:

Sections 14 and 15 of Article V of the Charter of the City of Berkeley is amended (see underline) to read as follows:

**Section 14. Mayor's term of office.**

The Mayor shall hold office for a term of four years from and after the first day of December after his or her election is certified by the City Clerk and until a successor is elected and qualified. However, the term of the Mayor elected in the November 2006 general municipal election shall expire on the first day of December, 2008 after a successor is elected in the November, 2008 general municipal election. Thereafter, mayoral elections shall coincide with presidential elections. The Mayor shall not hold office for more than three consecutive four-year terms. Any Mayor who has served the maximum number of terms as set forth in this Section shall not serve again until at least two years have passed since his/her last date of holding office.

**Section 15. Councilmember's term of office.**

Except as provided in this section, Councilmembers shall hold office for a term of four years from and after the first day of December after their election is certified by the City Clerk and until their successors are elected and qualified. However, the terms of the Councilmembers elected in the November, 1994 general municipal election shall expire on the first day of December, 1996 after their successors are elected and qualified in the November, 1996 general municipal election. In addition, four of the eight Councilmembers elected at the November, 1996 general municipal election shall serve two year terms which shall expire on the first day of December, 1998 after their successors are elected and qualified in the November, 1998 general municipal election. The remaining four Councilmembers elected at the November, 1996 general municipal election shall serve four year terms which shall expire on the first day of December 2000, until their successors are elected and qualified in the November 2000 general municipal election. At the City Council meeting which occurs immediately after the effective date of this charter amendment establishing four year terms commencing with the November 1996 general municipal election, the City Clerk shall conduct a drawing by lot to determine the four Council districts in which Councilmembers shall serve the two year terms which expire on the first day of December, 1998. In the remaining Council districts, the Councilmembers from those districts shall serve four year terms commencing with the November, 1996 general municipal election. Commencing with the November, 1998 general municipal election, and at each general municipal election thereafter, each Councilmember elected at each general municipal election shall serve a four year term. Each Councilmember shall not hold office for more than three consecutive four-year terms. Any Councilmember who has served the maximum number of terms as set forth in this Section shall not serve again until a two year hiatus has been satisfied since their last term date of the office held.





Office of the City Manager

INFORMATION CALENDAR

April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Teresa Berkeley-Simmons, Budget Manager

Subject: FY 2020 Mid-Year Budget Update

INTRODUCTION

This report presents the FY 2020 Mid-Year Budget Update and focuses on projected General Fund revenues and expenditures. This report also provides information on expenditure projections for the City's special funds.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley is currently in FY 2020, the first of two fiscal years in the FY 2020 & FY 2021 biennial budget cycle, which Council adopted on June 25, 2019<sup>1</sup>. Fiscal Year 2020 runs from July 1, 2019 through June 30, 2020.

As of December 31, 2019, both the General Fund revenues and the General Fund expenditures were on track and within budget.

|                             | Adjusted Budget | FY 2020 Mid-Year Actuals | % Received/ Expensed and Encumbered |
|-----------------------------|-----------------|--------------------------|-------------------------------------|
| Revenues                    | \$197.0         | \$107.7                  | 55%                                 |
| Expenditures                | (\$229.5)       | (\$107.0)                | 47%                                 |
| Carryover and Excess Equity | \$ 32.5         |                          |                                     |
| Balance                     | \$ 0            |                          |                                     |

The carryover and excess equity are carried forward from FY 2019. Additional information on the carryovers and excess equity allocation is discussed later in this report under the General Fund Expenditures section.

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/06\\_June/Documents/2019-06-25\\_Item\\_39\\_FY\\_2020\\_and\\_FY\\_2021\\_Biennial\\_Budget.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/06_June/Documents/2019-06-25_Item_39_FY_2020_and_FY_2021_Biennial_Budget.aspx)

## FY 2020 Mid-Year Summary

On November 19, 2019, Council was provided the [FY 2019 Year-End Results and FY 2020 First Quarter Budget Update](#) report. At the time, both the General Fund revenues and the General Fund expenditures were tracking within budget.

## General Fund Revenues

| Revenue Categories                | FY 2020              |                      |                     |               | FY 2019              |                     |                     |               | FY20 vs FY19        |               | Revised             |                      |
|-----------------------------------|----------------------|----------------------|---------------------|---------------|----------------------|---------------------|---------------------|---------------|---------------------|---------------|---------------------|----------------------|
|                                   | Adopted              | Mid-Year Actual      | Variance            | % Received    | Adopted              | Mid-Year Actual     | Variance            | % Received    | Amount              | %             | Mid-Year FY 2020    | Mid-Year FY 2020     |
|                                   | (a)                  | (b)                  | c=(b - a)           | (d) = (b)/(a) | (e)                  | (f)                 | g=(e) - (f)         | (h) = (f)/(g) | (i) = (b) - (f)     | (j) = (i)/(f) | Difference          | Projections          |
| Secured Property                  | \$63,199,622         | \$32,175,526         | (\$31,024,096)      | 50.91%        | \$57,966,998         | \$30,220,695        | \$27,746,303        | 52.13%        | 1,954,831           | 6.47%         |                     | \$63,199,622         |
| Redemptions -Regular              | 668,140              | 356,477              | (\$311,663)         | 53.35%        | 668,140              | 317,903             | 350,237             | 47.58%        | 38,574              | 12.13%        |                     | 668,140              |
| Supplemental Taxes                | 1,400,000            | 808,127              | (\$591,873)         | 57.72%        | 1,400,000            | 741,314             | 658,686             | 52.95%        | 66,813              | 9.01%         | 400,000             | 1,800,000            |
| Unsecured Property Taxes          | 2,500,000            | 2,705,126            | \$205,126           | 108.21%       | 2,500,000            | 2,483,983           | 16,017              | 99.36%        | 221,143             | 8.90%         | 200,000             | 2,700,000            |
| Property Transfer Tax             | 12,500,000           | 15,043,643           | \$2,543,643         | 120.35%       | 12,500,000           | 11,911,150          | 588,850             | 95.29%        | 3,132,493           | 26.30%        | 7,500,000           | 20,000,000           |
| Property Transfer Tax-Measure P   | 1,509,218            | 7,046,430            | \$5,537,212         | 466.89%       |                      |                     | -                   |               | 7,046,430           |               | 8,000,000           | 9,509,218            |
| Sales Taxes                       | 18,238,000           | 9,430,533            | (\$8,807,467)       | 51.71%        | 18,140,977           | 9,399,650           | 8,741,327           | 51.81%        | 30,883              | 0.33%         |                     | 18,238,000           |
| Soda Taxes                        | 1,459,057            | 789,196              | (\$669,861)         | 54.09%        | 1,500,000            | 818,879             | 681,121             | 54.59%        | (29,683)            | -3.62%        |                     | 1,459,057            |
| Utility Users Taxes               | 15,000,000           | 6,327,611            | (\$8,672,389)       | 42.18%        | 15,000,000           | 6,307,679           | 8,692,321           | 42.05%        | 19,932              | 0.32%         | (1,000,000)         | 14,000,000           |
| Transient Occupancy Taxes         | 7,800,000            | 4,483,409            | (\$3,316,591)       | 57.48%        | 7,800,000            | 4,331,381           | 3,468,619           | 55.53%        | 152,028             | 3.51%         |                     | 7,800,000            |
| Short-term Rentals                | 1,020,000            | 867,507              | (\$152,493)         | 85.05%        | 840,000              | 870,987             | (30,987)            | 901,974       | (3,480)             | -0.40%        | 700,000             | 1,720,000            |
| Business License Tax              | 19,584,000           | 1,166,980            | (\$18,417,020)      | 5.96%         | 19,200,000           | 1,381,343           | 17,818,657          | 7.19%         | (214,363)           | -15.52%       |                     | 19,584,000           |
| Recreational Cannabis             | 510,000              | 702,857              | \$192,857           | 137.82%       | 500,000              | 267,674             | 232,326             | 53.53%        | 435,183             | 162.58%       | 790,000             | 1,300,000            |
| U1 Revenues                       | 1,000,000            | 187,700              | (\$812,300)         | 18.77%        | 1,000,000            | 166,131             | 833,869             | 16.61%        | 21,569              | 12.98%        | 4,500,000           | 5,500,000            |
| Other Taxes                       | 1,116,860            | 776,645              | (\$340,215)         | 69.54%        | 1,049,800            | 757,746             | 292,054             | 72.18%        | 18,899              | 2.49%         | 500,000             | 1,616,860            |
| Vehicle In-Lieu Taxes             | 13,333,826           | 6,678,022            | (\$6,655,804)       | 50.08%        | 12,381,128           | 6,241,142           | 6,139,986           | 50.41%        | 436,880             | 7.00%         |                     | 13,333,826           |
| Parking Fines-Regular Collections | 6,600,000            | 3,151,728            | (\$3,448,272)       | 47.75%        | 5,818,123            | 3,614,649           | 2,203,474           | 62.13%        | (462,921)           | -12.81%       | (600,000)           | 6,000,000            |
| Parking Fines-Booting Collections | 200,000              | 8,685                | (\$191,315)         | 4.34%         | 200,000              | 97,879              | 102,121             | 48.94%        | (89,194)            | -9.13%        | (100,000)           | 100,000              |
| Moving Violations                 | 190,000              | 114,850              | (\$75,150)          | 60.45%        | 235,000              | 64,055              | 170,945             | 27.26%        | 50,795              | 79.30%        | (20,000)            | 170,000              |
| Ambulance Fees                    | 4,200,000            | 2,392,802            | (\$1,807,198)       | 56.97%        | 4,613,194            | 2,127,332           | 2,485,862           | 46.11%        | 265,470             | 12.48%        |                     | 4,200,000            |
| Interest Income                   | 3,500,000            | 3,019,829            | (\$480,171)         | 86.28%        | 2,500,000            | 2,429,507           | 70,493              | 97.18%        | 590,322             | 24.30%        | 1,500,000           | 5,000,000            |
| Franchise Fees                    | 2,068,928            | 421,414              | (\$1,647,514)       | 20.37%        | 1,984,643            | 467,254             | 1,517,389           | 23.54%        | (45,840)            | -9.81%        |                     | 2,068,928            |
| Other Revenue                     | 8,044,544            | 4,296,552            | (\$3,747,992)       | 53.41%        | 7,620,152            | 3,985,112           | 3,635,040           | 52.30%        | 311,440             | 7.82%         |                     | 8,044,544            |
| IDC Reimbursement                 | 6,100,000            | 2,525,542            | (\$3,574,458)       | 41.40%        | 4,952,317            | 2,448,433           | 2,503,884           | 49.44%        | 77,109              | 3.15%         | (700,000)           | 5,400,000            |
| Transfers                         | 5,266,688            | 2,192,784            | (\$3,073,904)       | 41.63%        | 4,385,568            | 1,316,665           | 3,068,903           | 30.02%        | 876,119             | 66.54%        |                     | 5,266,688            |
| <b>Total Revenue:</b>             | <b>\$197,008,883</b> | <b>\$107,669,975</b> | <b>\$89,338,908</b> | <b>54.65%</b> | <b>\$184,756,040</b> | <b>\$92,768,543</b> | <b>\$91,987,497</b> | <b>50.21%</b> | <b>\$14,901,432</b> | <b>16.06%</b> | <b>\$21,670,000</b> | <b>\$218,678,883</b> |

Note: This statement is presented on a budgetary basis.

For the first half of FY 2020, revenues and transfers in totaled \$107,669,975, an increase of \$14,901,432 or 16.06% increase over the \$92,768,543 during the same period of FY 2019.

FY 2020 Year-end General Fund revenues projection appear to be \$21.7 million above the FY 2020 Adopted Budget of \$197.0 million. However, if we remove the General Fund revenue streams that have been programed for priority projects and programs including Excess Property Transfer Tax (\$7.5 million), Measure P (\$8.0 million), and U1 (\$4.5 million), the General Fund revenues above the FY 2020 Adopted Budget is only \$1.7 million. If Council decides to program excess Short-Term Rentals (\$700,000) and excess Recreational Cannabis (\$790,000) only \$180,000 of unallocated General Fund revenues will be available for allocation at FY 2020 year-end, assuming expenses do not exceed budget estimates.

*The first half review focuses primarily on the major revenue fluctuation, and changes that have occurred that might result in significant changes in future projections or on revenue sources that warrant close monitoring.*

**Secured Property Tax (+\$1,954,831 more than FY 2019 Actual)**

During the first half of FY 2020, Secured Property Tax revenues totaled \$32,175,526, which was \$1,954,831 or 6.47% more than the \$30,220,695 received during the same period in FY 2019. This increase was consistent with the County's Certification of Assessed Valuation growth of 6.62%.

**Property Transfer Tax (+\$3,132,493 more than FY 2019 Actual)**

During the first half of FY 2020, Property Transfer Tax totaled \$15,043,643 (after seismic rebates of \$492,506), which was \$3,132,493 or 26.30% more than the \$11,911,150 (after \$276,935 in seismic rebates) received for the first half of FY 2019. The number of property sales increased by 37 or 6.9%, to 574 in the first half of FY 2020 from 537 for the same period in FY 2019. However, the primary reason for the \$3,132,493 increase in Property Transfer Tax was the sale of a group of five properties totaling \$172.9 million that resulted in Property Transfer Tax of \$2,593,898. Staff will closely monitor this revenue for a probable increase in the FY 2020 projection.

In addition, \$7,046,430 in Measure P taxes was collected during the first half of FY 2020 compared to zero collected during the first half of FY 2019, as the tax took effect December 21, 2018.

**Sales Tax (+\$30,883 more than FY 2019 Actual)**

For the first half of FY 2020, Sales Tax revenue totaled \$9,430,533, which is \$30,883 or 0.33% more than the \$9,399,650 received for the first half of FY 2019.

**Utility Users Taxes (+ \$19,932 more than FY 2019 Actual)**

Utility Users Taxes revenue for the first half of FY 2020 totaled \$6,327,611, which is \$19,932 or 0.32% more than the \$6,307,679 received for the same period in FY 2019. Staff is monitoring this revenue source closely for a probable projection reduction because of a sharp decline in FY 2019 from the \$15 million level generated in recent years. That decline resulted from significant declines in cellular, gas/electric and cable charges. During the first half of FY 2020, Cable charges declined by \$56,202 or 8.9%; Cellular charges increased by \$98,344 or 10.3%; Electric charges declined by \$84,144 or 2.7%; Gas charges increased by \$125,133 or 16.6%; and Telephone charges declined by \$59,503 or 7.3%. However, overall, there was no rebound during the first half of FY 2020. Therefore, the FY 2020 projection for the UUT revenue source will likely be lowered to \$14 million from \$15 million.

**Transient Occupancy Tax (+\$152,028 more than FY 2019 Actual)**

Transient Occupancy Tax (TOT) revenue for the first half of FY 2020 totaled \$4,483,409 which is \$152,028 or 3.51% more than the \$4,331,381 received for the first half of FY 2019. The increase in FY 2020 is attributable to growth at the five largest hotels in Berkeley ranging from -2.9% to +6.30% (average of 2.1%) during the first half of the fiscal year plus a \$49,207 receipt during the first half of the fiscal year that was applicable to FY 2019

**Vehicle In-Lieu Taxes (+\$436,880 over FY 2019 Actual)**

Vehicle In-Lieu Taxes increased by \$436,880 or 7.00% in the first half of FY 2020 to \$6,678,022 from \$6,241,142 for the same period in FY 2019. This increase was consistent with the County's Certification of Assessed Valuation growth of 6.62%.

**Interest Income (+\$590,322 over FY 2019 Actual)**

For the first half of FY 2020, interest income totaled \$3,019,829 which is \$590,322 or 24.30% more than the total of \$2,429,507 received for the same period in FY 2019. This increase is primarily attributable to a significant rise in short-term interest rates, as the Federal Reserve began raising the Federal Funds rate from very low levels. However, the Federal Reserve reversed course on July 31, 2019 and cut interest rates on that date, September 18, 2019, and October 31, 2019 by 25 basis points on each date.

**Indirect Cost Reimbursements (+\$77,109 over FY 2019 Actual)**

IDC Reimbursement for the first half of FY 2020 totaled \$2,525,542 which is \$77,109 or 3.15% more than the \$2,448,433 received for the same period in FY 2019. Since the Indirect cost rates were the same for FY 2020 and FY 2019, the increase of 3.15% in the total is attributable to an increase in direct salaries and wages. IDC Reimbursement increases result from increases in the indirect cost allocation base (i.e., total direct salaries and wages in the fund), an increase in the indirect cost rate or both.

**Transfers (+\$876,119 over FY 2019 Actual)**

Transfers for the first half of FY 2020 totaled \$2,192,784 which is \$876,119 or 66.54% more than the \$1,316,665 received for the same period in FY 2019. The increase of \$876,119 was due to the timing of the recording of more of the State Realignment transfer to the General Fund during the first half of FY 2020, than in the first half of FY 2019.

**General Fund Expenditures**

On December 3, 2019 the City Council approved General Fund recommended rollovers, carryovers, and adjustments totaling \$32.5 million in the [Amendment to the FY 2020 Annual Appropriations Ordinance<sup>2</sup>](#) (AAO).

The changes to the FY 2020 General Fund Budget from the AAO are shown below:

| FY 2020 Adopted Budget | Encumbered Recommended | Unencumbered Recommended | Other Adjustments | FY 2020 Revised Budget |
|------------------------|------------------------|--------------------------|-------------------|------------------------|
| \$ 196,913,849         | \$ 5,512,512           | \$ 4,177,247             | \$ 22,903,541     | \$ 229,507,149         |

The encumbered rollovers reflect contractual obligations entered into in FY 2019, which had not been paid as of June 30, 2019. Unencumbered carryovers are approved by Council for specific purposes that had not be completed by the end of FY 2019. Funding for these commitments is brought forward into the current fiscal year to provide for payment of these obligations. Adjustments are new allocations for projects and Council priorities as detailed in the AAO.

Included in the other adjustments of \$22.9 million are Council authorized allocations for the following items:

1. Transfer of \$4,371,879 from the General Fund to the Capital Improvement Fund of FY 2019 Excess Property Transfer Tax Revenues for restricted items approved by Council on 6/25/19 (\$3,411,933) and new requests added to AAO #1 on 11/19/19 (\$959,946)
2. Item #80: Transfer of \$275,000 from the General Fund to the Capital Improvement Fund of FY 2019 Excess Property Tax Revenues for Capital Allocations in the Mayor's Budget Allocation Proposal presented to the Budget & Finance Policy Committee on 11/22/19 and approved to be added as part of staff's supplemental item for 12/3/19 Council meeting
3. Item #81: Appropriation of \$2,900,000 in the General Fund for Measure P allocations, which includes an allocation of \$78,000 for Youth Spirit Artworks Tiny House Village Services
4. Item #82: Appropriation of \$1,630,923 in the General Fund for Mayor's Budget Allocation Proposal Non-Capital Item Funds presented to the Budget & Finance Policy Committee on 11/22/19 and approved to be added as part of staff's supplemental item for 12/3/19 Council meeting

<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/12\\_Dec/Documents/2019-12-03\\_Supp\\_1\\_Reports\\_Item\\_25\\_Rev\\_Budget\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/12_Dec/Documents/2019-12-03_Supp_1_Reports_Item_25_Rev_Budget_pdf.aspx)

5. Item #83: Allocation of \$1,160,000 in the General Fund of FY 2019 Allocation to the Reserves as follows (\$0.64 Million to Stability Reserve and \$0.52 Million to Catastrophic Reserves)
6. Item #89: Appropriation of \$16,266 in the General Fund for a payment of excess FY 2019 additional Transient Occupancy Tax revenues to comply with Visit Berkeley allocation above the 1% FY 2019 Adopted TOT Budget contract amount

General Fund expenditures are tracking under budget as of December 31, 2019 as shown in the chart below. This is primarily due to salary savings and funds that were added as part of the AAO that were not spent yet. Departments that are tracking over 50 percent spent is due to encumbrances for contractual obligations entered into in FY 2020 in which payment might not be currently due as good or services might be in progress or not yet complete.

| FY 2020 MID-YEAR GENERAL FUND EXPENDITURES (AS OF DECEMBER 31, 2019) |                    |                    |                           |                    |            |                  |                      |
|----------------------------------------------------------------------|--------------------|--------------------|---------------------------|--------------------|------------|------------------|----------------------|
| DEPARTMENT                                                           | FY 2020 ADOPTED    | FY 2020 REVISED*   | YTD ACTUAL + ENCUMBRANCES | AVAILABLE BUDGET   | % USED     | PERSONNEL % USED | NON-PERSONNEL % USED |
| 11 MAYOR AND COUNCIL                                                 | 2,398,876          | 2,628,583          | 1,127,465.71              | 1,501,117          | 43%        | 43%              | 43%                  |
| 12 CITY AUDITOR                                                      | 2,625,103          | 2,701,278          | 1,096,399.67              | 1,604,878          | 41%        | 41%              | 41%                  |
| 13 RENT STABILIZATION BOARD                                          | 0                  | 602,015            | 52,015.00                 | 550,000            | 9%         | 0%               | 9%                   |
| 21 CITY MANAGER'S OFFICE                                             | 11,037,283         | 13,015,673         | 6,351,194.55              | 6,664,478          | 49%        | 42%              | 61%                  |
| 31 CITY ATTORNEY                                                     | 2,516,581          | 3,000,854          | 1,047,624.81              | 1,953,230          | 35%        | 34%              | 42%                  |
| 32 CITY CLERK                                                        | 3,004,901          | 3,348,417          | 1,076,165.83              | 2,272,251          | 32%        | 41%              | 25%                  |
| 33 FINANCE                                                           | 6,797,353          | 8,703,293          | 4,267,217.86              | 4,436,075          | 49%        | 38%              | 71%                  |
| 34 HUMAN RESOURCES                                                   | 2,329,292          | 3,354,046          | 1,038,696.56              | 2,315,349          | 31%        | 36%              | 24%                  |
| 35 INFORMATION TECHNOLOGY                                            | 213,210            | 2,744,355          | 1,371,647.08              | 1,329,306          | 50%        | 0%               | 50%                  |
| 51 HEALTH, HSG & COMMUNITY SVC                                       | 17,553,283         | 28,070,111         | 17,253,385.72             | 10,816,725         | 61%        | 42%              | 79%                  |
| 52 PARKS, RECREATION & WATERFR                                       | 7,105,343          | 8,005,458          | 4,068,812.89              | 3,936,645          | 51%        | 49%              | 54%                  |
| 53 PLANNING & DEVELOPMENT                                            | 2,426,051          | 3,625,616          | 1,431,320.31              | 2,194,295          | 39%        | 34%              | 49%                  |
| 54 PUBLIC WORKS                                                      | 4,404,030          | 5,382,250          | 2,619,061.60              | 2,763,188          | 49%        | 47%              | 51%                  |
| 71 POLICE                                                            | 70,622,557         | 71,110,036         | 34,841,279.30             | 36,268,757         | 49%        | 48%              | 61%                  |
| 72 FIRE & EMERGENCY SERVICES                                         | 36,019,089         | 39,344,297         | 20,109,184.51             | 19,235,113         | 51%        | 47%              | 70%                  |
| 99 NON DEPARTMENTAL                                                  | 27,860,897         | 31,134,686         | 9,228,725.12              | 21,905,961         | 30%        | 98%              | 28%                  |
| <b>Grand Total</b>                                                   | <b>196,913,849</b> | <b>226,770,966</b> | <b>106,980,197</b>        | <b>119,747,367</b> | <b>47%</b> | <b>46%</b>       | <b>50%</b>           |

*\*FY 2020 Revised does not reflect as of December 31, 2019 all Council approved allocations included in the FY 2020 AAO #1.*

There might be additional one-time savings resulting from the reduction in expenditures; however, much of these saving will be allocated to the items already identified in the Fiscal Years 2020 & FY 2021 Biennial Budget adopted by Council on June 25, 2019<sup>3</sup>, including a \$5.3 million loan to Measure T1 for capital projects (Resolution 68.802 N.S.).

<sup>3</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/06\\_June/City\\_Council\\_06-25-2019\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/06_June/City_Council_06-25-2019_-_Regular_Meeting_Agenda.aspx) (Item #39)



This loan is to be paid back to the General Fund in January 2021 from the second issuance of Measure T1<sup>4</sup>.

Additional information of the General Fund revenues and expenditures will be presented in May with the FY 2021 Mid-Biennial Budget Update. Final FY 2020 year-end General Fund revenues and expenditures information will be included in the **FY 2020 Year-End Report and FY 2021 First Quarter Update** that will be presented to Council in November 2020.

### All Funds Expenditures

The General Fund comprises 34.1 percent of the total adjusted budget. The rest of the budget consists of various Special Funds. Special Funds are collected for a specific purpose; therefore, are not discretionary. Only costs associated with the Special Fund activity may be charged to a Special Fund. Included in the FY 2020 Mid-Year All Fund Expenditures by Department chart below are both the General Fund expenditures to date and the Special Funds expenditures to date. On an All Funds basis, the City is tracking under budget as of December 31, 2019 as can be seen in the following chart:

| FY 2020 MID-YEAR ALL FUNDS EXPENDITURES (AS OF DECEMBER 31, 2019) |                    |                    |                    |                    |            |
|-------------------------------------------------------------------|--------------------|--------------------|--------------------|--------------------|------------|
| DEPARTMENT                                                        | YTD ACTUAL +       |                    |                    |                    |            |
|                                                                   | FY 2020 ADOPTED    | FY 2020 REVISED    | ENCUMBRANCES       | AVAILABLE BUDGET   | % USED     |
| 11 MAYOR AND COUNCIL                                              | 2,398,876          | 2,628,583          | 1,127,466          | 1,501,117          | 43%        |
| 12 CITY AUDITOR                                                   | 2,714,111          | 2,790,286          | 1,150,939          | 1,639,347          | 41%        |
| 13 RENT STABILIZATION BOARD                                       | 5,334,943          | 6,099,664          | 2,771,892          | 3,327,772          | 45%        |
| 21 CITY MANAGER'S OFFICE                                          | 14,548,957         | 18,023,786         | 8,288,486          | 9,735,300          | 46%        |
| 22 BERKELEY PUBLIC LIBRARY                                        | 26,114,585         | 26,830,114         | 11,188,043         | 15,642,071         | 42%        |
| 31 CITY ATTORNEY                                                  | 4,594,533          | 6,357,659          | 2,884,711          | 3,472,948          | 45%        |
| 32 CITY CLERK                                                     | 3,004,901          | 3,348,417          | 1,076,166          | 2,272,251          | 32%        |
| 33 FINANCE                                                        | 8,766,934          | 10,745,163         | 5,161,213          | 5,583,949          | 48%        |
| 34 HUMAN RESOURCES                                                | 4,240,103          | 5,269,839          | 1,874,172          | 3,395,667          | 36%        |
| 35 INFORMATION TECHNOLOGY                                         | 19,404,413         | 35,617,289         | 8,797,175          | 26,820,114         | 25%        |
| 51 HEALTH, HSG & COMMUNITY SVC                                    | 54,597,950         | 80,909,554         | 39,098,972         | 41,810,582         | 48%        |
| 52 PARKS, RECREATION & WATERFR                                    | 46,600,585         | 70,873,935         | 30,342,361         | 40,531,574         | 43%        |
| 53 PLANNING & DEVELOPMENT                                         | 24,506,913         | 26,924,099         | 11,573,342         | 15,350,757         | 43%        |
| 54 PUBLIC WORKS                                                   | 133,015,850        | 202,008,355        | 111,140,495        | 90,867,861         | 55%        |
| 71 POLICE                                                         | 74,979,834         | 76,472,499         | 37,265,580         | 39,206,919         | 49%        |
| 72 FIRE & EMERGENCY SERVICES                                      | 44,379,144         | 48,240,718         | 24,953,631         | 23,287,087         | 52%        |
| 99 NON DEPARTMENTAL                                               | 56,654,177         | 60,878,499         | 24,143,164         | 36,735,335         | 40%        |
| <b>Grand Total</b>                                                | <b>525,856,809</b> | <b>684,018,460</b> | <b>322,837,810</b> | <b>361,180,650</b> | <b>47%</b> |

<sup>4</sup> Measure T1 was approved by Berkeley voters in November 2016. These General Obligation Bonds are not-to-exceed \$100 million and will be used to repair, renovate, replace, or reconstruct the City's aging infrastructure and facilities including sidewalks, storm drains, parks, streets, senior centers and other important City facilities and buildings

Health, Housing, & Community Services, Parks, Recreation & Waterfront, and Public Works carried over funds for projects and grants started in FY 2019. These departments also appropriated new grant funds that support programs and services as well as special funds for capital improvements. Details of these carryover requests can be found in the December 3, 2019, [Amendment to the FY 2020 Annual Appropriations Ordinance<sup>5</sup>](#) (AAO) discussed earlier in this report.

### Next Steps:

Staff is currently in the process of updating the FY 2021 Adopted Budget approved by Council on June 25, 2019.

The table below outlines key Council meeting dates at which budget information will be provided.

| FY 2021 Mid-Biennial Budget Calendar |                                                                                                                                                                           |
|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Date                                 | Action/Topic                                                                                                                                                              |
| March 24, 2020                       | <ul style="list-style-type: none"> <li>FY 2020 Annual Appropriations Ordinance Amendment #2</li> <li>FY 2020 Mid-Year Update</li> </ul>                                   |
| April 28, 2020                       | <ul style="list-style-type: none"> <li>Public Hearing on CDBG &amp; ESG Annual Action Plan and proposed funding allocations to community agencies</li> </ul>              |
| May 5, 2020                          | <ul style="list-style-type: none"> <li>FY 2021 Proposed Mid-Biennial Budget Update</li> </ul>                                                                             |
| May 12, 2020                         | <ul style="list-style-type: none"> <li>Public Hearing #1: Budget</li> <li>Proposed Fee Increases</li> <li>FY 2020 Annual Appropriations Ordinance Amendment #3</li> </ul> |
| May 26, 2020                         | <ul style="list-style-type: none"> <li>Public Hearing #2: Budget</li> </ul>                                                                                               |
| June 2, 2020                         | <ul style="list-style-type: none"> <li>Council recommendations on budget due to the City Manager</li> </ul>                                                               |
| June 16, 2020                        | <ul style="list-style-type: none"> <li>Council discussion on budget recommendations</li> </ul>                                                                            |
| June 30, 2020                        | <ul style="list-style-type: none"> <li>Adopt FY 2021 Mid-Biennial Budget Update &amp; FY 2021 Annual Appropriations Ordinance</li> </ul>                                  |

The FY 2020 Mid-Year Budget Update is a Strategic Plan Priority, advancing our goal to provide an efficient and financially-healthy City government.

<sup>5</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/12\\_Dec/Documents/2019-12-03\\_Supp\\_1\\_Reports\\_Item\\_25\\_Rev\\_Budget\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/12_Dec/Documents/2019-12-03_Supp_1_Reports_Item_25_Rev_Budget_pdf.aspx)

ENVIRONMENTAL SUSTAINABILITY

Actions included in the budget will be developed and implemented in a manner that is consistent with the City's environmental sustainability goals and requirements.

CONTACT PERSON

Teresa Berkeley-Simmons, Budget Manager, City Manager's Office, 981-7000  
Henry Oyekanmi, Finance Director, Department of Finance, 981-7300  
Rama Murty, Senior Management Analyst, City Manager's Office, 981-7000





Office of the City Manager

INFORMATION CALENDAR

April 28, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development Department

Subject: Eight previous referrals to the Planning Department which can be tracked as fulfilled

INTRODUCTION

The Planning and Development Department proposes that eight previous referrals be deemed “fulfilled” and removed from the City Clerk’s tracking list. In each case, the goals of the referrals listed below have been met through either local or state action since the last time Council considered its annual Reweighted Range Voting (RRV) process for referral prioritization.

CURRENT SITUATION AND ITS EFFECTS

This section lists each of the referrals now proposed for closure, background on the original Council request, and a description of which actions lead staff to conclude that the goals of the referral have now been fulfilled.

**Toxic Remediation:**

- Original referral date: May 1, 2012 (see Attachment 1)
- Sponsors: Councilmembers Moore, Wozniak
- Referred to: Planning Commission
- Goal: Facilitate remediation of sites with toxic contamination by amending the Zoning Code to streamline demolition permitting for purposes of remediation.
- Status: Considered and Not Adopted by Commission

On September 4, 2019, the Planning Commission considered proposed changes to the Zoning Ordinance which would have allowed issuance of a demolition permit, under certain circumstances and with required findings, even in the absence of a proposed project to replace the demolished structure. Provisions already exist in Berkeley Municipal Code (BMC) Section 23C.08.050 to require remediation of toxic conditions on a site in conjunction with a proposed new development or reuse project, or in certain other specific circumstances when appropriate findings can be made. But current law also requires an approved project to replace the structures prior to issuance of a demolition permit. The current policy is consciously devised to tie permit applications which request

demolition of structures in order to remediate toxic conditions to a specific development project, not the creation of empty lots.

This referral was motivated by a situation where owners of a site at 2222 Third Street wanted to demolish the existing structures and remediate the known toxic conditions prior to deciding what replacement project to propose. In that case, the structures at the site were demolished using existing legal authority and findings, rendering the immediate goal of this referral moot. During the September 4, 2019 discussions, Planning Commissioners and staff could not recall any other actual cases which fit the conditions contemplated by the 2012 referral (proposing to demolish structures and remediate toxic soils within a manufacturing district without also proposing a subsequent development plan).

At that Planning Commission meeting, public comment was taken from stakeholders interested in preserving opportunities for light industrial and manufacturing types of uses in the West Berkeley Plan Area. The public and Commissioners worried that amending the Zoning Ordinance to allow demolition without a replacement project proposed, no matter how well-intentioned, could have negative effects on preservation of such uses by incentivizing demolitions without a commitment to new uses which were consistent with the Plan Area goals.

By a vote of 6-1-0-2, the Planning Commission directed staff to prepare a report to close-out the referral, since the conditions in which the referral was made are no longer relevant. (Ayes: Beach, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: Martinot. Abstain: None. Absent: Fong and Kapla.)

**Permit Streamlining for projects with 50% or more affordable units:**

- Original referral date: January 19, 2016 (see Attachment 2)
- Sponsor: Councilmember Worthington
- Referred to: City Manager (Planning Department)
- Goal: Facilitate affordable housing by reducing or eliminating discretionary permit review processes when a proposed project includes half or more affordable units on-site, with 20% reserved for Very Low Income households (those making 50% or less of the Area Median Income (AMI)).
- Status: Goals substantively met via State and City legislation. Senate Bill 35, authored by State Senator Weiner, was signed into law by then-Governor Brown on September 29, 2017. Among other requirements, SB 35 mandated streamlined, ministerial approval of any housing development proposing to include 50% or more units affordable to low income-households (those making 80% or less of the AMI). The City has given expedited approval to three projects proposed under SB 35 to date.

Berkeley Ordinance 7,573-N.S., authored by Councilmember Hahn and adopted on September 12, 2017<sup>1</sup>, requires expedited review of any proposed project which receives City of Berkeley Housing Trust Funds. Planning staff now prioritize and streamline the review of all such projects.

Since the 2016 referral contemplated a local program that required deeper affordability levels (50% or more of the units for very low-income households) than those required by the State in SB 35 (50% or more of the units at 80% for low income households), developers would have less incentive to opt for a local program.

Since state law largely addressed the streamlining, staff focused on incentivizing higher percentages of affordability. The Draft Adeline Corridor Specific Plan proposes to increase on-site affordable housing provided in market rate buildings through two paths: 1) by introducing new density standards that will generate a higher number of affordable units, even in market rate buildings when applicants choose to apply the State Density Bonus; and 2) by offering a new on-site affordable housing incentive, projects can produce an even higher share of affordable units in exchange for greater densities than current practice would allow. The City also issued an Administrative Regulation<sup>2</sup> that interpreted Government Code Section 65915(n) such that projects can build to the maximum Floor Area Ratio (FAR) if 90% of the units are offered as deed-restricted below market rate units for 55-years. These two local programs can be paired with SB-35 to both streamline and incentivize affordable housing projects.

**Ministerial approval for projects with 50% or more affordable units and/or receiving City Housing trust funding:**

- Original referral date: December 5, 2017 (see Attachment 3)
- Primary Sponsor: Councilmembers Droste, Bartlett, Worthington, and Mayor Arreguin
- Referred to: City Manager (Planning Department) and Planning Commission
- Goal: Facilitate affordable housing by conferring ministerial zoning approval for any project which received Housing Trust Fund monies, and/or includes half or more affordable units on-site, with 20% reserved for Very Low Income households.
- Status: Goals substantively met via State legislation. SB 35, described in more detail above, has the effect of removing discretionary zoning review procedures for projects in Berkeley which meet objective planning standards and which

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/09\\_Sep/Documents/2017-10-03\\_Item\\_03\\_Expedited\\_Review\\_for\\_Affordable.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/09_Sep/Documents/2017-10-03_Item_03_Expedited_Review_for_Affordable.aspx)

<sup>2</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/Local%20Density%20Bonus%20101519.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Local%20Density%20Bonus%20101519.pdf)

comprise half or more affordable units. Since this 2017 referral contemplated deeper affordability levels than those set in SB 35, developers would have no incentive to opt for a local program. As with the streamlining referral above, these goals are augmented by other recent City steps to clarify and implement Density Bonus regulations, which also help promote the goal increasing numbers of affordable units.

**Waive mitigation and impact fees for projects which receive City Housing Trust Funding, and encourage the Berkeley Unified School District (BUSD) to do the same:**

- Original referral date: September 12, 2017 (see Attachment 4)
- Sponsors: Councilmembers Hahn, Harrison, and Mayor Arreguin
- Referred to: City Manager (Planning Department)
- Goal: Lessen the cost of providing affordable housing by waiving mitigation and impact fees which can add substantial project costs.
- Status: Authority to waive such fees already exists. Within the City Zoning Ordinance, BMC Section 23B.24.040.C reads, in part: *“The City Manager may waive or defer the payment of Permit fees, if he or she finds that the project will provide a significant public service or benefit, and that the waiver or deferral is necessary to make the project economically feasible to construct or establish.”* This authority has been used on several previous projects of public interest, including the Ed Roberts Campus, the Biofuel Oasis, and an AHA Affordable Housing project at 2500 Hillegass.

BMC Section 22.20.080 also provides authority to waive certain requirements when it states that:

- A. *Notwithstanding any other provision of this chapter, the requirements of this chapter in the discretion of the City may be waived or limited for a particular development project where both of the following findings are made:*
1. *The imposition of the mitigation and/or fees otherwise required by the City make the development of the particular project infeasible; and*
  2. *The benefits to the City from the particular development project outweigh its burdens in terms of increased demand for affordable housing, child care and/or public facilities, adequate employment training and placement services and/or amenities and/or other impacts which reasonably may be anticipated to be generated by and/or attributable to the development project.*

Finally, projects receiving City Housing Trust Funds are already exempt from Affordable Housing Mitigation fees, under BMC Section 22.20.065, part C.5, which states that “Units that meet the criteria established for affordable housing



rents in the City's Housing Trust Fund guidelines, as amended shall be exempt from the Fee."

Pursuant to this Council request, staff is prepared to send a letter to the Berkeley Unified School District asking that it also consider provisions to waive its impact fees for projects of significant public benefit, such as affordable and/or teacher-focused housing.

**Ordinance to allow "Junior" Accessory Dwelling Units (ADUs):**

- Original referral date: May 2, 2017 (see Attachment 5)
- Sponsors: Councilmembers Wengraf, Harrison
- Referred to: Planning Commission
- Goal: Develop ordinance language for Council adoption which would allow Junior ADUs, as defined in the referral as "re-purposing a bedroom and ancillary space...to a maximum of 500 square feet (sf) of living space confined entirely within an existing single-family structure."
- Status: On January 21, 2020 the City Council extended an Urgency Ordinance governing ADUs through December 2020. This Ordinance fulfilled a state mandate that all cities adopt uniform provisions to regulate ADUs, as part of a state initiative to increase housing production in a variety of means. Among other provisions, the adoption of the state-mandated regulations require jurisdictions to ministerially allow Junior ADUs within existing or proposed single family dwelling, as requested by the referral.

The City Council will consider permanent ADU regulations, consistent with State law, later in 2020, following Planning Commission review and a public input process that will include provisions for Junior ADUs that meet the goals of this referral.

**Create Citywide Green Development standards by extending requirements of Downtown Plan throughout rest of Berkeley:**

- Original referral date: April 26, 2016 (see Attachment 6)
- Sponsor: then-Councilmember Jesse Arreguin
- Referred to: City Manager (Planning Department), Energy Commission, and Community Environmental Advisory Commission
- Goal: Require LEED Gold or higher green building ratings, revise parking requirements to encourage ride-shares, bicycle parking, and alternative transportation benefits for residents.
- Status: The adoption of the new state Building Code, effective January 2020, included groundbreaking state provisions and local amendments to require even higher green building standards than those contemplated in the 2016 referral. Some examples include new local Berkeley "Reach Codes" that now provide

pathways for construction that exceed the efficiency requirements of the state energy codes, appendices to allow alternative construction methods such as those using strawbale materials, and expanded solar photovoltaic requirements for both residential and nonresidential construction.

The parking reform portions of this referral, along with similar asks from the earlier “Green Affordable Housing” and other Council referrals, will come to Council for consideration in Spring 2020. Staff proposes to now close the referrals which largely pertain to construction, such as this one, and then to resolve the parking-related aspects of numerous referrals when the actions return to Council later in 2020.

#### **Berkeley “Deep Green” Building Initiative:**

- Original referral date: February 28, 2017 (see Attachment 7)
- Sponsor: Mayor Arreguin, Councilmember Hahn
- Referred to: City Manager (Planning Department), Energy Commission
- Goal: Develop program to support zero-net energy goal for existing and new buildings, and promote use of building materials and practices which are sustainably sources, less toxic, and more energy efficient
- Status: The adoption of the new state Building Code, effective January 2020, included groundbreaking state provisions and local amendments which strengthened the “CALGreen” mandatory state green building standards code. As described above, the new code adoption also included new local Berkeley “Reach Codes” to help exceed the efficiency requirements of the state energy codes, and provisions to allow alternative construction methods and expanded solar photovoltaic requirements for both residential and nonresidential construction.

The portions of this referral which pertain to existing buildings are being addressed under other existing referrals, including incentivizing residential energy efficiency and electrification (from Energy Commission April 24, 2018), revising the City Transfer Tax to incentivize energy and water efficiency (CM Harrison, Nov. 27, 2018), and evaluation and possible revisions to the Building Energy Saving Ordinance (BESO), each of which are expected to generate new policies for Council consideration later in 2020.

#### **Electric Vehicle Charging Infrastructure:**

- Original referral date: June 13, 2017 (see Attachment 8)
- Sponsor: Councilmembers Bartlett, Harrison, Hahn, and Wengraf
- Referred to: City Manager (Planning Department), Energy Commission
- Goal: Develop ordinance to require that new buildings include certain numbers of parking spaces and charging stations devoted to electric vehicles

- Status: The expanded “CALGreen” mandatory building standards mentioned above included specific requirements for parking spaces and EV charging infrastructure. For example, new single family structures must include raceways and wiring to support a future Level 2 EV charger in at least one parking space per dwelling unit, new multifamily structures must have 20% of their spaces so wired, and 80% of their spaces equipped for connecting raceways. Non-residential buildings now have requirements that 10% of spaces have raceways and wiring to support future Level 2 EV chargers, and 40% of spaces be readied with connecting raceways. In short, the EV charging requirements for parking spaces envisioned in the June 2017 Council referral have effectively been met.

### BACKGROUND

As of the end of 2019, the Planning Department is tracking 55 active long-term referrals for which the department is assigned primary responsibility. These include referrals to the Building and Safety Division, the Office of Energy and Sustainable Development, and in particular to the Land Use Planning Division, which staffs the Planning Commission. A significant amount of staff time is spent tracking the referrals and monitoring progress for the periodic reports requested by the City Manager’s Office, through which updates are provided to the Council twice each year. The referrals highlighted in this report have been addressed through a combination of changes to State law and local action by the Council, Commissions, and staff. Further, reducing the number of referrals for which tracking and reporting is required frees up staff resources which can be assigned to the additional policy goals sought by the referral authors.

### ENVIRONMENTAL SUSTAINABILITY

There are no environmental opportunities associated with the delivery of this informational report. Many of the referrals worked on by the Planning Department have the potential to improve sustainable practices by increasing housing, improved green building and development practices, and improving energy efficiency, among many other areas.

### POSSIBLE FUTURE ACTION

Upcoming department responses to referrals which are expected for Council review and consideration in 2020 include:

- Parking policy reform for new development
- Environmental Impact Report (EIR) for the Southside area, toward the goal of enabling more student housing
- Zoning Ordinance amendments as part of the Zoning Ordinance Revision Project
- ADU Ordinance amendments
- Adeline Corridor Plan and associated EIR
- Recommendations from the Joint Subcommittee on Implementation of State Housing Law regarding objective density and development standards
- Cannabis equity program

- Additional Zoning Ordinance amendments for businesses
- Amendments to the Building Energy Savings Ordinance
- A “Pathway to Clean Energy” report and recommendations, focused on actionable strategies toward electrification in existing buildings

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Staff will identify the fiscal impacts for each of the referral responses listed in the above section.

#### CONTACT PERSON

Timothy Burroughs, Director, Planning and Development Department, (510) 981-7437  
Jim Bondi, Associate Management Analyst, (510) 981-7428

#### Attachments:

1. Toxic remediation referral, 5/1/2012; Planning Commission staff report and Planning Commission minutes, 9/4/2019
2. Permit streamlining referral, 1/19/2016
3. Ministerial approval referral, 12/5/2017
4. Waive mitigation/impact fees referral, 9/12/2017
5. Junior ADU referral, 5/2/2017
6. Citywide Green Development standards referral, 4/26/2016
7. Deep Green Building initiative referral, 2/28/17
8. Electric Vehicle Charging Infrastructure referral, 6/13/17



CITY COUNCIL

**Darryl Moore**  
Councilmember District 2

CONSENT CALENDAR  
May 1, 2012

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Darryl Moore, District 2  
 Councilmember Gordon Wozniak, District 8  
 Subject: Amend the Zoning Code to Facilitate Toxic Remediation in Manufacturing Districts

RECOMMENDATION

Refer to the Planning Commission recommendations for amending the zoning code in order to facilitate toxic remediation in manufacturing districts and to develop a streamlined process that would allow for one application process, rather than separate application processes for the City's Planning Department and the Toxics Division.

BACKGROUND

The current process for toxic remediation in manufacturing districts that require the removal of a building, whether or not it is currently in use, is quite involved and convoluted. There may be some amendments that can be made to the zoning code to make the process much more efficient.

Currently, the City of Berkeley Municipal Code Section 23C contains the following language

**23C.08.050 Demolitions of Buildings Used for Commercial, Manufacturing or Community, Institutional or Other Non-residential Uses**

- A. A main building used for non-residential purposes may be demolished subject to issuance of a Use Permit.
- B. A demolition of an accessory building containing less than 300 square feet of floor area is permitted as of right; an accessory building containing 300 square feet or more of floor area may be demolished subject to an AUP.
- C. Any application for a Use Permit or AUP to demolish a non-residential building or structure which is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review prior to consideration of the Use Permit or AUP. The LPC may initiate a landmark or structure-of-merit designation or may choose solely to forward to the Board its comments on the application. The Board shall consider the recommendations of the LPC in considering its action on the application.
- D. A Use Permit or an AUP for demolition of a non-residential building or structure may be approved only if the Board or Zoning Officer finds that the demolition will not be

materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and one of the following findings that the demolition:

1. Is required to allow a proposed new building or other proposed new Use;
2. Will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses;
3. Will remove a structure which represents an unabatable attractive nuisance to the public; or
4. Is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority. In such cases, it shall be demonstrated that it is infeasible to obtain prior or concurrent approval for the new construction or new use which is contemplated by such specific plans or projects and that adhering to such a requirement would threaten the viability of the plan or project. (Ord. 6478-NS § 4 (part), 1999)

This means that prior to any demolition, the project must be granted a Use Permit or an AUP, requiring findings, none of which include toxic remediation under a building.

Additionally, Chapter 23E.80.909 Paragraph D states that

- D. Except as permitted under 23E.80.045, subdivisions A.1 or A.2, in order to approve a Use Permit under Section 23E.80.045 to change the use of or remove more than 25% of the floor area of a building currently or most recently used for manufacturing, wholesale trade or warehousing, the Zoning Officer or Board must find:
  1. Any necessary Use Permits that have been approved to provide comparable quality replacement manufacturing, wholesale trade and/or warehousing space in Berkeley at a comparable rent and that such replacement space will be available before the demolition or change of use of the space; or
  2. As a result of lawful business and building activities, there are exceptional physical circumstances (exclusive of the presence of hazardous materials in the building(s), soil or groundwater) found at the building not generally found in industrial buildings in the District which make it financially infeasible to reuse the building for any of the range of manufacturing, wholesale trade or warehouse uses permitted in the District. The analysis of the financial feasibility effects (which shall be verified by the City) of these physical circumstances shall consider those costs necessary to make the building meet current minimum standards for manufacturing, wholesale trade or warehouse buildings; and
  3. Appropriate mitigation has been made for loss of the manufacturing, warehousing or wholesale trade space in excess of 25% of that space through providing such space elsewhere in the City, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.

This requires findings that allow the removal of a building where there are “exceptional physical circumstances,” but is specifically exclusive of “presence of hazardous materials in the building(s), soil, or groundwater.”

In order to make the cleanup of a site with toxic soil, it is recommended that a provision number 5 be added to Chapter 23C.08.050 Paragraph D stating “It is required to allow the remediation of toxic soil in conformance with DTSC Clean-up Requirements and a City of Berkeley approved toxic clean-up and monitoring program.”

In addition, Chapter 23E.80.090 Findings should be amended to include a new finding number 4 stating that: “As a result of previous building activities there are hazardous materials that are required to be remediated and monitored which could not otherwise be fully characterized, remediated or monitored without demolition of the building(s)”

FISCAL IMPACTS OF RECOMMENDATION

Unknown

CONTACT PERSON

Councilmember Darryl Moore, District 2

981-7120

Councilmember Gordon Wozniak, District 8

981-7180







Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: September 4, 2019  
TO: Members of the Planning Commission  
FROM: Justin Horner, Associate Planner  
SUBJECT: Referral to Facilitate Toxic Remediation

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### INTRODUCTION

On May 1, 2012, the City Council referred to staff recommended changes to the Zoning Ordinance to streamline the permitting process for the removal of buildings for the purposes of remediating hazardous materials conditions (*see Attachment 1: Toxic Remediation Referral*). This report will introduce the referral and ask Planning Commission for feedback on a proposed approach.

### BACKGROUND

Currently, the Zoning Ordinance controls for demolition of non-residential buildings in two Chapters: Berkeley Municipal Code (BMC) Chapter 23C.08 (Demolition and Dwelling Unit Controls) and BMC 23E.80 (MU-LI Mixed Use-Light Industrial District Provisions). Both Chapters require the Zoning Adjustments Board (ZAB) to make findings in order to issue a Use Permit or (Administrative Use Permit) AUP to demolish a non-residential building.<sup>1</sup> These findings are listed below:

- Under **BMC Section 23C.08.050** (Demolitions of Buildings for Commercial, Manufacturing or Community, Institutional and Non-Residential Uses), the ZAB must find that the demolition of a non-residential building or structure:
  1. Is required to allow a proposed new building or other proposed new Use;
  2. Will remove a building which is unusable for activities which are compatible with the purposes of the District;
  3. Will remove a structure which represents an unabatable attractive nuisance to the public; or

---

<sup>1</sup> [BMC 23C.08.050](#) (Demolitions of Buildings for Commercial, Manufacturing or Community, Institutional and Non-Residential Uses). [BMC 23E.80.090](#) (Required Findings for Demolition in MU-LI District)

4. Is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority.

In the Mixed Use-Light Industrial (MU-LI) District, which is intended to preserve and expand light industrial and manufacturing uses, there are additional required findings for the demolition or change of use of buildings that are currently or most recently used for manufacturing, wholesale trade or warehousing.

- Under **BMC Section 23E.80.090** (Findings), the ZAB must find that:
  1. Any necessary Use Permits that have been approved to provide comparable quality replacement manufacturing, wholesale trade and/or warehousing space in Berkeley at a comparable rent and that such replacement space will be available before the demolition or change of use of the space; or
  2. As a result of lawful business and building activities, there are exceptional physical circumstances (exclusive of the presence of hazardous materials in the building(s), soil or groundwater) found at the building not generally found in industrial buildings in the District which make it financially infeasible to reuse the building for any of the range of manufacturing, wholesale trade or warehouse uses permitted in the District; and
  3. Appropriate mitigation has been made for loss of the manufacturing, warehousing or wholesale trade space in excess of 25% of that space through providing such space elsewhere in the City, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.

None of the currently available findings include toxic remediation under a building, even in cases where a property owner may have a City of Berkeley approved toxic clean-up and monitoring plan or an approved clean-up plan from the State of California's Department of Toxic Substance Control (DTSC). This referral from City Council suggests adding an additional finding to account for these circumstances.

This referral is listed in the Re-weighted Ranked Voting (RRV) list as a "started" referral.

## DISCUSSION

### *Proposed Amendments*

The proposed amendments are provided in Attachment 2 and are explained below:

### **BMC Chapter 23C.08 (Demolition and Dwelling Unit Controls)**

- Under BMC Section 23C.08.050 (Demolitions of Buildings for Commercial, Manufacturing or Community, Institutional and Non-Residential Uses), one of four findings must be made to allow for demolition of a non-residential building. The proposed Zoning Ordinance amendments add a fifth finding that considers remediation of toxic soil:

**23C.08.050 -- Demolitions of Buildings Used for Commercial, Manufacturing or Community, Institutional or Other Non-residential Uses**

*D. A Use Permit or an AUP for demolition of a non-residential building or structure may be approved only if the Board or Zoning Officer finds that the demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and one of the following findings that the demolition:*

- 1. Is required to allow a proposed new building or other proposed new Use;*
- 2. Will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses;*
- 3. Will remove a structure which represents an unabatable attractive nuisance to the public; ~~or~~*
- 4. Is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority. In such cases, it shall be demonstrated that it is infeasible to obtain prior or concurrent approval for the new construction or new use which is contemplated by such specific plans or projects and that adhering to such a requirement would threaten the viability of the plan or project.; or*

*5. Is required to allow the remediation of toxic soil in conformance with Department of Toxic Substance Control (DTSC) clean-up requirements and a City of Berkeley toxic clean-up and monitoring program.*

**BMC Chapter 23E.80 (MU-LI Mixed Use-Light Industrial District Provisions).**

- Under BMC Section 23E.80.090.D (Findings), the change of use or the removal of more than 25% of the floor area of a building used for manufacturing, wholesale trade or warehousing is allowed with a Use Permit if certain findings are made. The proposed amendments remove existing language from one finding that specifically excludes the consideration of hazardous materials conditions (see D.2). As requested in the referral, amendments add a finding that explicitly allows for demolition of a building for the purposes of remediation of hazardous materials (see D.3). Proposed amendments also clarify that appropriate mitigations are required if findings D.2 or D.3 are made.

**BMC Section 23E.80.090 -- Findings**

*D. Except as permitted under [23E.80.045](#), subdivisions A.1 or A.2, in order to approve a Use Permit under Section [23E.80.045](#) to change the use of or remove more than 25% of the floor area of a building currently or most recently used for manufacturing, wholesale trade or warehousing, the Zoning Officer or Board must find:*

- 1. Any necessary Use Permits that have been approved to provide comparable quality replacement manufacturing, wholesale trade and/or warehousing space in Berkeley at a comparable rent and that such replacement space will be available before the demolition or change of use of the space; or*
- 2. As a result of lawful business and building activities, there are exceptional physical circumstances ~~(exclusive of the presence of hazardous materials in the building(s), soil or groundwater)~~ found at the building not generally found in industrial buildings in the District which make it financially infeasible to reuse the building for any of the range of manufacturing, wholesale trade or warehouse uses permitted in the District. The analysis of the financial feasibility effects*

*(which shall be verified by the City) of these physical circumstances shall consider those costs necessary to make the building meet current minimum standards for manufacturing, wholesale trade or warehouse buildings; ~~and~~ or*

*3 . As a result of previous building activities there are hazardous materials that are required to be remediated and monitored which could not otherwise be fully characterized, remediated or monitored without demolition or the building(s), and*

*3.4. In the case of subdivisions D.2 or D.3, the Zoning Officer or Board must also find a*Appropriate mitigation has been made for loss of the manufacturing, warehousing or wholesale trade space in excess of 25% of that space through providing such space elsewhere in the City, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.

#### *West Berkeley Plan and General Plan Goals and Policies*

The proposed amendments are consistent with the following General Plan and West Berkeley Plan Goals and Policies:

- General Plan Policy LU33(1): Implement the West Berkeley Plan to maintain the full range of land uses and economic activities including residences, manufacturing, services, retailing, and other activities in West Berkeley.
- West Berkeley Plan Environmental Quality, Goal 1, Policy 1.2: Coordinate environmental regulation, both within the City of Berkeley, and with County, regional, state and Federal agencies, to avoid duplicative and unnecessary efforts by regulators and businesses, while meeting environmental standards.
- West Berkeley Plan Environmental Quality, Goal 4, Policy 4.1: Increase contaminated site cleanup efforts.
- West Berkeley Plan Economic Development, Goal 1, Policy B: Implement the measures in the Land Use Element of the Plan which will streamline the permit process for manufacturers (consistent with other Plan goals such as the maintenance of environmental standards) and explore additional methods for streamlining the process.
- West Berkeley Plan Economic Development Goal 1, Policy D: Continually assess the impact of policies in other areas—such as taxes, impact mitigations, transportation planning, environmental quality, and others to assess how these policies affect the goal of retaining and attracting manufacturing, and how the goals which these policies are intended to achieve can best be harmonized with the manufacturing retention goal.

#### *Landmarks Review and Preservation of Manufacturing and Other Protected Uses in MU-LI*

The proposed amendments preserve the existing requirement that any application for a Use Permit or AUP to demolish a non-residential building or structure which is 40 or more years old be forwarded to the Landmarks Preservation Commission (LPC) for review prior to consideration of the Use Permit or AUP.

The proposed amendments maintain existing the requirements for additional findings in the MU-LI district pertaining to changing, removing or demolishing material recovery enterprises,

manufacturing, wholesale trading and warehousing.<sup>2</sup> These include limitations on what subsequent uses would be permitted in spaces that are currently existing manufacturing, material recovery enterprise, wholesale trade and/or warehousing spaces; the MU-LI Use Limitations included in BMC 23E.80.060; and the requirement to provide for the replacement of any lost manufacturing, wholesale trade or warehousing space, or provide a payment into the West Berkeley Building Acquisition or other appropriate means. Similarly, the proposed amendments preserve the requirements to replace any demolished or changed Protected Uses<sup>3</sup> in comparable spaces within the Berkeley.

The intent of the proposed amendments is to facilitate toxic remediation consistent with West Berkeley Plan goals of retaining manufacturing uses and encouraging their operation without interference from other use types.

Staff has determined that the proposed amendments would facilitate the clean-up of hazardous materials conditions in the City of Berkeley and shorten the entitlement process for the redevelopment of eligible properties. Planning Commission is asked to review and discuss the proposed approach.

#### **NEXT STEPS**

Staff requests Planning Commission review the referral request and the proposed amendments to the Zoning Ordinance. If appropriate, Planning Commission is asked to provide feedback and direct staff to return to the October 2, 2019 Planning Commission meeting to hold a public hearing to amend the Zoning Ordinance, pursuant to BMC Chapter 23A.20.030.

#### **ATTACHMENTS**

1. Amend the Zoning Code to Facilitate Toxic Remediation in Manufacturing Districts Referral – May 1, 2012
2. Proposed Zoning Ordinance Language Revisions (Chapters 23C.08.050 and 23E.80.090)

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<sup>2</sup> BMC Section 23E.80.045 (Special Provisions: Changes of Use/Removal of Floor Area Used for Material Recovery Enterprise, Manufacturing, Wholesale Trade or Warehousing)

<sup>3</sup> BMC Section 23E.80.040A (Special Provision: Protected Uses) which include art/craft studios, art/craft galleries, child and family day care homes, fine arts performance, instruction and rehearsal studios, and theaters and stage performance uses.





CITY COUNCIL

**Darryl Moore**  
Councilmember District 2

CONSENT CALENDAR  
May 1, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Darryl Moore, District 2  
Councilmember Gordon Wozniak, District 8

Subject: Amend the Zoning Code to Facilitate Toxic Remediation in Manufacturing Districts

RECOMMENDATION

Refer to the Planning Commission recommendations for amending the zoning code in order to facilitate toxic remediation in manufacturing districts and to develop a streamlined process that would allow for one application process, rather than separate application processes for the City's Planning Department and the Toxics Division.

BACKGROUND

The current process for toxic remediation in manufacturing districts that require the removal of a building, whether or not it is currently in use, is quite involved and convoluted. There may be some amendments that can be made to the zoning code to make the process much more efficient.

Currently, the City of Berkeley Municipal Code Section 23C contains the following language

**23C.08.050 Demolitions of Buildings Used for Commercial, Manufacturing or Community, Institutional or Other Non-residential Uses**

- A. A main building used for non-residential purposes may be demolished subject to issuance of a Use Permit.
- B. A demolition of an accessory building containing less than 300 square feet of floor area is permitted as of right; an accessory building containing 300 square feet or more of floor area may be demolished subject to an AUP.
- C. Any application for a Use Permit or AUP to demolish a non-residential building or structure which is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review prior to consideration of the Use Permit or AUP. The LPC may initiate a landmark or structure-of-merit designation or may choose solely to forward to the Board its comments on the application. The Board shall consider the recommendations of the LPC in considering its action on the application.
- D. A Use Permit or an AUP for demolition of a non-residential building or structure may be approved only if the Board or Zoning Officer finds that the demolition will not be

Amend the Zoning Code to Facilitate Toxic Remediation in Manufacturing Districts

CONSENT CALENDAR  
May 1, 2012

materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and one of the following findings that the demolition:

1. Is required to allow a proposed new building or other proposed new Use;
2. Will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses;
3. Will remove a structure which represents an unabatable attractive nuisance to the public; or
4. Is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority. In such cases, it shall be demonstrated that it is infeasible to obtain prior or concurrent approval for the new construction or new use which is contemplated by such specific plans or projects and that adhering to such a requirement would threaten the viability of the plan or project. (Ord. 6478-NS § 4 (part), 1999)

This means that prior to any demolition, the project must be granted a Use Permit or an AUP, requiring findings, none of which include toxic remediation under a building.

Additionally, Chapter 23E.80.909 Paragraph D states that

- D. Except as permitted under 23E.80.045, subdivisions A.1 or A.2, in order to approve a Use Permit under Section 23E.80.045 to change the use of or remove more than 25% of the floor area of a building currently or most recently used for manufacturing, wholesale trade or warehousing, the Zoning Officer or Board must find:
1. Any necessary Use Permits that have been approved to provide comparable quality replacement manufacturing, wholesale trade and/or warehousing space in Berkeley at a comparable rent and that such replacement space will be available before the demolition or change of use of the space; or
  2. As a result of lawful business and building activities, there are exceptional physical circumstances (exclusive of the presence of hazardous materials in the building(s), soil or groundwater) found at the building not generally found in industrial buildings in the District which make it financially infeasible to reuse the building for any of the range of manufacturing, wholesale trade or warehouse uses permitted in the District. The analysis of the financial feasibility effects (which shall be verified by the City) of these physical circumstances shall consider those costs necessary to make the building meet current minimum standards for manufacturing, wholesale trade or warehouse buildings; and
  3. Appropriate mitigation has been made for loss of the manufacturing, warehousing or wholesale trade space in excess of 25% of that space through providing such space elsewhere in the City, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.

This requires findings that allow the removal of a building where there are “exceptional physical circumstances,” but is specifically exclusive of “presence of hazardous materials in the building(s), soil, or groundwater.”



Amend the Zoning Code to Facilitate Toxic Remediation in Manufacturing Districts

CONSENT CALENDAR  
May 1, 2012

In order to make the cleanup of a site with toxic soil, it is recommended that a provision number 5 be added to Chapter 23C.08.050 Paragraph D stating “It is required to allow the remediation of toxic soil in conformance with DTSC Clean-up Requirements and a City of Berkeley approved toxic clean-up and monitoring program.”

In addition, Chapter 23E.80.090 Findings should be amended to include a new finding number 4 stating that: “As a result of previous building activities there are hazardous materials that are required to be remediated and monitored which could not otherwise be fully characterized, remediated or monitored without demolition of the building(s)”

FISCAL IMPACTS OF RECOMMENDATION

Unknown

CONTACT PERSON

Councilmember Darryl Moore, District 2

981-7120

Councilmember Gordon Wozniak, District 8

981-7180



Chapter 23C.08  
Demolition and Dwelling Unit Controls

23C.08.050 Demolitions of Buildings Used for Commercial, Manufacturing or  
Community, Institutional or Other Non-residential Uses

A. A main building used for non-residential purposes may be demolished subject to  
issuance of a Use Permit.

B. A demolition of an accessory building containing less than 300 square feet of floor  
area is permitted as of right; an accessory building containing 300 square feet or more  
of floor area may be demolished subject to an AUP.

C. Any application for a Use Permit or AUP to demolish a non-residential building or  
structure which is 40 or more years old shall be forwarded to the Landmarks  
Preservation Commission (LPC) for review prior to consideration of the Use Permit or  
AUP. The LPC may initiate a landmark or structure-of-merit designation or may choose  
solely to forward to the Board its comments on the application. The Board shall consider  
the recommendations of the LPC in considering its action on the application.

D. A Use Permit or an AUP for demolition of a non-residential building or structure  
may be approved only if the Board or Zoning Officer finds that the demolition will not be  
materially detrimental to the commercial needs and public interest of any affected  
neighborhood or the City, and one of the following findings that the demolition:

1. Is required to allow a proposed new building or other proposed new Use;
2. Will remove a building which is unusable for activities which are compatible  
with the purposes of the District in which it is located or which is infeasible to  
modify for such uses;
3. Will remove a structure which represents an unabatable attractive nuisance to  
the public; ~~or~~
4. Is required for the furtherance of specific plans or projects sponsored by the  
City or other local district or authority. In such cases, it shall be demonstrated that

29 it is infeasible to obtain prior or concurrent approval for the new construction or  
30 new use which is contemplated by such specific plans or projects and that  
31 adhering to such a requirement would threaten the viability of the plan or project;  
32 or

33 5. Is required to allow the remediation of toxic soil in conformance with Department  
34 of Toxic Substance Control (DTSC) clean-up requirements and a City of Berkeley  
35 toxic clean-up and monitoring program.



37

38 **Chapter 23E.80**  
39 **MU-LI Mixed Use-Light Industrial District Provisions**

40 **23E.80.090 Findings**

41 A. In order to approve any Use Permit under this chapter the Zoning Officer or Board  
42 must make the finding required by Section [23B.32.040](#). The Zoning Officer or Board  
43 must also make the findings required by the following paragraphs of this section to the  
44 extent applicable:

45 B. A proposed use or structure must:

- 46 1. Be consistent with the purposes of the District;
- 47 2. Be compatible with the surrounding uses and buildings;
- 48 3. Be consistent with the adopted West Berkeley Plan;
- 49 4. Be unlikely, under reasonably foreseeable circumstances, to either induce a  
50 substantial change of use in buildings in the District from manufacturing, wholesale  
51 trade or warehousing uses;
- 52 5. Be designed in such a manner to be supportive of the light industrial character  
53 of the district. Such physical compatibility shall include materials used; facade  
54 treatments; landscaping; lighting; type, size and placement of awnings, windows  
55 and signs; and all other externally visible aspects of the design of the building and

56 site. If the building and/or site is split between the MU-LI District and the West  
57 Berkeley Commercial District that there are clear and appropriate distinctions in all  
58 design aspects between the portions of the building and site within the MU-LI  
59 District and the portions within the West Berkeley Commercial District;

60 6. Be able to meet any applicable performance standards as described in  
61 Section [23E.80.070](#).D.

62 C. In order to approve a Use Permit under Section [23E.80.040](#), the Zoning Officer or  
63 Board must find that the space formerly occupied by the protected use has been  
64 replaced with a comparable space in the West Berkeley Plan area, which is reserved for  
65 use by any protected use in the same category:

66 1. For purposes of this section, such replacement space shall not qualify for  
67 exemption under Section [23E.80.040](#).I or by reason of having been established  
68 after July 6, 1989;

69 2. In considering whether a project will be detrimental, consideration shall be  
70 limited to the potential detriment associated with the new use and dislocation of  
71 any specific previous occupant or use shall not be a basis for finding detriment.

72 D. Except as permitted under [23E.80.045](#), subdivisions A.1 or A.2, in order to approve  
73 a Use Permit under Section [23E.80.045](#) to change the use of or remove more than 25%  
74 of the floor area of a building currently or most recently used for manufacturing,  
75 wholesale trade or warehousing, the Zoning Officer or Board must find:

76 1. Any necessary Use Permits that have been approved to provide comparable  
77 quality replacement manufacturing, wholesale trade and/or warehousing space in  
78 Berkeley at a comparable rent and that such replacement space will be available  
79 before the demolition or change of use of the space; or

80 2. As a result of lawful business and building activities, there are exceptional  
81 physical circumstances ~~(exclusive of the presence of hazardous materials in the~~  
82 ~~building(s), soil or groundwater)~~ found at the building not generally found in  
83 industrial buildings in the District which make it financially infeasible to reuse the  
84 building for any of the range of manufacturing, wholesale trade or warehouse uses

85 permitted in the District. The analysis of the financial feasibility effects (which shall  
86 be verified by the City) of these physical circumstances shall consider those costs  
87 necessary to make the building meet current minimum standards for  
88 manufacturing, wholesale trade or warehouse buildings; ~~and or~~

89 3. As a result of previous building activities there are hazardous materials that are  
90 required to be remediated and monitored which could not otherwise be fully  
91 characterized, remediated or monitored without demolition or the building(s), and

92 3 4. In the case of subdivisions D.2 or D.3, the Zoning Officer or Board must also  
93 find aAppropriate mitigation has been made for loss of the manufacturing,  
94 warehousing or wholesale trade space in excess of 25% of that space through  
95 providing such space elsewhere in the City, payment into the West Berkeley  
96 Building Acquisition Fund, or by other appropriate means.

97 E. In order to approve a Use Permit for division of space under Section [23E.80.050.D](#),  
98 the Zoning Officer or Board must find that the conversion would not create or contribute  
99 to a shortage of industrial spaces in West Berkeley for spaces of the size being  
100 converted and either:

101 1. The conversion can be reasonably expected to better serve the purposes of  
102 the District than leaving the space intact; or

103 2. The conversion would create spaces which could cross-subsidize larger  
104 industrial spaces.

105 F. In order to approve a Permit to establish or expand a Food Service Establishment,  
106 the Zoning Officer or Board must find that the establishment of the food service use,  
107 given its size, location, physical appearance and other relevant characteristics, will not  
108 have a significant detrimental impact on the industrial character of the area. In order to  
109 approve an Administrative Use Permit for a Food Service Establishment less than 5,000  
110 square feet under Section [23E.80.030](#), the Zoning Officer must find that a substantial  
111 portion of the food consists of goods manufactured on site.

112 G. In order to approve a Use Permit to establish or modify a Live/Work Unit, the  
113 Zoning Officer or Board must make the findings required in Chapter [23E.20](#), as well as  
114 the following:

115 1. The applicants have made adequate provisions to insure that within the  
116 Live/Work Units, occupants of the Live/Work Units will only engage in the  
117 occupations listed in the definitions of Art/Craft Studios; and

118 2. Development of such Live/Work Units is not incompatible with adjacent and  
119 nearby industrial uses; and

120 3. The applicants have made adequate provisions to insure that occupant of  
121 each unit of the Live/Work space will be notified in writing that the unit is in the MU-  
122 LI District and that light manufacturing is the primary activity in the District,  
123 including a requirement that each occupant indicates that he or she has read and  
124 understood this information by means of a rider to a lease or a covenant to a deed,  
125 as appropriate.

126 H. In order to approve a Use Permit for the substitution of bicycle and/or motorcycle  
127 parking under Section [23E.80.080.E](#), the Zoning Officer or Board must find that the  
128 substitution will not lead to an undue shortage of automobile parking spaces and that it  
129 can be reasonably expected that there will be demand for the bicycle and/or motorcycle  
130 parking spaces.

131 I. In order to approve a Permit for the establishment or expansion of a child care  
132 center, or recreational or educational facility to be used by children, the Zoning Officer  
133 or Board must make all of the following findings:

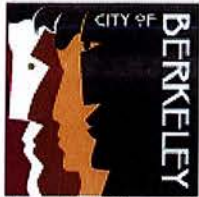
134 1. Development of the school, child care center, large family day care or  
135 recreational facility to be used by children is not, in the particular circumstances of  
136 the project, incompatible with adjacent and nearby uses, including industrial uses;

137 2. An appropriate risk analysis or risk assessment, as defined by the City, has  
138 been made and has shown that there is not significant risk to children in the use  
139 from other activities near the site;

140 3. The applicants have made adequate provisions to ensure that all parents of  
141 students or children in the school, child care center, large family day care or  
142 recreational facility to be used by children will be notified in writing (on a form  
143 approved by the City) that the school is in the West Berkeley Plan MU-LI District,  
144 and that light manufacturing is a permitted activity in the District and that Primary  
145 Production Manufacturing or Construction Products Manufacturing may be  
146 permitted uses in adjacent districts, including a requirement that each parent will  
147 indicate that they have read and understood this information by means of a written  
148 statement returned to the school or child care center and available for review.

149





Planning Commission

**FINAL MINUTES OF THE REGULAR PLANNING COMMISSION MEETING  
September 4, 2019**

The meeting was called to order at 7:07 p.m.

**Location:** South Berkeley Senior Center, Berkeley, CA

**1. ROLL CALL:**

**Commissioners Present:** Benjamin Beach, Mary Kay Lacey, Steve Martinot, Christine Schildt, Jeff Vincent, Brad Wiblin and Rob Wrenn.

**Commissioners Absent:** Benjamin Fong (absent) and Rob Kapla (leave of absence).

**Staff Present:** Secretary Alene Pearson, Katrina Lapira, Beth Greene, and Justin Horner.

**2. ORDER OF AGENDA:** No changes.

**3. PUBLIC COMMENT PERIOD:** No speakers.

**4. PLANNING STAFF REPORT:**

Staff provided the following updates on upcoming meetings and policy projects

- Sept 10 –City Council: Southside EIR contract to be presented
- Sept 16 –ZORP: Discussion of residential district chapters
- September 24- City Council: Planning Commission Workplan
- Sept 25- JSISHL: Objective standards- focus on density standards
- Student Housing: EIR to study modifications of development standards and Southside Car-free Overlay folded into Parking Reform
- Parking Reform: Parking study to begin in Sept/Oct to inform modifications to off-street parking requirements. TDM proposal will be shared with PC in Oct.
- Objective Standards: with JSISHL
- Affordable Housing: research and analysis of streamlining referrals and ground floor uses underway.

**Information Items:** None.

**Communication:**

- None.

**Late Communications** (Received after the Packet deadline):

- 2019-09-03 Pappas- Public Comment (Cannabis Delivery-Only)

**Late Communications** (Received and distributed at the meeting):

- 2019-09-04 Taplin- Public Comment (Cannabis Delivery-Only)

**5. CHAIR REPORT:** None.

**6. COMMITTEE REPORT:**

- Adeline Subcommittee: Recap of three previous meetings where the subcommittee reviewed chapters of the draft plan and provided feedback to planning staff. Planning staff is currently reviewing and responding to comments provided by the public on the Draft EIR. No Subcommittee meetings are currently scheduled for September.
- Joint Subcommittee for Implementation of State Housing Laws (JSISHL): Shall meet on September 25 to discuss density standards.
- Zoning Ordinance Revision Project (ZORP): Upcoming meeting on September 16
- PC's Cannabis Recommendations to Council: Commissioner Lacey will provide a letter to the City Council concerning the Planning Commission's recommendations on comprehensive cannabis made at the meeting on July 17, 2019. Deadline to submit letter is on October 11, 2019.

**7. APPROVAL OF MINUTES:**

Motion/Second/Carried (Martinot/Lacey) to approve the Planning Commission Meeting Minutes from July 17, 2019 with discussed amendments. Ayes: Beach, Lacey, Martinot, Schildt, and Wiblin. Noes: None. Abstain: Jeff Vincent, Rob Wrenn. Absent: Fong and Kapla. (5-0-2-2)

**FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** At the next meeting, October 2, 2019 the following items may be presented.

- Local Hazard Mitigation Plan Public Hearing
- Toxic Remediation Referral Public Hearing
- Ground floor referrals

**Events + More:**

- September 12, 2019 (6pm)- Urban Habitat's 30<sup>th</sup> Anniversary Celebration at the Oakland Museum
- Urban Habitat- Boards and Commissions Leadership Institute- application period through Sunday, October 20, 2019.
- Turner Center of Housing Innovation Paper- *Demystifying Development Math*

**AGENDA ITEMS**

**9. Action:** **Public Hearing: Zoning Ordinance Amendments for Cannabis Uses: Delivery-Only Retailers**

Planning Commission held a public hearing to discuss Zoning Ordinance amendments for cannabis delivery services. Planning Commission considered proposed amendments to establish new land use regulations for cannabis retail delivery services (Delivery-Only Retailers). Planning Commission also considered vertically integrated cannabis businesses

(Microbusinesses) that involve Delivery-Only Retail in their recommendation. The Commission discussed the presence of existing similar delivery-only services in Berkeley and the appropriate number, locations (within a building and allowable zoning districts), discretion and criteria for Delivery-Only Retailers.

**Public Comments: 5**

Motion/Second/Carried (Schildt/Wrenn) to recommend that the City Council adopt the staff proposed language, as amended, which includes the following provisions, in Section 23C.25.010 Cannabis Retail:

- Delivery-Only Retailers are subject to approval through the selection process set forth in Section 12.22.020.
- Delivery-Only Retailers are permitted with a Zoning Certificate in the M District and C-prefixed districts other than the C-N District.
- Delivery-Only Retailers may not be located within 300 feet of any School or City-operated community center or skate park.
- Delivery-Only Retailers may not be located on the street fronting portion of the ground floor in a C-prefixed district.
- Implement a city-wide quota of 10 Delivery-Only Retailers, where at least half are equity candidates.
- All delivery-only retailers shall be permitted with a Zoning Certificate in all allowable zoning districts.
- Delivery-Only Retailers in the M District shall be evaluated and regulated for Zoning purposes in the same way as Warehouse-Based Non-Store Retailers, and shall be subject to the same numeric and buffer requirements as Delivery-Only Retailers in C-prefixed districts.

Ayes: Beach, Lacey, Martinot, Schildt, and Wrenn. Noes: Vincent and Wiblin. Abstain: None. Absent: Fong and Kapla. (5-2-0-2)

Motion/Second/Carried (Beach /Wrenn) to close the public hearing at 9:32pm.  
Ayes: Beach, Lacey, Martinot, Schildt, Vincent, Wiblin, and Wrenn. Noes: None. Abstain: None. Absent: Fong and Kapla. (7-0-0-2)

**10. Action: Public Hearing: Tentative Tract Map #8790- 739 Channing Way**

Staff presented the Tentative Tract Map application of an entitled multi-unit development located at 739 Channing Way in the West Berkeley Plan Area. The Planning Commission opened the public hearing at 9:46pm. The Commission asked clarifying questions about the applicability of the Affordable Housing Mitigation Fee and the Inclusionary Housing Ordinance, and the general process associated with approving a Tentative Tract Map.

**Public Comments: 1**

Motion /Second/Carried (Schildt /Lacey) to approve Tentative Tract Map #8490 subject to Conditions, with an amendment to the Tentative Tract Map Finding 2A1 and a correction Finding 2E.



Ayes: Beach, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: Martinot. Abstain: None.  
Absent: Fong and Kapla. (6-1-0-2)

Motion/Second/Carried (Schildt/Beach) to close the public hearing at 10:19pm.  
Ayes: Beach, Lacey, Martinot, Schildt, Vincent, Wiblin, and Wrenn. Noes: Abstain: None.  
Absent: Fong and Kapla. (7-0-0-2)

**11. Discussion: Referral to Facilitate Toxic Remediation**

Staff shared the City Council referral made on May 1, 2012, recommending changes to the Zoning Ordinance to streamline the permitting process for the removal of buildings to remediate hazardous materials conditions. Staff presented their recommended code amendments and asked for additional feedback and direction. The Planning Commission discussed the history related to the referral, aspects of the proposed amendments, and questioned its importance in light of other referrals related to addressing the issue of housing.

**Public Comments: 3**

Motion/Second/Carried (Schlidt/Vincent) to direct staff to prepare a report to close-out the referral considering that the conditions in which the referral was made are no longer relevant.  
Ayes: Beach, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: Martinot. Abstain: None.  
Absent: Fong and Kapla. (6-1-0-2)

**The meeting was adjourned at 11:08pm**  
**Commissioners in attendance: 7 of 9**  
**Members in the public in attendance: 6**  
**Public Speakers: 6 speakers**  
**Length of the meeting: 3 hours and 59 minutes**

Alene Pearson  
Planning Commission Secretary

10/4/19

Date



## Kriss Worthington

Councilmember, City of Berkeley, District 7  
 2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704  
 PHONE 510-981-7170, FAX 510-981-7177, EMAIL  
 kworthington@ci.berkeley.ca.us

### ACTION CALENDAR

January 19, 2016

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

Subject: City Manager Referral: Streamline the Permit Process for Housing  
 Projects with a Majority or More Affordable Units

#### RECOMMENDATION

Refer to City Manager to create an ordinance that will streamline the permit process for housing projects with a majority or more affordable units if it includes at least 20 percent of units at 50% AMI, after consideration of Austin and Santa Fe policies and policies proposed in San Francisco

#### BACKGROUND

Berkeley is at a crossroads. Housing costs are at an all-time high and the displacement of communities of color continues at an alarming rate.

The City must utilize all of its tools to cut red tape and facilitate the development of desperately needed affordable housing units for low-income and middle-class families. A very important and simple tool that Council can use is to create an ordinance to simplify the establishment process of housing projects with a majority or more affordable units. This simple action would reduce the administrative burden on developers seeking to build affordable housing in Berkeley. San Francisco recently introduced a similar proposal.

Austin, Texas has streamlined through a Safe, Mixed Income, Affordable, Reasonably priced, and Transit Oriented policy. Santa Fe has accelerated the permit process for projects that include at least 25 percent affordable housing. San Francisco Supervisor s are considering legislation for certain affordable housing projects to not require conditional use permits. This proposal is intended to reduce the amount of time and money spent on acquiring various conditional use authorizations in San Francisco. The San Francisco Ordinance would amend the Planning Code to permit affordable housing as a principal use in the public zoning district and not requiring a conditional use permit for affordable housing in other zoning districts, except in RH (Residential, House) zoning districts and on designated public open space or property under the jurisdiction of the Recreation and Park Department. For more information:

<http://tinyurl.com/ReduceRedTape>

FINANCIAL IMPLICATIONS:

Minimal.

ENVIRONMENTAL SUSTAINABILITY:

Consistent with Berkeley's Environmental Sustainability Goals and no negative impact.

CONTACT PERSON:

Councilmember Kriss Worthington      510-981-7170



Lori Droste  
Berkeley City Council, District 8

### ACTION CALENDAR

November 28, 2017

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste, Councilmember Ben Bartlett, Mayor Jesse Arreguin and Councilmember Kriss Worthington  
Subject: Ministerial Approval of Zoning-Compliant Affordable Housing

### RECOMMENDATION

Refer to the Planning Commission and City Manager to amend the zoning ordinance by July of 2018 to allow ministerial zoning approval of:

- Housing projects that receive Housing Trust Fund monies and/or
- Housing projects that have more than 50% below market rate (BMR) units with 20% of the BMR units designated for those earning up to 50% AMI (extremely low and very low income earners).

Design review will be conducted by staff for the aforementioned projects.

### FINANCIAL IMPLICATIONS

Staff time and the potential costs associated with any necessary consultants.

### BACKGROUND

Berkeley City Council has repeatedly emphasized the need for affordable housing. Many important initiatives have passed many items to address the obstacles embedded in the development review *process*.<sup>1</sup> However, none of the previous proposals explicitly mandate

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<sup>1</sup> Droste 10/27/15 “Green Affordable Housing Package–Policy #2”, Worthington 1/19/16 “Streamline the Permit Process for Housing Projects with a Majority or More Affordable Units, Hahn, Davila, Bartlett and Harrison 9/12/17 “Expedited Review for Affordable Housing.” (Partial list of legislation).

ministerial approval of affordable housing, which would have the biggest impact on streamlining the lengthy entitlement process for affordable housing.

If Council approves this recommendation, it will be easier and faster to create affordable housing in Berkeley since the project review process can take significant time. Like most cities across California, Berkeley struggles to create enough below market rate units. In particular, the City has not produced its fair share of the goals set by the Association of Bay Area Government's Regional Housing Needs Allocation for below market units ([City of Berkeley's Biannual Housing Pipeline Report](#), 2017). The City of Berkeley has met 0% of its goals for extremely low income (0-30% AMI) and moderate income (81%-120% AMI) housing. Berkeley has only met 34% of its regional obligation for very low income housing (31-50% AMI) and 15% of its low-income housing goals (51% AMI to 80% AMI). The City of Berkeley needs to make it much easier to create those units. Although many factors influence the construction of affordable housing, easing the discretionary review process for affordable housing is the strongest act a local municipality can take to help facilitate the creation of affordable housing.

According to the nonpartisan Legislative Analyst's Office, "researchers have linked additional review time to higher housing costs. A study of jurisdictions in the Bay Area found that each layer of independent review was associated with a 4% increase in a jurisdiction's home prices ([California's High Housing Costs: Causes and Consequences, 2015](#))." Excessive regulation also lowers the elasticity of new housing supply by increasing delays in the permit process (Paciorek, 2013). UC Berkeley Professor Enrico Moretti also has [written extensively](#) about how burdensome land use regulations contribute to high housing costs and worsening environmental conditions ([Hsieh and Moretti, 2015](#)). Rising rents are the [main culprit](#) in the Bay Area's exploding homeless population. Reducing barriers to construction can have large effects on homelessness ([PPIC, 2001](#)). President Barack Obama's own [Housing Development Toolkit](#) advocates for significantly more ministerial approval processes to address housing affordability throughout the United States (2016).

This particular type of streamlining is neither new nor out of the ordinary. In 1969, the State of Massachusetts passed "[The Massachusetts Comprehensive Permit Act](#)," which streamlined the affordable housing entitlement process significantly. Consequently, the majority of municipalities in Massachusetts have created affordable housing in their communities.

### **ENVIRONMENTAL SUSTAINABILITY**

This recommendation is consistent with Berkeley's environmental sustainability goals. Transportation emissions are the predominant source of California's greenhouse gas emissions. By building affordable housing in areas well-served by transit, the City of Berkeley can positively impact the environment by reducing commute times and disincentivizing urban sprawl.

### **CONTACT PERSON**

Councilmember Lori Droste  
Council District 8 (510) 981-7180





Lori Droste  
Berkeley City Council, District 8

**ACTION CALENDAR**  
November 28, 2017

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste, [Councilmember Ben Bartlett](#), [Mayor Jesse Arreguin](#), and [Councilmember Kriss Worthington](#)  
Subject: Ministerial Approval of Zoning-Compliant Affordable Housing

**RECOMMENDATION**

Refer to the [Planning Commission and](#) City Manager to amend the zoning ordinance [by July of 2018](#) to allow ministerial zoning approval of: ~~zoning-compliant-affordable~~

- [Housing projects that receive Housing Trust Fund monies and/or](#)
- [Housing projects that have more than 50% below market rate \(BMR\) units with 20% of the BMR units designated for those earning up to 50% AMI \(extremely low and very low income earners\).](#)

with

~~Design review will be conducted by staff for the aforementioned projects. “Affordable housing” should be defined as a project provided by one of the region’s nonprofit affordable housing developers (SAHA, Bridge, RCD, etc.).~~

**FINANCIAL IMPLICATIONS**

Staff time and the potential costs associated with any necessary consultants.

**BACKGROUND**

[Berkeley City Council has repeatedly emphasized the need for affordable housing. Many important initiatives have passed many items to address the obstacles embedded in the development review process.<sup>2</sup> However, none of the previous proposals explicitly mandate ministerial approval of affordable housing, which would have the biggest impact on streamlining the lengthy entitlement process for affordable housing.](#)

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<sup>2</sup> Droste 10/27/15 “Green Affordable Housing Package–Policy #2”, Worthington 1/19/16 “Streamline the Permit Process for Housing Projects with a Majority or More Affordable Units, Hahn, Davila, Bartlett and Harrison 9/12/17 “Expedited Review for Affordable Housing.” (Partial list of legislation).

If Council approves this recommendation, it will be easier and faster to create affordable housing in Berkeley since the project review process can take significant time. Like most cities across California, Berkeley struggles to create enough below market rate units. In particular, the City has not produced its fair share of the goals set by the Association of Bay Area Government's Regional Housing Needs Allocation for below market units ([City of Berkeley's Biannual Housing Pipeline Report](#), 2017). The City of Berkeley has met 0% of its goals for extremely low income (0-30% AMI) and moderate income (81%-120% AMI) housing. Berkeley has only met 34% of its regional obligation for very low income housing (31-50% AMI) and 15% of its low-income housing goals (51% AMI to 80% AMI). The City of Berkeley needs to make it much easier to create those units. Although many factors influence the construction of affordable housing, easing the discretionary review process for affordable housing is the strongest act a local municipality can take to help facilitate the creation of affordable housing.

According to the nonpartisan Legislative Analyst's Office, "researchers have linked additional review time to higher housing costs. A study of jurisdictions in the Bay Area found that each layer of independent review was associated with a 4% increase in a jurisdiction's home prices ([California's High Housing Costs: Causes and Consequences, 2015](#))." Excessive regulation also lowers the elasticity of new housing supply by increasing delays in the permit process (Paciorek, 2013). UC Berkeley Professor Enrico Moretti also has [written extensively](#) about how burdensome land use regulations contribute to high housing costs and worsening environmental conditions ([Hsieh and Moretti, 2015](#)). Rising rents are the [main culprit](#) in the Bay Area's exploding homeless population. Reducing barriers to construction can have large effects on homelessness ([PPIC, 2001](#)). President Barack Obama's own [Housing Development Toolkit](#) advocates for significantly more ministerial approval processes to address housing affordability throughout the United States (2016).

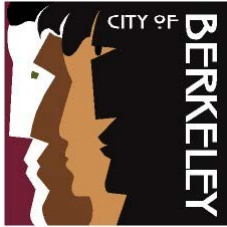
This particular type of streamlining is neither new nor out of the ordinary. In 1969, the State of Massachusetts passed "[The Massachusetts Comprehensive Permit Act](#)," which streamlined the affordable housing entitlement process significantly. Consequently, the majority of municipalities in Massachusetts have created affordable housing in their communities.

### **ENVIRONMENTAL SUSTAINABILITY**

This recommendation is consistent with Berkeley's environmental sustainability goals. Transportation emissions are the predominant source of California's greenhouse gas emissions. By building affordable housing in areas well-served by transit, the City of Berkeley can positively impact the environment by reducing commute times and disincentivizing urban sprawl.

### **CONTACT PERSON**

Councilmember Lori Droste  
Council District 8 (510) 981-7180



Kate Harrison  
Councilmember District 4

## REVISED AGENDA MATERIAL

**Meeting Date:** November 28, 2017

**Item Number:** 26

**Item Description:** Ministerial Approval of Zoning-Compliant Affordable Housing

**Submitted by:** Councilmembers Kate Harrison and Sophie Hahn

Additions submitted as friendly amendments to clarify the many barriers addressed by the package of State Legislature housing bills passed in 2017. We are referring to staff to evaluate the impact of these housing related bills on the City's zoning and permitting process and ways to expedite that process.



Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
November 28, 2017

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Lori Droste and Ben Bartlett  
Subject: Ministerial Approval of Zoning-Compliant Affordable Housing

### RECOMMENDATION

Refer to the City Manager to analyze changes to state housing provisions in the 2017 California Legislative Session for their impact on the City's practices for planning and approving affordable housing, and recommend possible amendments-changes, if any, to the zoning ordinance or permitting process to ensure compliance with state law and allow ministerial support expedited approval of zoning-compliant affordable housing with design review conducted by staff, consistent with these new laws. "Affordable housing" should be defined as a project receiving Affordable Housing Trust Fund Money, providing housing affordable to households at below 60% Area Median Income, such as that provided by one of the region's nonprofit affordable housing developers (SAHA, Bridge, RCD, etc.).

### FINANCIAL IMPLICATIONS

Staff time and the potential costs associated with any necessary consultants.

### BACKGROUND

It is incumbent on the City to make it~~If Council approves this recommendation, it will be easier and faster to create-build~~ affordable housing in Berkeley. ~~since the project review process can take significant time.~~ The project review process imposes a significant burden on applicants, both in terms of time taken and financial cost, and is a major barrier to the construction of affordable housing. Like most cities across California, Berkeley struggles to create enough below market rate units. In particular, the City has not produced its fair share of the goals set by the Association of Bay Area Government's Regional Housing Needs Allocation (RHNA) for below market units. This is borne out by the results of the Bi-Annual Housing Pipeline Report, which is also before this Council. It shows that while the City has already met over 90% of its Above Market Rate Housing need as set forth in the City's by the Association of Bay Area Governments in our Regional Housing Needs Allocation (RHNA) goals, it is falling behind in terms of Below Market Rate Units. The City of Berkeley needs to make it much easier to create those units.

A package of 15 housing related bills that passed in the 2017 Session of the State Legislature may have significant impact on the City's process for planning and

approving housing projects. A summary analysis by the independent legal firm Goldfarb and Lipman, Attorneys (Attachment 1) indicates that the package may, among other impacts, shorten the timeline for project approval to 90 days, require that all development standards be objective, create a process for zoning by right for some developments, change the standard of evidence for rejecting a proposed development, eliminate parking requirements for affordable developments, and increase the City's housing development reporting requirement to the State.

These new State laws could result in a massive shift to what is required of the City in the sphere of housing planning and development. This item asks the City Manager to analyze these changes to determine their precise impact on the city of Berkeley and, based on the findings of such an analysis, make recommendations to the Council of possible changes to the City's affordable housing approval process to 1) ensure compliance with new State requirements and 2) reduce administrative barriers to the construction of Below Market Rate Housing.

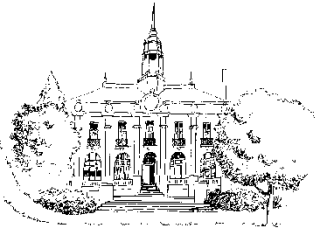
According to the nonpartisan Legislative Analyst's Office, "researchers have linked additional review time to higher housing costs. A study of jurisdictions in the Bay Area found that each layer of independent review was associated with a 4% increase in a jurisdiction's home prices ([California's High Housing Costs: Causes and Consequences, 2015](#))." Excessive regulation also lowers the elasticity of new housing supply by increasing delays in the permit process (Paciorek, 2013). UC Berkeley Professor Enrico Moretti also has [written extensively](#) about how burdensome land use regulations contribute to high housing costs and worsening environmental conditions. Rising rents are the [main culprit](#) in the Bay Area's exploding homeless population. Reducing barriers to construction can have large effects on homelessness ([PPIC, 2001](#)).

#### ENVIRONMENTAL SUSTAINABILITY

This recommendation is consistent with Berkeley's environmental sustainability goals. Transportation emissions are the predominant source of California's greenhouse gas emissions. By building affordable housing in areas well-served by transit, the City of Berkeley can positively impact the environment by reducing commute times and disincentivizing urban sprawl.

#### CONTACT PERSON

Councilmember Lori Droste, Council District 8, (510) 981-7180



## Kriss Worthington

Councilmember, City of Berkeley, District 7  
2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704  
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kworthington@cityofberkeley.info

**AMENDMENT**  
**ACTION CALENDAR**  
November 28, 2017

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

Subject: Amendment to Add Prior Council Referral to “Ministerial Approval of Zoning-Compliant Affordable Housing” Council Item

### RECOMMENDATION:

To once again refer the prior referral from 2016 as an amendment to the “Ministerial Approval of Zoning-Compliant Affordable Housing” Council Item by Councilmember Droste to facilitate a larger number of affordable units moving forward. This Council Item was passed on January 19, 2016 and was referred to the City Manager. This is meant to be an addition to this item, not replace it.

This item would allow a larger number of affordable units to move forward more expeditiously, and we are proposing that both of these move forward together.

### BACKGROUND:

See attached.

FINANCIAL IMPLICATIONS: Minimal.

### ENVIRONMENTAL SUSTAINABILITY:

Consistent with Berkeley’s Environmental Sustainability Goals and no negative impact.

### CONTACT PERSON:

Councilmember Kriss Worthington 510-981-7170



## Kriss Worthington

Councilmember, City of Berkeley, District 7  
2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704  
PHONE 510-981-7170, FAX 510-981-7177, EMAIL  
kworthington@ci.berkeley.ca.us

### ACTION CALENDAR

January 19, 2016

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington  
Subject: City Manager Referral: Streamline the Permit Process for Housing  
Projects with a Majority or More Affordable Units

#### RECOMMENDATION

Refer to City Manager to create an ordinance that will streamline the permit process for housing projects with a majority or more affordable units if it includes at least 20 percent of units at 50% AMI, after consideration of Austin and Santa Fe policies and policies proposed in San Francisco

#### BACKGROUND

Berkeley is at a crossroads. Housing costs are at an all-time high and the displacement of communities of color continues at an alarming rate.

The City must utilize all of its tools to cut red tape and facilitate the development of desperately needed affordable housing units for low-income and middle-class families. A very important and simple tool that Council can use is to create an ordinance to simplify the establishment process of housing projects with a majority or more affordable units. This simple action would reduce the administrative burden on developers seeking to build affordable housing in Berkeley. San Francisco recently introduced a similar proposal.

Austin, Texas has streamlined through a Safe, Mixed Income, Affordable, Reasonably priced, and Transit Oriented policy. Santa Fe has accelerated the permit process for projects that include at least 25 percent affordable housing. San Francisco Supervisors are considering legislation for certain affordable housing projects to not require conditional use permits. This proposal is intended to reduce the amount of time and money spent on acquiring various conditional use authorizations in San Francisco. The San Francisco Ordinance would amend the Planning Code to permit affordable housing as a principal use in the public zoning district and not requiring a conditional use permit for affordable housing in other zoning districts, except in RH (Residential, House) zoning districts and on designated public open space or property under the jurisdiction of the Recreation and Park Department. For more information:

<http://tinyurl.com/ReduceRedTape>

#### FINANCIAL IMPLICATIONS:

Minimal.

ENVIRONMENTAL SUSTAINABILITY:

Consistent with Berkeley's Environmental Sustainability Goals and no negative impact.

CONTACT PERSON:

Councilmember Kriss Worthington      510-981-7170





Lori Droste  
Berkeley City Council, District 8

ACTION CALENDAR

December 5, 2017

*(Continued from November 28, 2017)*

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Lori Droste and Ben Bartlett  
Subject: Ministerial Approval of Zoning-Compliant Affordable Housing

RECOMMENDATION

Refer to the City Manager to amend the zoning ordinance to allow ministerial approval of zoning-compliant affordable housing with design review conducted by staff. “Affordable housing” should be defined as a project provided by one of the region’s nonprofit affordable housing developers (SAHA, Bridge, RCD, etc.).

FINANCIAL IMPLICATIONS

Staff time and the potential costs associated with any necessary consultants.

BACKGROUND

If Council approves this recommendation, it will be easier and faster to create affordable housing in Berkeley since the project review process can take significant time. Like most cities across California, Berkeley struggles to create enough below market rate units. In particular, the City has not produced its fair share of the goals set by the Association of Bay Area Government’s Regional Housing Needs Allocation for below market units. The City of Berkeley needs to make it much easier to create those units.

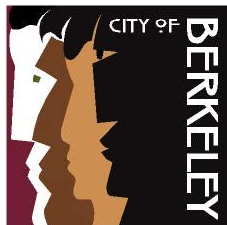
According to the nonpartisan Legislative Analyst’s Office, “researchers have linked additional review time to higher housing costs. A study of jurisdictions in the Bay Area found that each layer of independent review was associated with a 4% increase in a jurisdiction’s home prices ([California’s High Housing Costs: Causes and Consequences, 2015](#)).” Excessive regulation also lowers the elasticity of new housing supply by increasing delays in the permit process (Paciorek, 2013). UC Berkeley Professor Enrico Moretti also has [written extensively](#) about how burdensome land use regulations contribute to high housing costs and worsening environmental conditions. Rising rents are the [main culprit](#) in the Bay Area’s exploding homeless population. Reducing barriers to construction can have large effects on homelessness ([PPIC, 2001](#)).

ENVIRONMENTAL SUSTAINABILITY

This recommendation is consistent with Berkeley's environmental sustainability goals. Transportation emissions are the predominant source of California's greenhouse gas emissions. By building affordable housing in areas well-served by transit, the City of Berkeley can positively impact the environment by reducing commute times and disincentivizing urban sprawl.

CONTACT PERSON

Councilmember Lori Droste, Council District 8, (510) 981-7180



Sophie Hahn  
Councilmember District 5

## REVISED AGENDA MATERIAL

**Meeting Date:** July 25, 2017

**Item Number:** 41

**Item Description:** Referral to the Housing Advisory Commission Consideration of an Ordinance to Establish a Waiver of Administrative and Permit Fees for Certain Affordable Housing Projects

**Submitted by:** Councilmember Sophie Hahn

Adding Mayor Arreguín as a co-sponsor. Changes recommendation from referral to HAC to direction to City Manager, adds direction to the City Manager to send a letter to BUSD, further clarifies background section, and removes original attachments.

**SOPHIE HAHN**

Berkeley City Council, District 5  
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Berkeley, CA 94704  
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Email: [shahn@cityofberkeley.info](mailto:shahn@cityofberkeley.info)

**Item 41**  
Supplemental 2

CONSENT CALENDAR  
July 25, 2017

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Sophie Hahn, Kate Harrison and Mayor Jesse Arreguín  
Subject: Direct the City Manager to draft an ordinance to waive certain fees for Berkeley Housing Trust Fund projects and send a letter to BUSD Board of Education requesting consideration of a waiver of School Facility Fees for Berkeley Housing Trust Fund Projects.

RECOMMENDATION

1. Direct the City Manager to draft an ordinance establishing automatic waiver of certain administrative, permit, impact and other fees for projects receiving City of Berkeley Housing Trust Fund (HTF) monies and submit a draft within 90 days for Council approval.

Fee waivers shall apply to all HTF projects that have not yet been issued a building permit, and should include, but not be limited to:

- a. Waiver of internal, staff-time-related permit, inspection, and other fees;
- b. Waiver of mitigation, impact, and in-lieu fees.
- c. Notwithstanding the above, fees to cover City “out of pocket” costs, fees passed-through to other agencies, and fees necessitated by CEQA should not be waived.

2. Direct the City Manager to send a letter to the BUSD Board of Education requesting consideration of an automatic waiver of BUSD School Facility Fees for projects receiving City of Berkeley Housing Trust Funds.

FINANCIAL IMPLICATIONS

Staff time to draft ordinance and policies. In the future, possible optimization of the impact of Berkeley Affordable Housing Trust funds, ensuring they are used to support housing rather than administrative costs, and reduction in development-related administrative fees received by the City. (Note: It is expected that no more than 1-2 projects qualifying for automatic waivers will seek permits in any given 5 year period.)

## BACKGROUND

The City of Berkeley has established a Housing Trust Fund (HTF) to support the creation of affordable housing in Berkeley. This fund is a critical tool to increase Berkeley's affordable housing stock. When HTF funds are granted to qualifying projects, the City should ensure that the applicant is able to maximize the impact of these monies for the project itself.

A variety of fees are levied on development projects. Some cover the City's own internal processing costs, while others are collected to cover costs for outside consultants or passed on to other agencies. Impact, mitigation, and in-lieu fees are also assessed to compensate for impacts or for deviations from building standards. Fees also can operate as mitigations for environmental impacts and can be implicated in CEQA.

Permit and administrative fee waivers or deferrals are already allowed on a case by case basis for a variety of fees. For example, BMC Chapter 19.62 allows the City Manager to waive permit fees for housing projects in which at least 25% of its units are low and/or moderate income housing. Permit Fees are defined as "any fee charged by the City of Berkeley for any permit in connection with residential construction and any associated demolition" BMC § 19.62.020.G. Fees for permit applications or inspection for seismic retrofit work for eligible structures and buildings are also waived BMC § 19.66.030.

The process for obtaining these waivers is complex. BMC 23B.24.040 requires applicants to "file with the Director of Planning and Development a written request for a fee waiver or deferral which sets forth the reasons why such a waiver or deferral is necessary, prior to the acceptance of an application by the Zoning Officer". The waiver request is then reviewed by the City Manager, and granted at the City Manager's discretion. As a final step, the waiver is submitted to Council for review. Yet another section of the code waives affordable housing and childcare fees if a development meets certain qualifying criteria (BMC § 22.20), but does not waive SOSIP, in-lieu or other fees.

Given this incomplete patchwork of fee waiver provisions, each with its own process, obtaining waivers is a complicated and time-consuming process. Some waivers are granted statutorily, while others can only be granted upon request, and entail multi-tiered review. This item is intended to clarify fee waivers for projects receiving Berkeley HTF monies by granting automatic waivers of administrative, permit, impact and other fees across all City of Berkeley departments, and to collect in a single ordinance the fees that will be automatically waived. Fees to cover "out-of-pocket" costs such as costs

for outside consultants, other agency-mandated fees and fees necessitated by CEQA would not be waived.

Berkeley Unified School District (BUSD) also recently implemented the assessment of a School Facility Fee on new residential, commercial and industrial development, which took effect June 8, 2017. This item directs the City Manager to write a letter to the BUSD Board of Education requesting consideration of a waiver of the School Facility Fee for developments receiving Berkeley HTF monies, to match the City's action and to further reduce costs for the production of affordable housing in Berkeley.

ENVIRONMENTAL SUSTAINABILITY

This recommendation is consistent with Berkeley's environmental sustainability goals.

CONTACT PERSON

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

Berkeley City Council, District 5  
2180 Milvia Street, 5th Floor  
Berkeley, CA 94704  
Phone: (510) 981-7150  
Email: [shahn@cityofberkeley.info](mailto:shahn@cityofberkeley.info)

**Item 41**  
Supplemental 2

CONSENT CALENDAR

July 11 July 25, 2017

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Sophie Hahn, Kate Harrison and Mayor Jesse Arreguin  
Subject: Direct the City Manager to draft an ordinance to waive certain fees for Berkeley Housing Trust Fund projects and send a letter to BUSD Board of Education requesting consideration of a waiver of School Facility Fees for Berkeley Housing Trust Fund Projects.  
~~Referral to the Housing Advisory Commission consideration of an ordinance to establish a waiver of administrative and permit fees for certain affordable housing projects~~

RECOMMENDATION

1. Direct the City Manager to draft an ordinance establishing automatic waiver of certain administrative, permit, impact and other fees for projects receiving City of Berkeley Housing Trust Fund (HTF) monies and submit a draft within 90 days for Council approval.

Fee waivers shall apply to all HTF projects that have not yet been issued a building permit, and should include, but not be limited to:

- a. Waiver of internal, staff-time-related permit, inspection, and other fees;
- b. Waiver of mitigation, impact, and in-lieu fees.
- c. Notwithstanding the above, fees to cover City “out of pocket” costs, fees passed-through to other agencies, and fees necessitated by CEQA should not be waived.

2. Direct the City Manager to send a letter to the BUSD Board of Education requesting consideration of an automatic waiver of BUSD School Facility Fees for projects receiving City of Berkeley Housing Trust Funds.

~~Refer to the Housing Advisory Commission and City Manager the creation of an ordinance to establish an automatic waiver of administrative and permit fees for certain affordable housing projects, in particular those projects qualifying for Housing Trust Fund or other Berkeley affordable housing monies. A proposed ordinance is attached for consideration as one possible model.~~

FINANCIAL IMPLICATIONS

Staff time to ~~review-draft~~ ordinance and policies. In the future, possible optimization of the impact of Berkeley ~~a~~Affordable ~~h~~Housing ~~Trust~~ funds, ensuring they are used to support housing rather than administrative costs, and reduction in development-related administrative fees received by the City ~~for permitting and development of housing~~. (Note: It is expected that no more than 1-2 projects qualifying for automatic waivers will seek permits in any given 5 year period.)

BACKGROUND

The City of Berkeley has established a Housing Trust Fund (HTF) to support the creation of affordable housing in Berkeley. This fund is a critical tool to increase Berkeley’s affordable housing stock. ~~In addition, other Berkeley affordable housing funds may be available to support affordable housing projects.~~ When City of Berkeley HTF funds are granted to qualifying projects, the City should ensure that the applicant is able to maximize the impact of these public funds monies for the project itself ~~rather than for payment of the City’s development-related administrative fees~~.

A variety of fees are levied on development projects. Some cover the City’s own internal processing costs, while others are collected to cover costs for outside consultants or passed on to other agencies. Impact, mitigation, and in-lieu fees are also assessed to compensate for impacts or for deviations from building standards. Fees also can operate as mitigations for environmental impacts and can be implicated in CEQA.

Permit and administrative fee waivers or deferrals are already allowed on a case by case basis for a variety of fees. For example, BMC Chapter 19.62 allows the City Manager to waive permit fees for housing projects in which at least 25% of its units are low and/or moderate income housing. Permit Fees are defined as “any fee charged by the City of Berkeley for any permit in connection with residential construction and any associated demolition” BMC § 19.62.020.G. Fees for permit applications or inspection for seismic retrofit work for eligible structures and buildings are also waived BMC § 19.66.030.

The process for obtaining these waivers is complex. BMC 23B.24.040 requires applicants to “file with the Director of Planning and Development a written request for a fee waiver or deferral which sets forth the reasons why such a waiver or deferral is necessary, prior to the acceptance of an application by the Zoning Officer”. The waiver request is then reviewed by the City Manager, and granted at the City Manager’s discretion. As a final step, the waiver is submitted to Council for review. Yet another section of the code waives affordable housing and childcare fees if a development



meets certain qualifying criteria (BMC § 22.20), but does not waive SOSIP, in-lieu or other fees.

Given this incomplete patchwork of fee waiver provisions, each with its own process, obtaining waivers is a complicated and time-consuming process. Some waivers are granted statutorily, while others can only be granted upon request, and entail multi-tiered review. This item is intended to clarify fee waivers for projects receiving Berkeley HTF monies by granting automatic waivers of administrative, permit, impact and other fees across all City of Berkeley departments, and to collect in a single ordinance the fees that will be automatically waived. Fees to cover “out-of-pocket” costs such as costs for outside consultants, other agency-mandated fees and fees necessitated by CEQA would not be waived.

Berkeley Unified School District (BUSD) also recently implemented the assessment of a School Facility Fee on new residential, commercial and industrial development, which took effect June 8, 2017. This item directs the City Manager to write a letter to the BUSD Board of Education requesting consideration of a waiver of the School Facility Fee for developments receiving Berkeley HTF monies, to match the City’s action and to further reduce costs for the production of affordable housing in Berkeley.

~~Permit fee waivers or deferrals are already permitted under BMC Chapter 23B.24.040 on a case by case basis, and require a time-consuming process. Affordable housing developers putting together financing for their projects do not know from the outset whether or not waivers will be granted, and are unable to reflect the potentially reduced costs in their plans.~~

Chapter 23B.24.040 states:

~~*“The City Manager may waive or defer the payment of Permit fees, if he or she finds that the project will provide a significant public service or benefit, and that the waiver or deferral is necessary to make the project economically feasible to construct or establish. The City Manager shall also notify the Council of any request for fee waiver. The Council may review and may grant, wholly or in part, or deny such request for a fee waiver.”*~~

~~The process to obtain permit fee waivers requires applicants to submit a written request to the Director of Planning and Development, which is then sent to the City Manager for consideration. The City Manager must make two determinations about the project:~~

~~(1) whether it provides a significant public service or benefit, and~~

~~(2) whether the waiver is economically necessary to complete the project.~~

~~The City Manager next is required to notify the City Council of any project receiving a waiver of fees, and the Council has the authority to review, grant, modify, or deny the waiver. Finally, the City Manager must send a letter authorizing the waiver to the Planning Department. All of these steps must occur before a development application can be deemed complete. This complex process has the potential to significantly delay a project's application and creates uncertainty at the project planning stage.~~

~~A number of cities offer fee waivers and deferments to affordable housing projects. Austin, TX waives all fees, including impact fees and administrative fees, if the development is safe, mixed-income, accessible, reasonably priced, transit-oriented, and compliant with the City's Green Building Standards.<sup>1</sup>~~

~~Puyallup, WA offers a waiver of building and construction permit fees if the residential structure is intended for low-income families, the construction of the structure involves some volunteer labor, or the structure is being constructed by an organization classified as a nonprofit organization by the Internal Revenue Service.<sup>23</sup>~~

~~It would be optimal to automatically waive permit fees for projects receiving Berkeley affordable housing funds, to expedite the completion of affordable projects and reduce the amount of affordable housing monies spent on the City's own administrative fees.~~

~~Affordable housing built in Berkeley provides a significant public benefit to the community. A permit fee waiver is likely to help with the economic feasibility. Finally, applicants receiving affordable housing funds from the City of Berkeley will be able to make full use of these monies for the intended housing.~~

## ENVIRONMENTAL SUSTAINABILITY

This recommendation is consistent with Berkeley's environmental sustainability goals.

## CONTACT PERSON

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

## ATTACHMENTS

DRAFT Ordinance amending BMC 23B.24.040

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<sup>1</sup> <http://www.austintexas.gov/edims/document.cfm?id=111622>

<sup>2</sup> <http://mrsc.org/Home/Explore-Topics/Planning/Specific-Planning-Subjects,-Plan-Elements/Affordable-Housing-Ordinances-Flexible-Provisions.aspx>

<sup>3</sup> <http://www.codepublishing.com/WA/Puyallup/html/Puyallup17/Puyallup1704.html#17.04.080>



ORDINANCE NO. #,### N.S.

~~ESTABLISHING A WAIVER OF PERMIT FEES FOR CERTAIN AFFORDABLE HOUSING PROJECTS, IN PARTICULAR PROJECTS QUALIFYING FOR HOUSING TRUST FUND OR OTHER CITY OF BERKELEY AFFORDABLE HOUSING FUNDS~~

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

~~Section 1.~~ That Berkeley Municipal Code Section 23B.24.040 is amended to read as follows:

~~**BMC Section 23B.24.040 Payment, Waiver and Refund of Application Fees**~~

~~A.—Applications for Permits shall be accompanied by the fees as set by resolution of the Council. Payment of the fee is required in order for an application to be complete under the Permit Streamlining Act (PSA), and absent payment of the fee, the application will not be processed unless a fee waiver or deferral is approved as set forth below.~~

~~B.—No fee shall be required when the applicant is the City, or if it is waived under any other provision of the BMC.~~

~~C.—In addition to seeking fee waivers under other provisions of the BMC, any applicant may file with the Director of Planning and Development a written request for a fee waiver or deferral which sets forth the reasons why such a waiver or deferral is necessary, prior to the acceptance of an application by the Zoning Officer. The Director of Planning and Development shall forward the request to the City Manager. The City Manager may waive or defer the payment of Permit fees, if he or she finds that the project will provide a significant public service or benefit, and that the waiver or deferral is necessary to make the project economically feasible to construct or establish. The City Manager shall also notify the Council of any request for fee waiver. The Council may review and may grant, wholly or in part, or deny such request for a fee waiver. A letter from the City Manager authorizing the fee waiver or deferral shall be submitted in lieu of a fee before an application will be accepted. Each fee waiver or deferral request shall include a breakdown of all applicable Current Planning Fees, as set forth in the current Fee Resolution.~~

~~D.—If an application is withdrawn prior to a decision, the applicant may be eligible for a refund of a portion of the fee. The amount of the refund shall be determined by the Zoning Officer based on the level of staff review conducted to date. Refunds of fees shall not be made for applications that have been denied.~~

~~Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.~~

**SOPHIE HAHN**

Berkeley City Council, District 5  
2180 Milvia Street, 5th Floor  
Berkeley, CA 94704  
Phone: (510) 981-7150  
Email: [shahn@cityofberkeley.info](mailto:shahn@cityofberkeley.info)

ACTION CALENDAR

September 12, 2017  
*(Continued from July 25, 2017)*

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Sophie Hahn and Kate Harrison  
Subject: Referral to the Housing Advisory Commission Consideration of an Ordinance to Establish a Waiver of Administrative and Permit Fees for Certain Affordable Housing Projects

RECOMMENDATION

Refer to the Housing Advisory Commission and City Manager the creation of an ordinance to establish an automatic waiver of administrative and permit fees for certain affordable housing projects, in particular those projects qualifying for Housing Trust Fund or other Berkeley affordable housing monies. A proposed ordinance is attached for consideration as one possible model.

FINANCIAL IMPLICATIONS

Staff time to review ordinance and policies. In the future, possible optimization of the impact of Berkeley affordable housing funds, to support housing rather than administrative costs, and reduction in development-related administrative fees received by the City for permitting and development of housing.

BACKGROUND

The City of Berkeley has established a Housing Trust Fund to support the creation of affordable housing in Berkeley. This fund is a critical tool to increase Berkeley's affordable housing stock. In addition, other Berkeley affordable housing funds may be available to support affordable housing projects. When City of Berkeley funds are granted to qualifying projects, the City should ensure that the applicant is able to maximize the impact of these public funds for the project itself rather than for payment of the City's development-related administrative fees.

Permit fee waivers or deferrals are already permitted under BMC Chapter 23B.24.040 on a case by case basis, and require a time consuming process. Affordable housing developers putting together financing for their projects do not know from the outset whether or not waivers will be granted, and are unable to reflect the potentially reduced costs in their plans.

Chapter 23B.24.040 states:

*“The City Manager may waive or defer the payment of Permit fees, if he or she finds that the project will provide a significant public service or benefit, and that the waiver or deferral is necessary to make the project economically feasible to construct or establish. The City Manager shall also notify the Council of any request for fee waiver. The Council may review and may grant, wholly or in part, or deny such request for a fee waiver.”*

The process to obtain permit fee waivers requires applicants to submit a written request to the Director of Planning and Development, which is then sent to the City Manager for consideration. The City Manager must make two determinations about the project:

- (1) whether it provides a significant public service or benefit, and
- (2) whether the waiver is economically necessary to complete the project.

The City Manager next is required to notify the City Council of any project receiving a waiver of fees, and the Council has the authority to review, grant, modify, or deny the waiver. Finally, the City Manager must send a letter authorizing the waiver to the Planning Department. *All* of these steps must occur *before* a development application can be deemed complete. This complex process has the potential to significantly delay a project's application and creates uncertainty at the project planning stage.

A number of cities offer fee waivers and deferments to affordable housing projects. Austin, TX waives all fees, including impact fees and administrative fees, if the development is safe, mixed-income, accessible, reasonably priced, transit-oriented, and compliant with the City's Green Building Standards.<sup>1</sup>

Puyallup, WA offers a waiver of building and construction permit fees if the residential structure is intended for low-income families, the construction of the structure involves some volunteer labor, or the structure is being constructed by an organization classified as a nonprofit organization by the Internal Revenue Service.<sup>23</sup>

It would be optimal to automatically waive permit fees for projects receiving Berkeley affordable housing funds, to expedite the completion of affordable projects and reduce the amount of affordable housing monies spent on the City's own administrative fees.

Affordable housing built in Berkeley provides a significant public benefit to the community. A permit fee waiver is likely to help with the economic feasibility. Finally, applicants receiving affordable housing funds from the City of Berkeley will be able to make full use of these monies for the intended housing.

## ENVIRONMENTAL SUSTAINABILITY

This recommendation is consistent with Berkeley's environmental sustainability goals.

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<sup>1</sup> <http://www.austintexas.gov/edims/document.cfm?id=111622>

<sup>2</sup> <http://mrsc.org/Home/Explore-Topics/Planning/Specific-Planning-Subjects,-Plan-Elements/Affordable-Housing-Ordinances-Flexible-Provisions.aspx>

<sup>3</sup> <http://www.codepublishing.com/WA/Puyallup/html/Puyallup17/Puyallup1704.html#17.04.080>

CONTACT PERSON

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

ATTACHMENTS

1. DRAFT Ordinance amending BMC 23B.24.040



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

ESTABLISHING A WAIVER OF PERMIT FEES FOR CERTAIN AFFORDABLE HOUSING PROJECTS, IN PARTICULAR PROJECTS QUALIFYING FOR HOUSING TRUST FUND OR OTHER CITY OF BERKELEY AFFORDABLE HOUSING FUNDS

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

Section 1. That Berkeley Municipal Code Section 23B.24.040 is amended to read as follows:

**BMC Section 23B.24.040 Payment, Waiver and Refund of Application Fees**

A. Applications for Permits shall be accompanied by the fees as set by resolution of the Council. Payment of the fee is required in order for an application to be complete under the Permit Streamlining Act (PSA), and absent payment of the fee, the application will not be processed unless a fee waiver or deferral is approved as set forth below.

B. No fee shall be required when the applicant is the City, or if it is waived under any other provision of the BMC.

C. In addition to seeking fee waivers under other provisions of the BMC, any applicant may file with the Director of Planning and Development a written request for a fee waiver or deferral which sets forth the reasons why such a waiver or deferral is necessary, prior to the acceptance of an application by the Zoning Officer. The Director of Planning and Development shall forward the request to the City Manager. The City Manager may waive or defer the payment of Permit fees, if he or she finds that the project will provide a significant public service or benefit, and that the waiver or deferral is necessary to make the project economically feasible to construct or establish. The City Manager shall also notify the Council of any request for fee waiver. The Council may review and may grant, wholly or in part, or deny such request for a fee waiver. A letter from the City Manager authorizing the fee waiver or deferral shall be submitted in lieu of a fee before an application will be accepted. Each fee waiver or deferral request shall include a breakdown of all applicable Current Planning Fees, as set forth in the current Fee Resolution.

D. Fees shall be automatically waived for projects receiving City of Berkeley Affordable Housing Funds from the Housing Trust Fund or any other City of Berkeley Affordable Housing funding source.

~~D~~E. If an application is withdrawn prior to a decision, the applicant may be eligible for a refund of a portion of the fee. The amount of the refund shall be determined by the Zoning Officer based on the level of staff review conducted to date. Refunds of fees shall not be made for applications that have been denied.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
May 2, 2017

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Susan Wengraf, Lori Droste, and Ben Bartlett  
Subject: Referral to Planning Commission to Provide Ordinance Language for the Creation of Junior ADUs

RECOMMENDATION

Refer to the Planning Commission to provide ordinance language for the creation of Junior ADUs and return to City Council for adoption

BACKGROUND

High housing costs, particularly in the Bay Area, along with demographic increases in our aging population, have prompted the City of Berkeley to find opportunities to encourage a variety of options in our housing stock.

Junior ADUs are created by re-purposing a bedroom and ancillary space within an existing home. State law limits Junior ADUs to a maximum of 500 square feet (sf) of living space contained entirely within an existing single-family structure. A Junior ADU unit may include separate bathroom facilities, or may share facilities with the existing structure. They have a private exterior entrance and are separate from the main living area, however, the connecting door remains and can be secured from both sides.

Junior ADUs do not redefine single-family homes, as the door adjoining the Junior Unit to the main living area remains in place. They do not increase density as the living and sleeping capacity of a home does not change (e.g., a four bedroom home converted to a three bedroom home with one Junior ADU still only has four bedrooms). The requirements for water and energy, the need for parking, and the impact on local roads have all been accounted for in the original permit for the home. All that is needed to create a Junior ADU is a bar sink, a standard set of electrical outlets to accommodate small kitchen appliances, access to a bathroom, and an exterior entrance.

Assembly member Tony Thurmond introduced legislation to remove financial and bureaucratic barriers to the creation of Junior ADU's in his Assembly Bill AB2406 which was signed into law by Governor Jerry Brown in September, 1916.

The ordinance authorized by AB 2406 must include the following requirements:

- Limit to one JADU per residential lot zoned for single-family residences with a single-family residence already built on the lot.
- The single-family residence in which the JADU is created or JADU must be occupied by the owner of the residence.
- The owner must record a deed restriction stating that the JADU cannot be sold separately from the single family residence and restricting the JADU to the size limitations and other requirements of the JADU ordinance.
- The JADU must be located entirely within the existing structure of the single-family residence and JADU have its own separate entrance.
- The JADU must include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. No gas or 220V circuits are allowed.
- The JADU may share a bath with the primary residence or have its own bath.

AB 2406 prohibits a local JADU ordinance from requiring:

- Additional parking as a condition to grant a permit.
- Applying additional water, sewer and power connection fees. No connections are needed as these utilities have already been accounted for in the original permit for the home.
- AB 2406 clarifies that a JADU is to be considered part of the single-family residence for the purposes of fire and life protections ordinances and regulations, such as sprinklers and smoke detectors. The bill also requires life and protection ordinances that affect single-family residences to be applied uniformly to all single-family residences, regardless of the presence of a JADU.

#### FINANCIAL IMPLICATIONS

Staff time.

#### ENVIRONMENTAL SUSTAINABILITY

NA

#### CONTACT PERSON

Councilmember Susan Wengraf Council District 6 510-981-7160



Jesse Arreguín  
 City Councilmember, District 4

ACTION CALENDAR  
 April 26, 2016

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Jesse Arreguín  
 Subject: Referral to Planning Commission: City-Wide Green Development Requirements

RECOMMENDATION

Refer to the Planning Commission to draft an ordinance requiring the same Green Building and Transportation Demand Management (TDM) measures required in the Commercial Downtown Mixed Use District (C-DMU) for projects of 75 units or more throughout the City of Berkeley’s commercial zoning districts.

The following standards would apply to larger projects city-wide:

1. Bicycle parking spaces shall be provided for new construction at the ratio of one space per 2,000 square feet of gross floor area of commercial space, and in accordance with the requirements of Section 23E.28.070.

| Number of Parking Spaces Required | Minimum Number of Vehicle Sharing Spaces   |
|-----------------------------------|--------------------------------------------|
| 0-10                              | 0                                          |
| 11-30                             | 1                                          |
| 30-60                             | 2                                          |
| 61 or more                        | 3, plus one for every additional 60 spaces |

- For residential structures constructed or converted from a non-residential use that require vehicle parking under Section 23E.68.080.B, required parking spaces shall be designated as vehicle sharing spaces in the amounts specified in the adjacent table. If no parking spaces are provided pursuant to Section 23E.68.080.D, no vehicle sharing spaces shall be required.

- The required vehicle sharing spaces shall be offered to vehicle sharing service providers at no cost.

2. The vehicle sharing spaces required by this section shall remain available to a vehicle sharing service provider as long as providers request the spaces. If no vehicle sharing service provider requests a space, the space may be leased for use by other vehicles. When a vehicle sharing service provider requests such space, the property owner shall make the space available within 90 days.

3. Occupants of residential units or GLA units constructed, newly constructed or converted from a non-residential use shall not be eligible for Residential Parking Permit (RPP) permits under Chapter 14.72 of the BMC.
4. For any new building with residential units or structures converted to a residential use, required parking spaces shall be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling unit, unless the Board grants a Use Permit to waive this requirement for projects which include financing for affordable housing subject to the finding in section 23E.68.090.I.
5. Construction of new developments of at least 75 units shall attain a LEED Gold rating or higher as defined by the U.S. Green Building Council (USGBC), or shall attain building performance equivalent to this rating, as determined by the Zoning Officer.
6. New developments of at least 75 units shall be required to meet all applicable standards of the Stopwaste Small Commercial Checklist, or equivalent, as determined by the Zoning Officer. The rating shall be appropriate to the use type of the proposed construction.
7. New developments of at least 75 units, the property owner shall provide at least one of the following transportation benefits at no cost to every employee, residential unit, and/or GLA resident. A notice describing these transportation benefits shall be posted in a location or locations visible to employees and residents.
  - A pass for unlimited local bus transit service; or
  - A functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass. Any benefit proposed as a functionally equivalent transportation benefit shall be approved by the Zoning Officer in consultation with the Transportation Division Manager.

**BACKGROUND:**

One of the main goals of the 2012 Downtown Area Plan (DAP) is promoting sustainability in the Downtown by *“Integrat[ing] environmentally sustainable development and practices in the Downtown, and in every aspect of the Downtown Area Plan”* and to *“Model best practices for sustainability”*.<sup>1</sup>

The DAP and its implementing zoning includes a number of green building and sustainable transportation requirements for new projects throughout the Downtown. These green measures are resulting in sustainable projects with bike and car share parking, and meeting LEED Gold standards. These forward thinking policies go a long way in helping Berkeley meet its climate action goals, but they only apply to projects in the Downtown area. Large projects throughout the city should be held to the same standard. This will result in further reducing greenhouse gases from transportation and building energy use.

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<sup>1</sup> 2012 Downtown Area Plan, page IN-18

An update on the Climate Action Plan (CAP) presented to the City Council in November 2015 showed that the City is not on track to achieve the goals set by the Plan. While Berkeley has achieved more reductions compared to the rest of the State, despite population increases, it is clear that more must be done if we are to reach the targets set forward in the CAP. By holding large developments to the same standards as those in Downtown, we can achieve the goals of sustainability by reducing greenhouse gases.

FINANCIAL IMPLICATIONS:

Staff time to prepare zoning amendments for Planning Commission consideration.

ENVIRONMENTAL SUSTAINABILITY

Applying the same standards to large developments citywide can significantly improve the City's ability to meet the goals of the Climate Action Plan.

CONTACT PERSON

Jesse Arreguin, City Councilmember, District 4

510-981-7140



Berkeley City Council

ACTION CALENDAR

March 14, 2017

To: Honorable Mayor and Members of the City Council

From: ~~Councilmember Mayor~~ Jesse Arreguin and Councilmember Sophie Hahn

Subject: Berkeley Deep Green Building Initiative

RECOMMENDATION

Refer to the City Manager and Energy Commission the development of a comprehensive, integrated "Deep Green Building" program policies and programs to improve the energy efficiency and sustainability of Berkeley buildings, ~~based on drawing from ideas proposed in the~~ community's Berkeley Deep Green Building proposal and other cutting-edge green building initiatives programs and and tying into integrating BESO and other current existing and proposed Ceity programs into a multifaceted, complete and innovative Deep Green Building program.

BACKGROUND

The Berkeley Climate Action Plan (CAP) sets a bold goal of reducing greenhouse gas emissions (GHG) by 33% of 2000 levels by 2020, and 80% by 2050. At a November 2015 worksession, it was reported that as of 2013, GHG emissions have been reduced by only 9%. Although ahead of statewide trends, the trajectory of ~~this~~ progress is not great enough to meet ~~these Berkeley's CAP~~ targets within the ~~set desired~~ timeline.

According to the CAP, commercial and residential buildings account for ~~5345~~% of the city's GHG emissions. Berkeley has done a lot to reduce these emissions such as focusing ~~on~~ the construction of new development along transit corridors and promoting alternative transportation. However, transit-oriented development can miss the mark if ~~the~~ buildings themselves use excessive energy and water over their lifetime, ~~or~~ are built with energy intensive ~~or~~, toxic materials or use materials from vendors who do not respect progressive labor, human rights or environmental standards. Published in April 2016, the Berkeley Resilience Strategy also recognizes the importance of ~~these GHG~~ reductions and specifically recommend ~~ed we that Berkeley~~ adopt policies ~~that~~ switch~~ing~~ buildings to cleaner energy.

Berkeley Deep Green Building is an ambitious an incentive-based program thoughtfully designed ~~over the past year~~ by building and clean energy professionals and environmentally-minded citizens as part of the Berkeley Zero Net Energy++ Working Group. It responds directly to the first goal of the City's Climate Action Plan, which calls for "new and existing Berkeley buildings [to] achieve zero net energy consumption through increased energy efficiency and a shift to renewable energy sources". Its purpose is to incorporate practices that support zero net energy at the building and



community scale – ultra-efficient construction and deep energy retrofit projects that consume only as much energy as they produce from clean, renewable resources. The program sets forward a detailed plan to incentivize these practices, and provides guidance on how to prioritize work in a way that best supports [Berkeley's](#) climate [and overall environmental](#) action goals.

~~The program responds directly to the first goal of the CAP, which calls for “new and existing Berkeley buildings [to] achieve zero net energy consumption through increased energy efficiency and a shift to renewable energy sources”. It also fits into BESO, and State codes and programs including Title 24, Energy Upgrade California and the California Advanced Home Program. Berkeley Deep Green Building would be offered as a two-level system and initially be voluntary with valuable incentives tied to compliance. Over time, voluntary components would be incorporated into the code, either at the State level or by the City of Berkeley. Since the program goals are tied so closely to California’s long term energy goals, projects would be eligible for a number of energy efficiency incentives already offered by the State and PG&E.~~

The five main goals of the community's Berkeley Deep Green Building proposal are to:

1. Support zero-net energy at the individual building and community scale;:-
2. Reduce embodied energy in building materials and practices;:-
3. Reduce toxicity in building materials;:-
4. Source sustainability produced materials from fair trade, fair wage and culturally and environmentally friendly suppliers; and-
5. Conserve water.

~~Level one includes high impact sustainability measures that address energy efficiency, toxicity, responsible sourcing, and water use. These measures are the easiest to achieve and tie into Title 24 and other state level efforts to arrive at zero net energy. Level two includes measures that are more stringent and offer greater impact in achieving environmental and GHG reduction goals. Deep Green Building is intended to encourage/incentivize most projects to comply with level one, while further incentivizing/rewarding level two projects to take on the highest level of environmental stewardship.~~

### **Level One**

#### **~~1. Above-Code Energy Efficiency~~**

~~Site energy use intensity (EUI) maximum consumption of 20 kBtu/ sq. ft. /yr for new construction and 25 – 30 kBtu/sq. ft. /yr for remodels above a certain threshold size without consideration of solar hot water or PV.~~

#### **~~2. Prescriptive Energy Efficiency Measures on top of Performance Measures~~**

~~Create all electric buildings. 100% high efficacy lighting, including LED and CFL. New appliances must meet the highest Energy Star rating or equivalent. At least one outlet in each room will be switched.~~

**~~3. State-Defined “Solar Ready” Plus Additional Measures, where Sufficient Solar Access Exists~~**

~~Provide the necessary components to make buildings solar-ready.~~

**~~4. Cleaner Installation~~**

~~Installation free of organohalogen flame retardants. Low global warming potential insulation.~~

**~~5. Pre-Remodel BESO Assessment of Home Energy Efficiency~~**

~~Submit paperwork from BESO assessment with permit application for remodel.~~

**~~6. Post-Remodel energy, comfort, and air quality monitoring~~**

~~For a period of one year following completion of construction, monitoring will be carried out for the following parameters: hot water use, appliance loads, space heating loads, interior temperature, relative humidity and CO2 levels.~~

**~~7. Forest Stewardship Council (FSC) Certified Wood~~**

~~FSC-certified wood and wood products are to be used when available.~~

**~~8. Water Conservation~~**

~~Maximize permeable paving. Landscaping shall include 75% native plants or drought tolerate plants, and plants will be hydrozoned based on water needs. New plumbing for laundry machines, showers, and bathtubs will be greywater ready.~~

**Level Two****~~1. Higher Above-Code Energy Efficiency~~**

~~Energy use intensity maximum of 14kBtu/ sq. ft./yr site energy for both new construction and remodels above a certain threshold.~~

**~~2. Reduced Embodied Energy~~**

~~New concrete and kiln-fired brick, pavers, etc. cannot be used for non-structural purposes and should not be used in excessive amounts for structural purposes. Specify concrete with global warming potential 30% or more below standard mixes. Engineered wood in lieu of steel/concrete.~~

**~~3. Solar Photovoltaic (PV) System and/or Solar Thermal System Sufficient to~~**

~~Achieve Zero Net Energy for the Building, where Sufficient Solar Access Exists  
Where sufficient solar access exists, install a solar PV and/or solar thermal system, sized as required to achieve zero net energy for the building.~~

**~~4. Reduced Toxicity through Avoidance of Living Building Challenge Red List Chemicals~~**

~~Projects cannot use products that contain chemicals on the Living Building Challenge Red List.~~

**5. ~~Advanced Water Conservation Measures~~**

~~Direct all shower/tub water to permitted outdoor greywater system. A minimum 1000 gallon rainwater system to be used for toilets and/or laundry.~~

The City of Berkeley has a variety of programs and Building and Zoning Code provisions that seek to address green building. These include energy efficiency audits under BESO, LEED gold standards for larger downtown buildings, Bay-friendly landscaping for projects over a certain size, and stormwater and waste management during construction. In addition, a number of solar, energy efficiency and other green building proposals have been referred to the City Manager over time. Despite the great value of each of these elements, Berkeley lacks a complete, complimentary and coordinated set of policies, resulting in lost opportunities to improve the sustainability of existing and newly built buildings.

This referral directs the City Manager to pro-actively develop a single, comprehensive Deep Green Building Program incorporating best practices for energy efficiency/ZNE, reduced embodied energy, water conservation, low or no toxicity, socially and environmentally progressive sourcing and other important elements, as may be identified.

To best realize the goals of Berkeley's Climate Action and Resilience Plans and continue Berkeley's leadership on environmental issues, the City's Deep Green Building Program should consider the community's well-developed Berkeley Deep Green Building proposal, existing and proposed City policies and programs, the State's Zero Net Energy program and policies, and programs, policies, and cutting edge initiatives being implemented in other communities.

~~Similar programs have been adopted by cities that are leaders in sustainability, such as Portland's Green Building and Development Program. Incorporating this proposal into City of Berkeley policy would not only help us meet our GHG emission reduction targets, but serve as a model for other cities to follow.~~

**FINANCIAL IMPLICATIONS**

Staff time.

**ENVIRONMENTAL SUSTAINABILITY**

Establishing new green building goals and codifying or incentivizing their achievement es for achieving them. The practices outlined in the Deep Green Buildings proposal will help Berkeley achieve the goals of the Climate Action Plan, and Resiliency Strategy, and as well as statewide goals to reduce greenhouse gas emissions and move towards zero net energy buildings.

**CONTACT PERSON**

|                                                  |                     |
|--------------------------------------------------|---------------------|
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Attachments:

- 1: Berkeley Deep Green Buildings Proposal



Berkeley City Council

ACTION CALENDAR

March 14, 2017

To: Honorable Mayor and Members of the City Council  
 From: Mayor Jesse Arreguín and Councilmember Sophie Hahn  
 Subject: Berkeley Deep Green Building Initiative

RECOMMENDATION

Refer to the City Manager and Energy Commission the development of a comprehensive, integrated “Deep Green Building” program to improve the energy efficiency and sustainability of Berkeley buildings, drawing from the community’s Berkeley Deep Green Building proposal and other cutting-edge green building initiatives and integrating BESO and other existing and proposed City programs into a multifaceted, complete and innovative Deep Green Building program.

BACKGROUND

The Berkeley Climate Action Plan (CAP) sets a bold goal of reducing greenhouse gas emissions (GHG) by 33% of 2000 levels by 2020, and 80% by 2050. At a November 2015 worksession, it was reported that as of 2013, GHG emissions have been reduced by only 9%. Although ahead of statewide trends, the trajectory of progress is not great enough to meet Berkeley’s CAP targets within the desired timeline.

According to the CAP, commercial and residential buildings account for 45% of the city’s GHG emissions. Berkeley has done a lot to reduce these emissions such as focusing the construction of new development along transit corridors and promoting alternative transportation. However, transit-oriented development can miss the mark if buildings themselves use excessive energy and water over their lifetime, are built with energy intensive or toxic materials or use materials from vendors who do not respect progressive labor, human rights or environmental standards. Published in April 2016, the Berkeley Resilience Strategy also recognizes the importance of GHG reductions and specifically recommends that Berkeley adopt policies switching buildings to cleaner energy.

Berkeley Deep Green Building is an ambitious program thoughtfully designed by building and clean energy professionals and environmentally-minded citizens as part of the Berkeley Zero Net Energy++ Working Group. It responds directly to the first goal of the City’s Climate Action Plan, which calls for “new and existing Berkeley buildings [to] achieve zero net energy consumption through increased energy efficiency and a shift to renewable energy sources”. Its purpose is to incorporate practices that support zero net energy at the building and community scale – ultra-efficient construction and deep energy retrofit projects that consume only as much energy as they produce from clean,

renewable resources. The program sets forward a detailed plan to incentivize these practices, and provides guidance on how to prioritize work in a way that best supports Berkeley's climate and overall environmental goals.

The five main goals of the community's Berkeley Deep Green Building proposal are to:

1. Support zero-net energy at the individual building and community scale;
2. Reduce embodied energy in building materials and practices;
3. Reduce toxicity in building materials;
4. Source sustainability produced materials from fair trade, fair wage and culturally and environmentally friendly suppliers; and
5. Conserve water.

The City of Berkeley has a variety of programs and Building and Zoning Code provisions that seek to address green building. These include energy efficiency audits under BESO, LEED gold standards for larger downtown buildings, Bay-friendly landscaping for projects over a certain size, and stormwater and waste management during construction. In addition, a number of solar, energy efficiency and other green building proposals have been referred to the City Manager over time. Despite the great value of each of these elements, Berkeley lacks a complete, complimentary and coordinated set of policies, resulting in lost opportunities to improve the sustainability of existing and newly built buildings.

This referral directs the City Manager to pro-actively develop a single, comprehensive Deep Green Building Program incorporating best practices for energy efficiency/ZNE, reduced embodied energy, water conservation, low or no toxicity, socially and environmentally progressive sourcing and other important elements, as may be identified.

To best realize the goals of Berkeley's Climate Action and Resilience Plans and continue Berkeley's leadership on environmental issues, the City's Deep Green Building Program should consider the community's well-developed Berkeley Deep Green Building proposal, existing and proposed City policies and programs, the State's Zero Net Energy program and policies, and programs, policies, and cutting edge initiatives being implemented in other communities.

#### FINANCIAL IMPLICATIONS

Staff time.

#### ENVIRONMENTAL SUSTAINABILITY

Establishing new green building goals and codifying or incentivizing their achievement will help Berkeley achieve the goals of the Climate Action Plan and Resiliency Strategy as well as statewide goals to reduce greenhouse gas emissions and move towards zero net energy buildings.

Berkeley Deep Green Building Initiative

ACTION CALENDAR  
March 14, 2017

CONTACT PERSON

Jesse Arreguín, Mayor

510-981-7100

Sophie Hahn, Councilmember, District 5

510-981-7150

Attachments:

1: Berkeley Deep Green Building Proposal

# Berkeley DEEP GREEN Building

**Promoting Sustainable Building Practices  
to advance  
Berkeley's Climate Action and Resiliency Goals**

**This proposal was conceived and prepared by the**

**Berkeley Zero Net Energy++ Working Group**

**A group of citizens and building professionals dedicated to making Berkeley's Building Code a model of green, non-toxic, sustainable building practices and achieving Berkeley's Climate Action Plan and Resilience Strategy goals by inspiring, educating and supporting the community**



**Founder:**

**Brian C. Harris**

**Co-Conveners:**

**Sophie Hahn and Cate Leger**

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**Supporters:**

## David Arkin, Carolyn Ely, Larry Strain

### Executive Summary

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Many new residential developments have been approved in the City of Berkeley in recent years, and even more are in the pipeline. At the same time, existing buildings comprise the vast majority of Berkeley's building stock. Most of these buildings, existing and new, consume excessive energy and water.

While many new projects have the benefit of being sited on transit corridors, they often fall short of their full potential to reduce environmental impacts because they do not incorporate best practices for Green Building. Berkeley's recently adopted Building Energy Savings Ordinance (BESO) helps identify potential energy conservation measures, but does not provide incentives and specific guidance to support homeowners, builders and developers in meeting Environmental and Greenhouse Gas (GHG) reduction goals.

*Berkeley Deep Green Building proposes an incentive-based path towards buildings that meet Berkeley's environmental and GHG reduction goals, protect the health and safety of Berkeley workers and residents, and support the health and sustainability of communities across the globe.* The program is intended to be voluntary and incentive-based in the beginning, leading to the adoption of mandatory measures in later stages. In line with the vision of California's Long Term Energy Efficiency Goals, the program would initially focus on the residential sector, to help achieve the State's 2020 residential sector energy goals. Over time, Berkeley Deep Green Building would incorporate measures for the non-residential sector, aligning with the State's 2030 targets for non-residential structures.

Berkeley Deep Green Building ties into Berkeley's Climate Action Plan and BESO, and into State codes and other programs such as Title 24, Energy Upgrade California and the California Advanced Home Program. In addition to new incentives to be provided by the City of Berkeley, homeowners, builders and developers participating in Berkeley Deep Green Building would be eligible for a number of incentives already offered by the State and PG&E.

Berkeley Deep Green participation would be offered in two Levels. Level 1 includes high impact sustainability measures that address energy efficiency, toxicity, responsible sourcing and water use. These measures are the easiest to achieve and tie into Title 24 and other State-level efforts to arrive at Net Zero Energy. Level 2 measures are more stringent and offer greater impact in achieving environmental and GHG reduction goals. Berkeley Deep Green is intended to encourage/incentivize most projects to comply with Level 1, while further incentivizing/rewarding Level 2 projects to take on the highest levels of environmental stewardship.

Berkeley Deep Green Building would not only help to achieve Berkeley's environmental and GHG reduction goals but can also be a model for other cities to follow, helping to achieve long term sustainability goals in communities across the United States, and around the globe.

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## Introduction

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Berkeley is building again. Over 2000 new units have been approved in the past 3 years, and many are under construction. Another thousand are in the pipeline—with more sure to come. Many of these new developments are on or near major transit corridors, qualifying them as ‘transit-oriented development’, which is environmentally preferable to development that is dependent on automobiles.

But while reducing dependence on automobiles is an important goal, transit-oriented development falls short of its potential when buildings themselves use excessive energy and water over their lifetimes or are built with energy intensive, toxic and/or unsustainably produced materials.

At the same time, existing structures form a sizeable percentage of Berkeley’s building stock. Berkeley’s recently enacted Building Energy Savings Ordinance (BESO) requires all home owners to audit their home performance and will help—over time—to identify energy efficiency improvements for existing buildings. However, there are few incentives to implement improvements and little guidance on how to prioritize work to best support climate change goals.

Berkeley Deep Green Building is a proposal for an incentive-based path toward buildings that meet Berkeley’s environmental and greenhouse gas (GHG) reduction goals, protect the health and safety of Berkeley workers and residents, and support the health and sustainability of communities across the globe.

## Program overview

---

Berkeley Deep Green Building incorporates best practices to:

1. **Support zero net energy** at the individual building and community scale
2. **Reduce embodied energy** in building materials and practices
3. **Reduce toxicity** in building materials
4. **Source sustainably produced materials** from fair trade, fair wage and culturally and environmentally sustainable suppliers; and
5. **Conserve water.**

Some of the components are similar to those in the US Green Building Council's LEED, Build It Green's Green Point Rated, and the International Living Future Institute's Living Building Challenge. However, Berkeley Deep Green while tied into California Codes and mandates for energy and water efficiency, is tailored to Berkeley with its limited rainfall and high urban density.

In addition, it acknowledges the latest science in environmental health and it looks holistically at a building's global warming impacts.

The program is intended to be voluntary and incentive-based at first, leading eventually to the adoption of new mandatory requirements, as appropriate.

The program's methods are to:

**INSPIRE→EDUCATE→INCENTIVIZE→EVALUATE & INCORPORATE**

In addition to incentivized measures and eventual rules, Berkeley Deep Green Building includes a robust educational component, with outreach and programs for homeowners, contractors, architects, engineers, landlords, developers, lenders, appraisers, and members of the public.

Initially, Berkeley Deep Green Building applies only to residential buildings, including new buildings and remodeling projects over a specific size. This tracks the State's emphasis on residential buildings and reflects the complexities of devising regulations applicable to nonresidential enterprises with vastly different needs and uses, from offices full of computers to hospitals, grocery stores, factories and labs with equipment, heat, lighting, refrigeration and other specific needs that vary widely. In a later phase, the program will be extended to commercial, manufacturing and office buildings of all types.

## Alignment with Berkeley and Statewide goals

Berkeley Deep Green Building helps implement Berkeley's 2009 Climate Action Plan, Berkeley's 2016 Resilience Strategy, the California Energy Commission's Title 24, and California's Zero Net Energy goals, and reflects the community's commitment to health, sustainability, and equity.

According to Berkeley's Climate Action Plan, commercial and residential buildings account for 53% of the city's GHG emissions. The first goal of the Plan is for *"new and existing Berkeley buildings [to] achieve zero net energy consumption through increased energy efficiency and a shift to renewable energy sources."* Clean and reduced energy use in buildings is also a key goal of Berkeley's Resilience Strategy.

The State of California, through Title 24, is continually increasing energy efficiency standards for buildings and is now preparing regulations for all new residential construction to be 'zero net energy' by 2020. Berkeley Deep Green Building supports achievement of the state's Title 24 and zero net energy goals.

The usage of natural gas represents 65% of Berkeley buildings' GHG emissions. Incentives to improve energy efficiency and shift from natural gas to electricity make the city's GHG reduction goals more attainable, especially if the proposed Alameda County Community Choice Energy project comes online, offering even cleaner electricity to Berkeley residents.

Technologies exist to support zero net energy in new construction and remodels, but not all building professionals are aware of these opportunities. New electric heat pumps for space and water heating are up to 30-40%<sup>1</sup> more efficient than gas furnaces. New materials for reducing air infiltration and requirements for increased insulation levels reduce the amount of space heating required. These measures, coupled with reduced plug loads, high-efficacy lighting, and solar hot water help to minimize electricity demand. Berkeley Deep Green Building incentivizes all of these, and more.

## Program components

The Berkeley Deep Green Building program is offered in two Levels, providing a roadmap to achieve its goals. Initially, the program is envisioned as voluntary, with valuable incentives tied to compliance. Over time, voluntary components will be incorporated into the code, either at the state level or by the City of Berkeley. Since program goals are tied to California's long term energy goals, projects will be eligible for a number of energy efficiency incentives offered by the State as well as for incentives that the City of Berkeley may choose to offer.

Level 1 includes high-impact energy efficiency measures that generally are relatively easy to achieve, and addresses toxicity, responsible sourcing, and water use. Many of these measures dovetail with Title 24 and with state-level efforts to arrive at zero net energy. Incentives to achieve Level 1 standards should be substantial enough to induce most or all projects to comply. Level 2 standards reach further and are tied to additional incentives. In addition, not all components must be adopted to obtain incentives, though more comprehensive adoption will be more highly rewarded.

Each of the components listed below is discussed in more detail in **Appendix A**.

### Berkeley Deep Green Building: Level 1

1. Above-code energy efficiency performance standard
2. Prescriptive energy efficiency measures
  - a. 100% electric—no gas
  - b. 100% high-efficacy lighting
  - c. Best-in-class major appliances and equipment
  - d. Switched outlets
3. State-defined 'solar ready' plus additional measures, where sufficient solar access exists
4. Cleaner insulation

<sup>1</sup> <http://www.climaticva.com/electric-heat-pumps-vs-gas-furnaces/>

- a. Insulation free of organohalogen flame retardants
- b. Low global-warming-potential insulation
5. Pre-remodel BESO assessment of home energy efficiency
6. Post-remodel energy, comfort, and air quality monitoring
7. Use of 100% Forest Stewardship Council (FSC)–certified sustainably harvested wood
8. Water conservation measures
  - a. 100% extra-low-flow fixtures and appliances
  - b. Water-permeable paving
  - c. Water-conserving landscape (edible landscaping exempt)
  - d. Laundry-to-landscape greywater and greywater-ready tub and shower plumbing

### Berkeley Deep Green Building: Level 2

1. Energy efficiency performance standard higher than in Level 1
2. Reduced carbon footprint (embodied energy) of building
  - a. Reduced concrete use (for hardscape and other nonstructural applications)
  - b. Low-carbon-footprint concrete
  - c. Wood in lieu of steel/concrete.
  - d. Alternative and creative measures to reduce carbon footprint and to support responsible sourcing in a special, flexible category:
    - i. Salvaged siding
    - ii. Earth finishes
    - iii. Fair trade/sustainably produced/green and fair labor–certified materials
    - iv. Other high recycled content, locally sourced/produced and rapidly renewable materials
3. Installed solar photovoltaic (PV) system and/or solar thermal system sufficient to achieve zero net energy for the building, where sufficient solar access exists
4. Reduced toxicity through avoidance of Living Building Challenge Red List chemicals
5. Advanced water conservation measures
  - a. Operational tub and shower greywater system
  - b. Operational rainwater collection for non-potable domestic use



To learn more about each of the Level 1 and Level 2 measures, refer to **Appendix A**, which is organized in the same manner as the above lists.

## Incentives

Over time, some or all of the incentive-based measures in Berkeley Deep Green Building may be incorporated into the building code, while new measures (which become available through industry innovations) can be included in the incentive-based program. For the program to be successful, incentives must be meaningful, motivating and easily understood. Specific incentives will be developed in collaboration with city staff.

Tools and motivators might include assistance with financing (permit fee rebates, low interest loans), relaxation of zoning requirements, bonuses, acceleration of permitting and inspection process, and/or public recognition through competitions, awards and PR events.

In addition, there are a number of local, state and federally sponsored incentives that may apply to projects. These include the following incentives and programs.

1. **Property Assessed Clean Energy (PACE)**

Up to 100% financing of energy efficiency, water efficiency and renewable energy projects with little or no upfront costs, and payment through existing property tax bill. <http://energycenter.org/policy/property-assessed-clean-energy-pace>

2. **Bay Area Multi-Family Building Enhancements (BAMBE)**

Cash rebates and free energy consulting for multifamily properties that undertake energy efficiency enhancements. <http://bayareamultifamily.org>

3. **Property tax exclusion for solar energy systems**

Customers who install active solar systems such as solar water heaters and solar space heaters will not have their property tax re-assessed. (<http://programs.dsireusa.org/system/program/detail/558>).[http://www.pv-tech.org/news/california\\_property\\_tax\\_exemptions\\_for\\_pv\\_systems\\_extended\\_to\\_2025](http://www.pv-tech.org/news/california_property_tax_exemptions_for_pv_systems_extended_to_2025)

4. **Zero net energy pilot program by PG&E**

Supports research, conducts workshops and outreach activities, and provides design and technical consultations to customers.

5. **Energy efficient mortgages (EEM)**

The Federal Housing Agency's Energy Efficient Mortgages program helps families save money on their utility bills by enabling them to finance energy efficient improvements with their FHA-insured mortgage. The energy package is the set of improvements that the Borrower chooses to make based on the recommendations and analysis performed by a qualified home energy assessor.

([http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/eem/energy-r](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/eem/energy-r))

6. **PG&E residential energy efficiency rebate program**

- a. PG&E offers rebates to eligible residential customers who install energy efficient space conditioning systems and appliances.  
(<http://programs.dsireusa.org/system/program/detail/1428>)
  - b. A similar program is extended to multifamily residential buildings.
7. **PG&E California Advanced Homes (CAHP) incentives**  
For builders of new homes, incentives are applicable to homes that display a 15% to 45% improvement over Title 24 2008 codes. Additional incentives are available when onsite solar PV systems are installed or to homes that display more than 40% improvement over Title 24 2013. <http://cahp-pge.com/>

## Education and outreach

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Education and outreach are key to the success of the Berkeley Deep Green Building program, ensuring that property owners as well as building, finance and regulatory professionals understand deep green building practices in general and their value to both the environment, and to the bottom line. Outreach is intended to inspire stakeholders to participate in the Berkeley Deep Green Building program, and can appeal to long term financial advantages (lower operating costs and increased desirability/rents/prices for super green and non-toxic buildings), concern for global warming and the welfare of future generations, and civic pride.

Targets for education and outreach will include homeowners, contractors, architects, engineers, landlords, developers, lenders, appraisers, property managers, city planners and staff, building inspectors, press and members of the public.

The education and outreach program might include:

1. Classes covering all measures included in the Berkeley Deep Green Building programs program, organized in collaboration with PG&E, Build It Green, Realtor Associations, the Berkeley Permit Service Center and/or Berkeley's Adult School
2. A citywide design competition for energy efficient building retrofits
  - Winners displayed at Permit Service Center or other locations
  - PR/media attention
  - Awards ceremony or recognition at a City Council meeting
3. Permit Service Center displays and brochures
4. Promotional items such as high-performing Smart Strips, low-flow WaterSense showerheads, etc.

## Timeline for review

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Energy efficiency measures, renewable energy production technologies and green, certified and non-toxic building materials are evolving rapidly. Berkeley Deep Green Building anticipates periodic review of program components by planning staff and stakeholders, every 2-3

years. Some program components may be incorporated into the building code as mandatory, while others can be modified, moved to a different Level or updated, and new components can be added. Mandatory periodic review builds in a mechanism for timely adoption of new materials, metrics and methods, as they become available and feasible. State-level changes can be incorporated as well, such as Title 24 updates. Finally, regular review will allow staff to evaluate the success of individual measures and to modify the program as appropriate.

## Residential versus commercial

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Berkeley Deep Green Building initially focuses on residential projects for several reasons. Commercial buildings are much more varied in their construction and use, requiring a more flexible set of goals. A manufacturing plant requiring 24/7 refrigeration or heat will have very different energy requirements from an office. An initial focus on residential energy efficiency is also consistent with the state's Long Term Energy Efficiency Strategic Plan, which targets zero net energy for all new residential construction by 2020 and for new commercial construction by 2030.

In the residential sector, recent technological changes enable dramatic improvements in energy performance and a shift to all-electric energy. Electric heat pump hot water heaters and new materials for reducing air infiltration have recently become commercially available, and PV prices have dropped significantly in the last 5 years. Commercial projects are addressed to some degree already under other City of Berkeley green building programs. Over time, commercial buildings can and should be incorporated in the program.

## New construction and remodeling

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Berkeley Deep Green Building components and incentives need to be tailored to new construction and remodels and various building types, i.e. single family, small multifamily and large multifamily. For remodels, thresholds will have to be established to determine when it would be appropriate for Deep Green features to be incorporated. City Staff are in the best position to consider what thresholds are feasible, and dovetail with other phased in requirements.

## Berkeley Deep Green Building and other City, Regional and State programs

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Berkeley Deep Green Building ties into other ambitious energy efficiency goals. These include:

### 1. Building Energy Savings Ordinance (BESO)

BESO requires all building owners in Berkeley to complete an energy efficiency audit, helping them save energy and encouraging them to participate in various State-sponsored whole building programs. The assessment is carried out by qualified energy assessors who inform the building owners of incentives and rebates specific to the energy efficiency opportunities of the building.

2. **Title 24**

Title 24 is a stringent, energy efficient, compulsory State building code. It is subject to triennial review and the requirements are revised based on available techniques and technologies. It is anticipated that Berkeley Deep Green Building will use the same metrics as those in force under Title 24, and that measures outlined in the Deep Green program will treat Title 24 as a baseline upon which Berkeley Deep Green Building will improve.

3. **Energy Upgrade California**

Energy Upgrade California is a state program supported by CPUC, CEC, utility companies, non-profit organizations, small businesses, and various state agencies to help realize California's climate action and energy efficiency goals. It has a partnership with Energy Star to promote the use of energy efficient products and practices.

This platform also informs home owners of the availability of incentives and rebates. Since it is anticipated that Berkeley Deep Green Building structures would be eligible for a number of incentives and rebates from the state and utility companies, Energy Upgrade California has the potential to encourage home owners to adopt Berkeley Deep Green Building and help realize California's climate action goals.

4. **California Long Term Energy Efficiency Strategic Plan**

This plan was formulated in 2008 and adopted by CPUC as a single roadmap to achieve maximum energy efficiency in California. The goal of the plan is that all new homes will be zero net energy or zero net energy-ready by 2020. Similarly, Berkeley Deep Green Building encourages all new and existing homes in the City of Berkeley to rapidly become zero net energy.

5. **California Advanced Home Program (CAHP)**

CAHP is a pay-for-performance whole building approach that aims to improve market demand for energy efficient single family and multi-family homes. It encourages builders of new homes to exceed Title 24 Part 6 by 15 to 45%. (New Residential Zero Net Energy Action Plan – pg. 14).

## Appendix A

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Level 1 and Level 2 components are explained in more detail below.

### Berkeley Deep Green Building: Level 1

#### 1) Above-code energy efficiency (performance component)

~~Establish robust Site-site energy use intensity (EUI) maximums for various building types for new construction and remodels above a certain threshold size—consumption of 20 kBtu/sq. ft. /yr for new construction and 25–30 kBtu/sq. ft. /yr for remodels above a certain threshold size without consideration of solar hot water or PV.~~

**Rationale:** Studies consistently show that energy efficiency is the most cost effective and generally the most environmentally benign method of reducing GHG emissions. Mainstream technologies available now and common building techniques can easily and significantly reduce building energy usage. In many cases, the upfront costs of improving energy efficiency are recouped with energy cost savings in under 15 years.

A performance target allows for flexibility in reducing energy demand, through a combination of design strategies depending on the specifics of the project. The current average EUI of residential buildings in the Western states is about 40 kBtu/sq. ft. /yr site energy. Analysis performed by Arup and Davis Energy Group on how to achieve State energy use reduction goals shows that close to half of the average energy use can be eliminated through the standard palette of energy efficiency measures:

- Greater insulation.
- Considered placement of windows and addition of thermal mass to optimize passive solar gain and daylighting.
- High efficacy lighting and vacancy controls.
- Reduced plug loads.
- High efficiency appliances and heating equipment.
- Better air sealing.
- Energy efficient windows.

~~—Berkeley’s initial target EUI is higher than t~~As an example, the current 2030 Challenge target EUIs for residential buildings in western states are goal of 15.4 to 19.1 kBtu/sq. ft. /yr site energy. The 2030 Challenge EUI maximums are set at increasingly lower levels each 5 years with a goal of zero for 2030. However, tThe 2030 Challenge allows for the inclusion of onsite generation of energy through solar hot water and PV in meeting the targets. For reference, the Passive House EUI maximum is 38 kBtu/sq. ft. /yr source energy. (This would bee about 14.2 kBtu/sq. ft./yr if translated to site energy. In addition, the EUI target does include onsite PV offsets but only after a certain efficiency threshold has been met for the building envelope and solar hot water is included though as it is not related to envelope measures.) Finally, several cities and Architecture

2030, ~~with funding from the Rockefeller Brothers Fund~~ under the umbrella of the Carbon Neutral Cities Alliance, are developing a metric for setting EUI targets that in the future may be appropriate for Berkeley.

~~The current average energy use intensity EUI of residential buildings in the Western states is about 40 KBtu/sq. ft. /yr site energy. Analysis performed by Arup and Davis Energy Group on how to achieve State energy use reduction goals shows that close to half of the average energy use can be eliminated through the standard palette of energy efficiency measures:~~

- ~~• Greater insulation.~~
- ~~• Considered placement of windows and addition of thermal mass to optimize passive solar gain and daylighting.~~
- ~~• High efficacy lighting and vacancy controls.~~
- ~~• Reduced plug loads.~~
- ~~• High efficiency appliances and heating equipment.~~
- ~~• Better air sealing.~~
- ~~• Energy efficient windows.~~

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The Technical Feasibility of Zero Net Energy Buildings in California, Dec. 2012, by Arup and Davis Energy Group, prepared for PG&E and other California utilities.

Getting to Zero Carbon Buildings Sector, Rockefeller Brothers Fund, A meeting of City, State and Building Experts, March 14 - 16, 2016

## 2) Prescriptive energy efficiency measures on top of performance component

- a) **All-electric.** ~~Concurrent with meeting energy efficiency performance standard outlined in component 1, building to receive all power from electricity. No gas line to be supplied to the site. Establish program to shift gas end uses in existing buildings from gas to electricity. New buildings to be all electric.~~
- b) **100% high-efficacy lighting.** All lighting, both interior and exterior to be high efficacy, such as fluorescent or LED as per Title 24 2016 definitions.
- c) **Best-in-class major appliances/equipment.** All new refrigerators, freezers, stoves, cooktops, dishwashers, washing machines, water heaters, and HVAC appliances must meet one of the following criteria:
  - i) Energy Star Most Efficient, OR
  - ii) CEE Tier 3, OR
  - iii) Enervee 90+ (or whatever benchmark seems most comparable to the two above)
- d) **Switched outlets.** At least one outlet in each room will be switched.

**Rationale:** The prescriptive energy efficiency measures are designed to both shift energy demand from fossil fuels to renewables and to reduce demand that is not easily addressed by the performance standards in component 1.

~~Requiring Shifting homes to~~ all-electric ~~homes-power~~ allows for energy demand to be met with 100% renewables, either onsite or off. In the past, because of line losses and the inefficiency of turning fossil fuel energy into electricity, electricity delivered to the home represented 3 times as much embodied energy as fossil fuel. This is now changing as more and more PV and wind power generation comes online. Both the State's commitment to increasing the Renewable Portfolio Standard, and Berkeley's intention to migrate to cleaner energy sources through the Alameda County Community Choice Energy program are quickly shifting the power sources for electricity to clean renewables.

In addition, recent developments in heating and lighting technologies have dramatically improved the performance of many sources of electrical demand. Heat pumps are more than twice as efficient as the resistance heaters they are replacing. LEDs and fluorescent lights are as much as 10 times more efficient than incandescent and last over 5 times as long. By requiring use of these new technologies, electrical demand can be dramatically reduced.

[In addition, tanked \(heat pump\) electric water heaters can be used for energy storage, helping to smooth the energy production/demand \(“duck”\) curve.](#)

Further reductions can be achieved by requiring best-of-class major appliances and switched outlets. Energy Star, administered by DOE, is the main program that evaluates and rates appliance energy efficiency. Appliance efficiency is determined based on specific parameters for each category:

- Television: Power consumption under various modes, display screen size
- Computer monitor: Power consumption under various modes, display screen size
- Clothes washer: Energy efficiency, water efficiency, capacity
- Dishwasher: Energy efficiency, water efficiency, size
- Refrigerator and freezer: Energy efficiency, volume
- Ventilation fans (Range hoods, bathroom and utility room fans): Efficacy, noise
- Ventilation fans (Inline fans): Efficacy

**Energy Star Most Efficient** is a program that identifies the most efficient Energy Star products in each category.

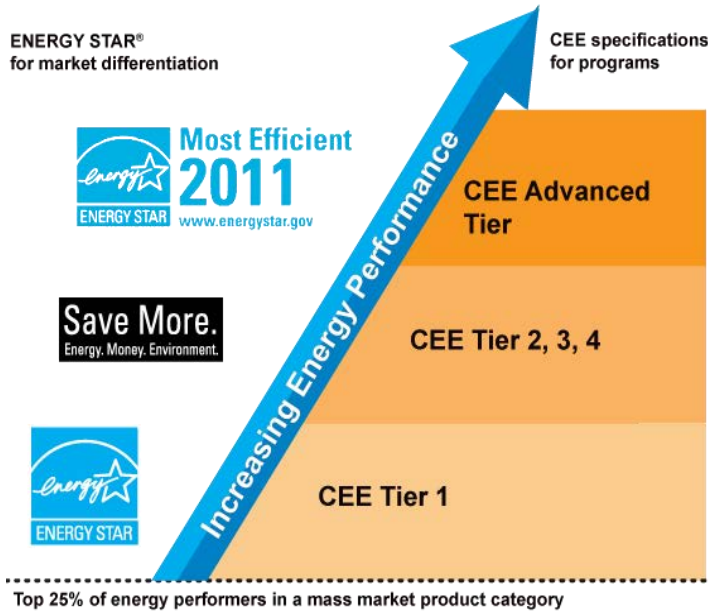
**CEE (Consortium of Energy Efficiency)** uses the Energy Star as a benchmark for various tiers:

- CEE Tier 1 is aligned with Energy Star program. Top 25% of models.
- CEE Tier 2, 3 and 4: Tiers above Energy Star minimum to be eligible for incentives. If incentives are offered, this is tied with Save More. Cost effective for customers with incentives.
- CEE Advanced Tier: Stretch targets. Attracts innovations. Top performance. Cost effective in future.

**Enervee** collects performance data for various appliances, and gives a score from 0 to 100 (the higher the score, the more efficient the product), for each product based on energy efficiency, other product-specific features, and cost. Enervee claims that the data and the scores are updated on a regular basis and presents the most accurate information based on market transformations.

Switched outlets will also enhance energy efficiency by allowing electronic equipment to be easily shut off completely. Many electronic devices draw a small current of electricity all of the time, even when they are not in use. These loads can be significant and while state and federal regulations should be promulgated that eliminate these ghost loads, providing users with a simple switch to turn them off will help in the meantime.





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- <http://www2.buildinggreen.com/blogs/electric-heat-comes-age-installing-our-mini-split-heat-pump>
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Rachel Golden, The Role of Building Electrification in Achieving Long Term Climate Goals in the U.S, Prepared for NRDC, UC Berkeley Energy and Resources Group, June 2016

**3) State-defined ‘solar ready’ plus additional measures, where sufficient solar access exists**

Where sufficient solar access exists, provide the necessary components to make building solar ready as per Section 110.10 of the 2013 Building Energy Efficiency Standards (BEES), with the following additions, deletions and exceptions:

Photovoltaic (PV):

- a) Main Service panel: if a 200A service, busbar must be 225A minimum with a 200A maximum main breaker; if 100A service, busbar must be 125A minimum with a 100A

- maximum main breaker. There must be a reserved space in the panel for a double pole circuit breaker located at the opposite (load) end from the input feeder of the busbar.
- b) No center-fed main service panels will be used.
  - c) Inverter location: minimum 3' wide unobstructed space (from ground to eave above) adjacent to the main service panel; include NEC required working clearance.
  - d) Module sizing and location: sufficient area for PV modules must be reserved which allows for the anticipated power needs to achieve a zero net energy home, plus the anticipated power needs for Electric Vehicle charging, where parking is provided or required. For a typical zero net energy home there should be space allocated for 10 kW of PV, and if there are additional power needs (such as an electric spa) that power need must also be taken into account. The reserved PV roof area shall be unobstructed and unshaded and facing between 110° to 270° from North: Minimum dimension of the reserved area to be 11' in the ridge-to-eave dimension, and assuming a power density of 15W/sf; allow for current fire code ridge and side clearances beyond the designated module areas (currently 3' to ridge and 3' clear on one side)
  - e) Clear and unobstructed pathway from the identified inverter location (preferably next to the main service panel) to the identified roof area.
  - f) OSHA approved fall arrest anchors installed at or near ridges; 5000 lb. capacity each, 8' maximum on center covering the designated module area.

#### Solar Thermal:

- a) Solar water heater collector location: provide adequate unobstructed and unshaded roof area for an appropriate designated collector square footage on roof(s) facing between 110° (E) to 270° (W). Appropriate designated square footage shall be defined as 0.75 square feet per expected gallon-per-day (gpd) consumption for south facing pitched roofs or 1.5 square foot per expected gpd consumption for flat roofs. Area to be sized such that typical solar collector sizes can fit (no less than 4'x8' dimensions).
- b) Designated location for solar storage tank. Size of storage capacity to be one gallon per gpd of expected daily use (i.e.: A single family home with an expected hot water consumption of 65 gallons per day per household would need a 65 gallon storage capacity). Designated location must be selected to minimize heat losses between hot water heater (within 5 feet of hot water heater or on the roof if ICS or thermosiphon is selected).
- c) Minimum (1) 15A 120V receptacle on its own circuit within 5' of the solar storage tank location for solar water heating pumping and controls.
- d) Minimum (1) 50A 240V circuit terminating within 5' of the water heater location for electric/heat pump water heater.
- e) Solar water heater piping: either a chase of a minimum 12" x 12" dimension from within 5' of the storage tank location to a location even with or within 3' below the bottom of the designated solar collector location; or a pair of ¾" type M copper pipes plumbed and pressure tested to 100 psi from within 5' of the storage tank location to a location even with or within 3' below the bottom of the designated solar collector location.

- f) Solar water heating conduit: provide a ½" EMT conduit with pull twine from the solar storage tank location to the roof exit location for solar control wiring. Seal the conduit against weather where it is exposed to the exterior.
- g) Solar pool heating: Space must be allowed either on the roof or on the ground for a collector area that is 70% of the anticipated surface area of the pool, facing between 110° (E) to 270° (W). A pathway should be identified for (2) 2" pipes and (1) ½" conduit from the pool equipment area to the bottom of the designated solar collector location, and if feasible the pipe pathway should be sloped such that water could continuously drain back to the pool equipment area.
- h) The above provisions are intended to be additive to the solar ready provisions of the existing BEES, except in those cases where they contradict, preclude or replace existing provisions, in which case these provisions supersede.

#### 4) Cleaner Insulation

- a) **Insulation free of organohalogen flame retardants.** No insulation used on the project can contain halogenated flame retardants.
- b) **Low global-warming-potential insulation.** No insulation can have a lifetime global-warming-potential greater than .05/sq. ft.\* R based on chart below developed by Building Green and the Inventory of Carbon & Energy (ICE), Version 2.0, by Prof. Geoff Hammond & Craig Jones

**Rationale:** Organohalogen flame retardants (sometimes also called halogenated flame retardants, or HFRs) are a class of chemical that is commonly used as flame retardants in polyurethane and polystyrene materials, including insulations. They are also found in some polyisocyanurate insulations. These chemicals have been linked to a host of serious health and developmental problems and also lead to the formation of toxic halogenated dioxins and furans in fires or during thermal processing (Shaw et al, 2010; US EPA 2014; Weber & Kuch, 2003; Ebert & Bahadir, 2003). Many are persistent and bioaccumulative. Building insulation, including disposal at end of useful life, is estimated to be a significant source of these chemicals in the environment (ECHA 2009). 22 chemicals have been banned internationally under the Stockholm Convention on Persistent Organic Pollutants: all are organohalogens, and one is commonly used in polystyrene insulation materials. The American Public Health Association has issued a policy statement calling for reduced use of these flame retardants to protect public health (APHA 2015).

Embodied energy is the measure of the energy that goes into harvest/extraction, manufacture and transport of a product. Reducing and minimizing the embodied energy of materials used in construction, reduces the carbon footprint of the buildings. Reducing the carbon footprint of buildings reduces GHG emissions at the start of a building's life, when they are needed most. Because of the delayed impact of GHGs and the self-reinforcing loops that GHGs trigger, reductions now are more significant than reductions in the future. By limiting the global-warming potential of insulation materials to .05/sq. ft./R, highly insulated buildings will 'pay back' the added carbon footprint of this extra insulation generally in 5 years at most. The only insulations

that currently don't meet this standard are extruded polystyrene and closed-cell spray polyurethane.

Because of the chemicals commonly used to expand the foam, extruded polystyrene and closed cell spray polyurethane have an extremely high lifetime global-warming potential. In a 2010 study by Buildinggreen.com ("Avoiding the Global Warming Impact of Insulation," by Alex Wilson, Environmental Building News, Vol 19.6), the payback from using extruded polystyrene and closed-cell spray polyurethane foam as an additional insulation layer on the outside of a 2 x 6 framed and insulated house was a minimum of 30 years for a house in a very cold climate like Boston. With less than half of the heating and cooling loads of Boston, the payback time in Berkeley for a similar house would be a lot longer.

Another study by Passive House researcher Rolf Jacobson, shows payback periods of 20+ years from using these high global-warming-potential insulations to meet Passive House energy efficiency goals. ("Comparing 8 Cold Climate PH Houses," by Mary James, Home Energy Magazine, Oct. 2014)

Manufacturers are developing safer alternative methods of expanding the foam.

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<http://www2.buildinggreen.com/blogs/avoiding-global-warming-impact-insulation>

<http://www.homeenergy.org/show/article/nav/issues/magazine/139/id/1993>

## Lifetime Global Warming Potential of Insulations

| Insulation Material                                     | R-value R/inch | Density lb/ft <sup>3</sup> | Emb. E MJ/kg | Emb. Carbon kgCO <sub>2</sub> /kg | Emb. Carbon kgCO <sub>2</sub> /ft <sup>2</sup> •R | Blowing Agent (GWP)               | Bl. Agent kg/kg foam | Blowing Agent GWP/bd-ft | Lifetime GWP/ft <sup>2</sup> •R |
|---------------------------------------------------------|----------------|----------------------------|--------------|-----------------------------------|---------------------------------------------------|-----------------------------------|----------------------|-------------------------|---------------------------------|
| Cellulose (dense-pack)                                  | 3.7            | 3.0                        | 2.1          | 0.106                             | 0.0033                                            | None                              | 0                    | N/A                     | 0.0033                          |
| Fiberglass batt                                         | 3.3            | 1.0                        | 28           | 1.44                              | 0.0165                                            | None                              | 0                    | N/A                     | 0.0165                          |
| Rigid mineral wool                                      | 4.0            | 4.0                        | 17           | 1.2                               | 0.0455                                            | None                              | 0                    | N/A                     | 0.0455                          |
| Polyisocyanurate                                        | 6.0            | 1.5                        | 72           | 3.0                               | 0.0284                                            | Pentane (GWP=7)                   | 0.05                 | 0.02                    | 0.0317                          |
| Spray polyurethane foam (SPF) – closed-cell (HFC-blown) | 6.0            | 2.0                        | 72           | 3.0                               | 0.0379                                            | HFC-245fa (GWP=1,030)             | 0.11                 | 8.68                    | 1.48                            |
| SPF – closed-cell (water-blown)                         | 5.0            | 2.0                        | 72           | 3.0                               | 0.0455                                            | Water (CO <sub>2</sub> ) (GWP=1)  | 0                    | 0                       | 0.0455                          |
| SPF – open-cell (water-blown)                           | 3.7            | 0.5                        | 72           | 3.0                               | 0.0154                                            | Water (CO <sub>2</sub> ) (GWP=1)  | 0                    | 0                       | 0.0154                          |
| Expanded polystyrene (EPS)                              | 3.9            | 1.0                        | 89           | 2.5                               | 0.0307                                            | Pentane (GWP=7)                   | 0.06                 | 0.02                    | 0.036                           |
| Extruded polystyrene (XPS)                              | 5.0            | 2.0                        | 89           | 2.5                               | 0.0379                                            | HFC-134a <sup>1</sup> (GWP=1,430) | 0.08                 | 8.67                    | 1.77                            |

1. XPS manufacturers have not divulged their post-HCFC blowing agent, and MSDS data have not been updated. The blowing agent is assumed here to be HFC-134a.

<http://www.greenbuildingadvisor.com/blogs/dept/energy-solutions/avoiding-global-warming-impact-insulation>

### 5) Pre-remodel BESO assessment of home energy efficiency.

Submit paperwork from BESO assessment with permit application for remodel.

**Rationale:** BESO requires building owners to complete an energy performance assessment and publicly report the building performance information via an electronic reporting interface controlled by the Director of Planning and Community Development or their designee. Energy assessment is carried out by registered energy assessors who provides recommendations to improve the energy performance of the building. For BESO energy assessment one of the following is required:

- a) Home Energy Score: Home Energy Score is developed by LBNL and rates homes on a scale of 1 to 10, 10 indicating excellent energy performance. Home energy Score includes the score, energy use breakdown, data collected and recommendations to improve energy performance.
- b) Energy Upgrade California (EUC) Advanced Assessment: Home Upgrade has a network of qualified energy assessors in the bay Area who can assess homes and identify opportunities for energy performance improvement.
- c) High Performance: If a qualified energy upgrade has been completed or if the building is already very energy efficient, the owner can submit evidence of these upgrades or this efficiency in lieu of the BESO audit.

The BESO assessment informs owners on the building's energy performance and provides a roadmap for improvement. Assessments are carried out by registered assessors using advanced diagnostic tools. While encouraging them, the system makes it voluntary to incorporate performance improvement measures. Reducing one's carbon footprint, improving comfort in the house and saving on energy bills are all incentives for building owners to carry out recommended changes. Improved marketability of energy efficient residences is a further incentive to owners to implement recommended energy conserving measures.

## 6) Post remodel energy, comfort, and air quality monitoring (operational rating)

- a) For a period of one year following completion of construction, monitoring will be carried out for the following parameters: hot water use, appliance loads, space heating loads, interior temperature, relative humidity and CO2 levels. Consider requiring entry of projects as case studies into the NZEC-NESEA inventory, for which all case studies are QA'd by NREL before publishing.
- b) Project must document energy use meets target expectations to be eligible for incentives from the City.
- c) Monitoring data will be included in a public database (that protects privacy) and compared to pre-construction projected energy use in bi-annual reports. Reporting could potentially be less frequent if incorporated into NZEC-NESEA inventory.

**Rationale:** The intention of Berkeley Deep Green Building is to radically improve the comfort, performance and indoor air quality of buildings throughout the City of Berkeley. However, without a means to track these improvements, it may not achieve the outcomes required to reduce our global carbon emissions. Therefore, the program includes a mandatory monitoring for all participants. A list of devices for tracking both energy performance and indoor air quality are included below.

Bi-annual reports examining the data will help to direct future improvements to Berkeley Deep Green Building.

| Energy Use Monitoring Systems:                                                                      |                                                                                             |          |           |              |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|----------|-----------|--------------|
| Name                                                                                                | Website                                                                                     | Cost     | #circuits | Cost/circuit |
| eGauge EG3010<br>(Residential)                                                                      | <a href="http://www.egauge.net/">http://www.egauge.net/</a>                                 | \$544    | 12        | \$45.33      |
| eGauge EG300<br>(commercial)                                                                        | <a href="http://www.egauge.net/">http://www.egauge.net/</a>                                 | \$494.00 | 12        | \$41.17      |
| SiteSage                                                                                            | <a href="http://powerhousedynamics.com/">http://powerhousedynamics.com/</a>                 | tbc      | 44        |              |
| PowerSave Envi                                                                                      | <a href="http://www.currentcost.net/">http://www.currentcost.net/</a>                       | \$129    | 10        | \$12.90      |
| Lgate                                                                                               | <a href="http://locusenergy.com/">http://locusenergy.com/</a>                               | tbc      | 2         |              |
| EnergyCloud                                                                                         | <a href="http://bluelineinnovations.com/">http://bluelineinnovations.com/</a>               | \$89     | 1         | \$89.00      |
| TED 5000                                                                                            | <a href="http://www.theenergydetective.com/">http://www.theenergydetective.com/</a>         | \$199.00 | 1         | \$199.00     |
| TED Pro Home                                                                                        | <a href="http://www.theenergydetective.com/">http://www.theenergydetective.com/</a>         | \$300.00 | 32        | \$9.38       |
| Wattvision                                                                                          | <a href="http://www.wattvision.com/">http://www.wattvision.com/</a>                         | \$99.00  | 1         | \$99.00      |
| (Highlighted cells are the ones that look most viable and informative for tracking home energy use) |                                                                                             |          |           |              |
| IAQ Monitoring Systems:                                                                             |                                                                                             |          |           |              |
| Foobot                                                                                              | <a href="http://foobot.io/">http://foobot.io/</a>                                           | \$199.00 |           |              |
| Elgato Eve Room                                                                                     | <a href="https://www.elgato.com/en/eve/eve-room">https://www.elgato.com/en/eve/eve-room</a> | \$75.00  |           |              |
| Netatmo Home<br>Weather Station                                                                     | <a href="https://www.netatmo.com/">https://www.netatmo.com/</a>                             | \$148.00 |           |              |
|                                                                                                     |                                                                                             |          | updated:  | 3/2/2016     |

<http://www.homepower.com/articles/home-efficiency/electricity/tracking-your-energy-use>

## 7. FSC-certified wood

FSC-certified wood and wood products are to be used when available.

**Rationale:** FSC is an independent member-led group that advocates use of wood sourced from sustainably managed forests (see [us.fsc.org/en-us](http://us.fsc.org/en-us)). FSC-certified wood aligns with the Berkeley Deep Green Building requirement for sustainably sourced materials and offers the following benefits:



- FSC standards for forest management discourages harvesting wood from old-growth forests, thus preventing loss of natural forest cover.
- The standards extend to protection of water bodies and prevention of use of hazardous chemicals, such as Atrazine, that are otherwise allowed in the US.
- FSC requires forest managers on both private and public lands to involve the local community and protect indigenous people. It requires the local community to be part of the decision-making on impacts of operations and certification.
- FSC audit reports on public and private lands are available to the public.

FSC wood and wood and cabinetry and windows made with FSC wood are available from many local sources. A list of these sources, updated annually, is available from the Ecology Center on San Pablo Ave.

Note: the SFI certification is not a comparable alternative and cannot be used as a substitute certification program.

## 8. Water Conservation

**All new plumbing fixtures to be 100% extra-low flow fixtures and appliances.**

| Fixture        | Flow rate mandated by California Energy Commission (gpm) | Maximum flow rate recommended by Berkeley Deep Green Building (gpm) |
|----------------|----------------------------------------------------------|---------------------------------------------------------------------|
| Faucet         | 1.2                                                      | .5                                                                  |
| Shower         | -                                                        | 1.25                                                                |
| Kitchen Faucet | 1.8 that can be increased to 2.2                         | 1.8 (for functional reasons such as pot filling)                    |
| Toilets        | 1.28                                                     | 1                                                                   |

**Permeable paving.** Maximize permeable paving. Paving materials such as gravel, pervious concrete or asphalt, spaced paving blocks, loose materials, or tire spurs allow storm water to percolate and infiltrate into the ground, allowing for groundwater recharge and reduction in runoff and flooding. When choosing a permeable paver, consider Americans with Disabilities Act (ADA) access requirements and the anticipated vehicular load in hardscape areas. Areas with very high traffic or very heavy anticipated loads may not be suitable for pervious paving strategies. Examples of permeable paving are: Pervious concrete or asphalt, an open-grid pavement system with at least 50% permeability, permeable materials, such as gravel, decomposed granite, or sand.



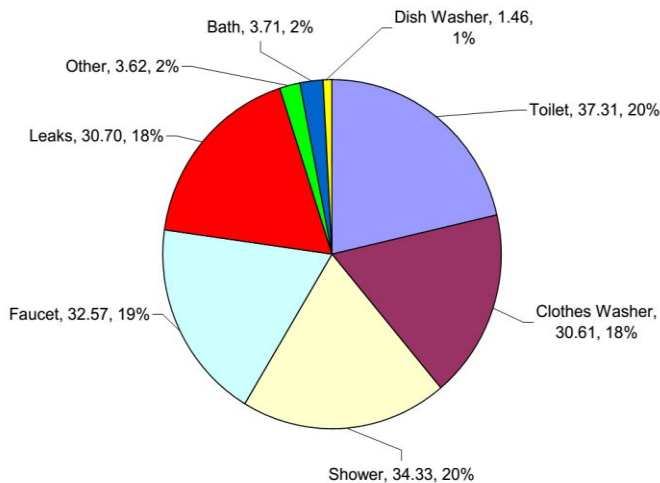
**Water conserving landscape.** Post construction landscape design shall be designed to achieve the following:

1. Areas disrupted during construction are restored to be consistent with native vegetation species and patterns.
2. Limit Turf areas to 10 percent of the total landscaped area.
3. Utilize at least 75 percent native California or drought tolerant plant and tree species appropriate for the climate zone region. Areas devoted to edible landscape exempt because of importance of localizing food supply.
4. Plants to be hydrozoned by water needs.

**Laundry-to-landscape greywater and greywater-ready tub and shower plumbing.** Install laundry to landscape greywater system. New showers and tubs to be plumbed to be greywater ready: i.e. greywater piping kept separate from black water piping in such a fashion as to provide easy access for diversion into a greywater system at a future date.

**Rationale:** It is estimated that the average resident in Northern California uses 171 gallons per day for indoor use and 125 gallons per day for outdoor use. It is also estimated that residents of the Bay Area use less than 171 gallons of water for indoor use (California Single Family Water Use Efficiency Study, 2011).

The following chart presents a perspective on the average residential water use in California.



A state of emergency was declared in California in 2014 due to drought conditions. Record low precipitation in 2014 affected drinking water reserves in the state. Precipitation in subsequent years has not been enough to bring California out of the drought situation. This emergency prompted the State to take corrective actions and make the water efficiency standards in buildings and in agricultural practices more stringent. It is imperative that all new and existing

buildings honor this commitment by the State. The water efficiency goals of the Berkeley Deep Green Building program will be in line with the State's commitment and requirements.

Water-permeable paving allows infiltration of rainwater into the ground and helps recharge ground water. It prevents excess storm water runoff that overloads the capacity of our wastewater treatment plants (where there are combined sewer and stormwater systems). Additionally it filters pollutants from runoff thus improving the quality of storm water runoff and preserves ground water quality.

Limiting turf area conserves water as turf has high irrigation needs. Native turf varieties are recommended instead because of their lower irrigation needs. Limiting turf area will allow the owner to explore alternate irrigation options such as drip irrigation which work well with other landscaping species

More efficient irrigation can be achieved by clumping species with similar irrigation needs together in the landscape.

Re-use of greywater for landscape irrigation has been estimated to offset from 16 to 40% of municipal potable water use.

Laundry-to-landscape greywater systems are easy to install, economical, and do not require a permit so long as explicit guidelines are followed.

Tub/shower greywater can readily be diverted for re-use in the landscape so long as the drainage piping is accessible and there is adequate space in the piping to install a backwater valve and diverter valve. If not anticipated with the installation of "greywater ready plumbing", it can become cost prohibitive in the future to attempt to capture that greywater for re-use. Where a new tub/shower is situated on a slab, the drain piping can be routed to an area (even outside the building footprint) where access can be provided before it joins black water drain piping. Similarly, upstairs tub/showers can have drainage piping extend into lower walls or the crawlspace to provide that access, before combining with black water piping.

Ideally, landscaping would be designed to optimize greywater re-use from various sources in the home using the least expensive types of greywater irrigation systems.

**References:**

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California Code of Regulations Title 23, Division 2, Chapter 2.7. Model Water Efficient Landscape Ordinance.

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DWR offers rebates to replace turf with other native species. (<http://www.saveourwaterrebates.com/turf-replacement-rebates.html>)

## Berkeley Deep Green Building: Level 2

### 1. Higher above code energy efficiency ( performance component)

~~Establish even lower energy use intensity maximums than tier 1 energy use intensity (EUI) maximum of 14 kBtu/ sq. ft. /yr site energy~~ for both new construction and remodels above a certain threshold in size. See item 1. above for rationale.

### 2. Reduced embodied energy (prescriptive measures)

- a. **Reduce concrete use (reduce concrete use for hardscape and other nonstructural applications).** ~~Consider prohibition on use of materials high in embodied energy such as~~ new concrete and kiln-fired brick, pavers, etc. ~~cannot be used for non-structural purposes and should not be used in excessive amounts for structural~~ purposes.
- b. **Low embodied-energy concrete.** Specify concrete with global-warming potential 30% or more below standard mixes as established by the NRMCA.

“Supply concrete mixtures such that the total Global Warming Potential (GWP) of all concrete on the project is 30% or more below the GWP of a reference building using Benchmark mixes as established by NRMCA and available for download at [www.nrmca.org](http://www.nrmca.org). Submit a summary report of all concrete mixtures, their quantities and their GWP to demonstrate that the total GWP of the building is 30% or more below the GWP of the reference building. Contractor may use the Athena Impact Estimator for Buildings software available at [www.athenasmi.org](http://www.athenasmi.org) or other similar software with the capability of calculating GWP of different mix designs.”

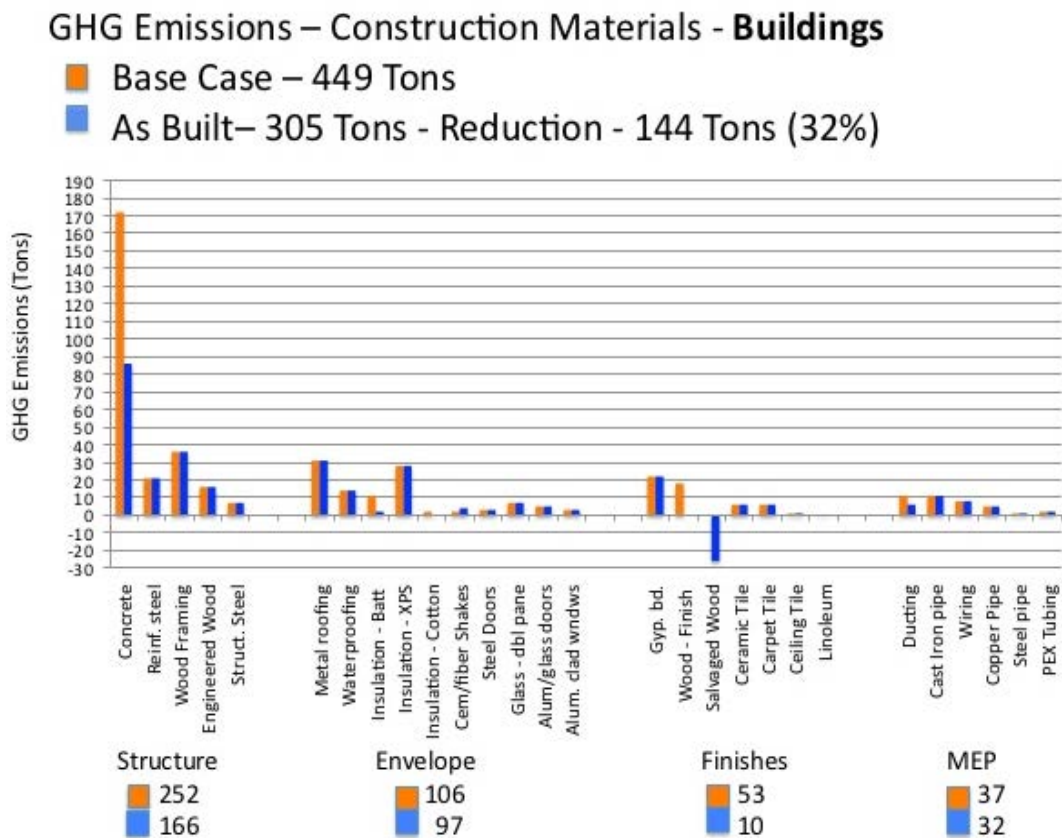
- c. **Wood in lieu of steel/concrete:** Where it is possible to substitute, wood ~~(including~~ cross-laminated timber and other engineered wood products) will be used in lieu of concrete and steel structural systems.
- d. **Petition for consideration of alternative measures for reducing embodied energy. For example, salvaged siding, earth finishes, high recycled content, locally sourced, and rapidly renewable materials, and remodeling rather than constructing new.**

**Rationale:** As operational energy goes down, the significance of energy embodied in materials increases. Currently over a buildings whole life, embodied energy accounts for roughly 20% of a building’s total GHG footprint. However, in the first 20 years of a building's life, this can be 50% or more. In addition, as we approach zero net operating energy, these numbers increase, eventually reaching 100%.

Low-carbon materials provide net GHG emissions reductions now, when GHG emissions reductions are most effective and are needed most because of the delayed impact of GHGs and the self-reinforcing loops that GHGs trigger.

Low-carbon construction can reduce the embodied energy of a typical building by 30 to 50%, with 20% achieved through simple substitutions.

Rapidly renewable plant materials, wood, earth and stone are the primary low-carbon construction materials. Use of rapidly renewable plants and wood products actually sequesters atmospheric carbon and could be assembled to create a carbon negative house. Metal and plastics in general have a very high carbon footprint and should be avoided where possible. Concrete, while lower in embodied energy per pound, is used in such great quantities that its global warming impact tends to dwarf that of other materials used in construction. A detailed analysis of the embodied energy of a building recently designed by Siegel and Strain Architects shows the relative significance of various components:



Berkeley Deep Green Building focuses on reducing concrete in nonstructural uses because there are many good low-carbon alternatives. It encourages use of wood instead of concrete and steel structurally because structural systems contribute most to a building’s overall embodied energy. Where concrete is essential structurally, many methods exist to reduce the embodied energy of concrete significantly without compromising its performance.

Finally, where wood is used mainly for the structure, advanced framing techniques can be employed that can reduce the amount of lumber used by up to 25%. Advanced framing components include:

- Framing walls with studs at 24" on center.
- Designing windows and doors on the plywood/sheetrock module
- Single top plates instead of double top plates
- Single stud at window
- No headers over doors and windows in nonbearing walls
- No cripple under windows
- Hang window and door headers instead of using Jack studs
- Use only 2 studs for corners

Additional information about this construction technique is available in **Efficient Wood Use in Residential Construction: A Practical Guide to Saving Wood, Money, and Forests** by Ann Edminster and Sami Yassa, 1998. Natural Resources Defense Council

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[http://www.siegelstrain.com/site/pdf/201105\\_ClockisTicking-LStrain.pdf](http://www.siegelstrain.com/site/pdf/201105_ClockisTicking-LStrain.pdf)

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<http://www.apawood.org/data/sharedfiles/documents/m400.pdf>

<http://www.usahers.com/pdf/files/VEFraming1-17-01.pdf>

### **3. Solar photovoltaic (PV) system and/or a solar thermal system sufficient to achieve zero net energy for the building, where sufficient solar access exists**

Where sufficient solar access exists, install a solar PV and/or solar thermal system, sized as required to achieve zero net energy for the building, including excess inverter capacity for expansion.

**Photovoltaics:** The PV system shall be sized to offset 100% of on-site electrical loads, and in addition shall include either 1) inverter capacity for the PV modules needed to supply power for at least 2 EVs which travel 30 miles per day round trip, or 2) adequate space and breaker capacity at the main service panel to add this inverter capacity later. If the system uses micro inverters then no added inverter capacity is required. Prioritize usage of roof areas which have a 90% or greater annual solar access; if those areas prove insufficient, utilize areas with not less than a 70% solar access. System sizing should be done using one of the nationally accepted solar calculator tools, such as PVWatts, PVSyst, Helioscope, and SAM.

**Solar thermal:** A solar thermal system will typically offset between 50% and 70% of a residence's annual hot water loads. If the building design indicates a need for solar thermal to achieve zero net energy, then the system must be installed in a way that achieves a minimum 50% solar fraction. Any SRCC OG300 certified system may be used; however, if the system involves hot water storage on the roof then the roof structural design must be proven adequate to carry the additional load. If there is going to be a swimming pool on the property there should also be an adequately sized unglazed or glazed solar pool heating system.

### **4. Reduced toxicity through avoidance of Living Building Challenge Red List chemicals**

Projects cannot use products that contain chemicals on the Living Building Challenge Red list. These chemicals are:

- [Alkylphenols](#)
- Asbestos
- [Bisphenol A \(BPA\)](#)
- Cadmium
- Chlorinated Polyethylene and Chlorosulfonated Polyethylene
- [Chlorobenzenes](#)
- Chlorofluorocarbons (CFCs)
- Chloroprene (Neoprene)

- [Chromium VI](#)
- Formaldehyde (added)
- Halogenated Flame Retardants ([HFRs](#))
- Hydrochlorofluorocarbons (HCFCs)
- Lead (added)
- Mercury
- [Petrochemical Fertilizers and Pesticides](#)
- [Polychlorinated Biphenyls \(BCPs\)](#)
- [Perfluorinated Compounds \(PFCs\)](#)
- Phthalates
- Polyvinyl Chloride (PVC)
- [Polyvinylidene Chloride \(PVDC\)](#)
- [Short Chain Chlorinated Paraffins](#)
- Wood treatments containing Creosote, Arsenic or Pentachlorophenol
- [Volatile Organic Compounds \(VOCs\) in wet-applied products \(above specified amounts\)](#)

The International Living Future Institute, which manages the Living Building Challenge, grants temporary exceptions for many Red List Chemicals owing to current limitations in the materials economy. These same exceptions, as outlined in the Living Building Challenge 3.0 Materials Petal Handbook, shall apply in Berkeley Deep Green Building. However, no exceptions shall be made for halogenated flame retardants (HFRs) in insulation given the availability of alternative materials that do not contain HFRs.

**Rationale:** The International Living Future Institute has assembled a list of chemicals it identifies as the “worst in class” materials, chemicals, and elements known to pose serious risks to human health and the greater ecosystem.” Ultimately, they should be phased out of production because of toxicity concerns. A growing body of research is demonstrating the role of chemical pollutants in the development of a broad array of childhood and adult diseases (e.g. neurodevelopmental disabilities, asthma, allergies, psychiatric disorders, immune deficiencies, birth defects, cancers, diabetes, endometriosis, infertility, and Parkinson's disease). The time of greatest vulnerability is during pregnancy, when minute exposures to the fetus during critical developmental windows can set a child up for a lifetime of chronic illness.

Unfortunately, there is very little federal regulation to ensure the safety of the >85,000 synthetic molecules developed since WWII. When Toxics Substances Control Act (TSCA) was passed in 1976, 62,000 chemicals were simply grandfathered in as being permissible to use in commercial products. Of the 20,000 plus new chemicals developed since then, health data has been generated on only 15% of them. Since the passage of TSCA, the EPA has outlawed only 5 chemicals under this law.

Building consumes 40% of raw materials globally (3 billion tons annually) and therefore contributes substantially to the extraction, manufacture and use of materials in our environment. Avoidance of building products containing ILFI Red List Chemicals helps to create safe environments in our homes and redirects manufacturing to a more sustainable future.

**References:**

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<http://www.healthandenvironment.org/about/consensus>

<http://arjournals.annualreviews.org/e...>

<https://www.youtube.com/watch?v=E6KoMABz1Bw> Little Things Matter by Bruce Lanphear, MD, Prof at Simon Fraser University, Published on Nov 11, 2014

**5. Advanced Water Conservation Measures**

- a. **Operational tub and shower greywater system.** Direct all shower/tub water to permitted outdoor greywater system.
- b. **Operational rainwater collection for non-potable domestic use.** A minimum 1000 gallon rainwater system to be installed for use for toilets and/or laundry.

**Rationale:**

California enacted the Rainwater Recapture act in 2012 which allows residents to capture and use rainwater collected onsite. There are many benefits to capturing and reusing rainwater onsite:

- Rainwater use offsets the demand on the potable water supply which is under a great strain because of the State's drought conditions.
- While the individual capacities of rainwater barrels or cisterns are inadequate for agricultural or industrial purposes, they are adequate for residential non-potable applications. If every home in the City of Berkeley collected and used rainwater, at the minimum for outdoor irrigation, the water saved in the reservoirs could be diverted to other applications that do not offer much flexibility, such as agricultural and industrial applications. Consequently this relieves the demand on the potable water supply.
- Rainwater is a free and clean source for irrigation. It is low in sodium and chloramine and is fluoride free.
- Additionally, basic filtration and treatment makes rainwater fit for other uses such as toilet flushing and cleaning laundry (subject to permitting requirements).
- Capturing rainwater reduces the speed of flow in storm water systems and into the Bay. This helps in preventing changes in the local ecosystem.

Greywater is lightly used water from tubs, showers, sinks and clothes washers: so long as care is taken in the choice of cleaning products it can be effectively re-used for outdoor irrigation.



Using municipal water twice lowers the embodied energy/carbon footprint per use, reducing the chemicals and costs involved in treating water initially to potable standards and later in treating it before release back into the environment.

Fortunately there are many systems available ranging in price and suitability for different types of landscapes. The simplest and least expensive sends the greywater directly to the garden as it is produced, via gravity or using the pump already in the washing machine. Mulch basins in the landscape allow the greywater to infiltrate into the soil, and are best suited for irrigating larger trees, shrubs, vines, perennials.

More expensive systems utilize tanks, pumps, filtration and sophisticated controls in order to distribute the greywater in regulated amounts through special drip tubing. Some require that the homeowner clean the filters, others provide automatic back flushing of filters using potable water (with cross connection protection) or air.

There are even specialized greywater systems that can be installed under turf. Other whole house systems gather the greywater, treat it onsite to the NSF 350 standard so that it is no longer technically greywater, and utilize it for toilet flushing.

It is wise to anticipate the desired type of system (and budget) and design/plumb accordingly—some systems require space for necessary equipment to be installed, either indoors or out, and require that all greywater piping lead to one location.

Even if there is no plan to implement a system, installing plumbing to be ‘greywater ready’ is a courtesy to all future owners of the property when greywater re-use may be mandatory.

Currently all systems require a permit except the laundry-to-landscape system, which must abide by code-specified guidelines to be exempt.

#### References:

The Water Wise Home, by Laura Allen, Storey Press, 2015

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## Ideas from community input session 06.14.2016

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### Level 1

1. Bike parking to be included in both new and existing homes
2. Clause to be added on EUI with respect to number of bedrooms.
3. Carbon sequestration (need more inputs on how this can be achieved without cluttering the program). One is encourage residents to separate recyclables, composting and landfill trash, similar to what is done in San Francisco. (<http://sfenvironment.org/zero-waste/recycling->

[and-composting/residential-recycling-and-composting](#)) However, not sure if this accounts to carbon sequestration.

4. Secondly under carbon sequestration, we could add construction waste recovery and recycling, which requires collecting construction waste and sending all recyclable waste to authorized recyclers and / or send reusable materials to other construction sites. This is to minimize waste going to landfills. This is similar to the measures in LEED.

## **Level 2**

1. Incorporate EV charging points in all multifamily homes and newly constructed single family homes
2. Reduce number of parking spaces in homes within 0.25 miles of public transit.

# Berkeley DEEP GREEN Building

**Promoting Sustainable Building Practices  
to advance  
Berkeley's Climate Action and Resiliency Goals**

**This proposal was conceived and prepared by the**

**Berkeley Zero Net Energy++ Working Group**

**A group of citizens and building professionals dedicated to making Berkeley's Building Code a model of green, non-toxic, sustainable building practices and achieving Berkeley's Climate Action Plan and Resilience Strategy goals by inspiring, educating and supporting the community**

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## Executive Summary

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Many new residential developments have been approved in the City of Berkeley in recent years, and even more are in the pipeline. At the same time, existing buildings comprise the vast majority of Berkeley's building stock. Most of these buildings, existing and new, consume excessive energy and water.

While many new projects have the benefit of being sited on transit corridors, they often fall short of their full potential to reduce environmental impacts because they do not incorporate best practices for Green Building. Berkeley's recently adopted Building Energy Savings Ordinance (BESO) helps identify potential energy conservation measures, but does not provide incentives and specific guidance to support homeowners, builders and developers in meeting Environmental and Greenhouse Gas (GHG) reduction goals.

*Berkeley Deep Green Building proposes an incentive-based path towards buildings that meet Berkeley's environmental and GHG reduction goals, protect the health and safety of Berkeley workers and residents, and support the health and sustainability of communities across the globe.* The program is intended to be voluntary and incentive-based in the beginning, leading to the adoption of mandatory measures in later stages. In line with the vision of California's Long Term Energy Efficiency Goals, the program would initially focus on the residential sector, to help achieve the State's 2020 residential sector energy goals. Over time, Berkeley Deep Green Building would incorporate measures for the non-residential sector, aligning with the State's 2030 targets for non-residential structures.

Berkeley Deep Green Building ties into Berkeley's Climate Action Plan and BESO, and into State codes and other programs such as Title 24, Energy Upgrade California and the California Advanced Home Program. In addition to new incentives to be provided by the City of Berkeley, homeowners, builders and developers participating in Berkeley Deep Green Building would be eligible for a number of incentives already offered by the State and PG&E.

Berkeley Deep Green participation would be offered in two Levels. Level 1 includes high impact sustainability measures that address energy efficiency, toxicity, responsible sourcing and water use. These measures are the easiest to achieve and tie into Title 24 and other State-level efforts to arrive at Net Zero Energy. Level 2 measures are more stringent and offer greater impact in achieving environmental and GHG reduction goals. Berkeley Deep Green is intended to encourage/incentivize most projects to comply with Level 1, while further incentivizing/rewarding Level 2 projects to take on the highest levels of environmental stewardship.

Berkeley Deep Green Building would not only help to achieve Berkeley's environmental and GHG reduction goals but can also be a model for other cities to follow, helping to achieve long term sustainability goals in communities across the United States, and around the globe.

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## Introduction

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Berkeley is building again. Over 2000 new units have been approved in the past 3 years, and many are under construction. Another thousand are in the pipeline—with more sure to come. Many of these new developments are on or near major transit corridors, qualifying them as ‘transit-oriented development’, which is environmentally preferable to development that is dependent on automobiles.

But while reducing dependence on automobiles is an important goal, transit-oriented development falls short of its potential when buildings themselves use excessive energy and water over their lifetimes or are built with energy intensive, toxic and/or unsustainably produced materials.

At the same time, existing structures form a sizeable percentage of Berkeley’s building stock. Berkeley’s recently enacted Building Energy Savings Ordinance (BESO) requires all home owners to audit their home performance and will help—over time—to identify energy efficiency improvements for existing buildings. However, there are few incentives to implement improvements and little guidance on how to prioritize work to best support climate change goals.

Berkeley Deep Green Building is a proposal for an incentive-based path toward buildings that meet Berkeley’s environmental and greenhouse gas (GHG) reduction goals, protect the health and safety of Berkeley workers and residents, and support the health and sustainability of communities across the globe.

## Program overview

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Berkeley Deep Green Building incorporates best practices to:

1. **Support zero net energy** at the individual building and community scale
2. **Reduce embodied energy** in building materials and practices
3. **Reduce toxicity** in building materials
4. **Source sustainably produced materials** from fair trade, fair wage and culturally and environmentally sustainable suppliers; and
5. **Conserve water.**

Some of the components are similar to those in the US Green Building Council's LEED, Build It Green's Green Point Rated, and the International Living Future Institute's Living Building Challenge. However, Berkeley Deep Green while tied into California Codes and mandates for energy and water efficiency, is tailored to Berkeley with its limited rainfall and high urban density.



In addition, it acknowledges the latest science in environmental health and it looks holistically at a building's global warming impacts.

The program is intended to be voluntary and incentive-based at first, leading eventually to the adoption of new mandatory requirements, as appropriate.

The program's methods are to:

**INSPIRE→EDUCATE→INCENTIVIZE→EVALUATE & INCORPORATE**

In addition to incentivized measures and eventual rules, Berkeley Deep Green Building includes a robust educational component, with outreach and programs for homeowners, contractors, architects, engineers, landlords, developers, lenders, appraisers, and members of the public.

Initially, Berkeley Deep Green Building applies only to residential buildings, including new buildings and remodeling projects over a specific size. This tracks the State's emphasis on residential buildings and reflects the complexities of devising regulations applicable to nonresidential enterprises with vastly different needs and uses, from offices full of computers to hospitals, grocery stores, factories and labs with equipment, heat, lighting, refrigeration and other specific needs that vary widely. In a later phase, the program will be extended to commercial, manufacturing and office buildings of all types.

## Alignment with Berkeley and Statewide goals

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Berkeley Deep Green Building helps implement Berkeley's 2009 Climate Action Plan, Berkeley's 2016 Resilience Strategy, the California Energy Commission's Title 24, and California's Zero Net Energy goals, and reflects the community's commitment to health, sustainability, and equity.

According to Berkeley's Climate Action Plan, commercial and residential buildings account for 53% of the city's GHG emissions. The first goal of the Plan is for *"new and existing Berkeley buildings [to] achieve zero net energy consumption through increased energy efficiency and a shift to renewable energy sources."* Clean and reduced energy use in buildings is also a key goal of Berkeley's Resilience Strategy.

The State of California, through Title 24, is continually increasing energy efficiency standards for buildings and is now preparing regulations for all new residential construction to be 'zero net energy' by 2020. Berkeley Deep Green Building supports achievement of the state's Title 24 and zero net energy goals.

The usage of natural gas represents 65% of Berkeley buildings' GHG emissions. Incentives to improve energy efficiency and shift from natural gas to electricity make the city's GHG reduction goals more attainable, especially if the proposed Alameda County Community Choice Energy project comes online, offering even cleaner electricity to Berkeley residents.

Technologies exist to support zero net energy in new construction and remodels, but not all building professionals are aware of these opportunities. New electric heat pumps for space and water heating are up to 30-40%<sup>1</sup> more efficient than gas furnaces. New materials for reducing air infiltration and requirements for increased insulation levels reduce the amount of space heating required. These measures, coupled with reduced plug loads, high-efficacy lighting, and solar hot water help to minimize electricity demand. Berkeley Deep Green Building incentivizes all of these, and more.

## Program components

The Berkeley Deep Green Building program is offered in two Levels, providing a roadmap to achieve its goals. Initially, the program is envisioned as voluntary, with valuable incentives tied to compliance. Over time, voluntary components will be incorporated into the code, either at the state level or by the City of Berkeley. Since program goals are tied to California's long term energy goals, projects will be eligible for a number of energy efficiency incentives offered by the State as well as for incentives that the City of Berkeley may choose to offer.

Level 1 includes high-impact energy efficiency measures that generally are relatively easy to achieve, and addresses toxicity, responsible sourcing, and water use. Many of these measures dovetail with Title 24 and with state-level efforts to arrive at zero net energy. Incentives to achieve Level 1 standards should be substantial enough to induce most or all projects to comply. Level 2 standards reach further and are tied to additional incentives. In addition, not all components must be adopted to obtain incentives, though more comprehensive adoption will be more highly rewarded.

Each of the components listed below is discussed in more detail in **Appendix A**.

### Berkeley Deep Green Building: Level 1

1. Above-code energy efficiency performance standard
2. Prescriptive energy efficiency measures
  - a. 100% electric—no gas
  - b. 100% high-efficacy lighting
  - c. Best-in-class major appliances and equipment
  - d. Switched outlets
3. State-defined 'solar ready' plus additional measures, where sufficient solar access exists
4. Cleaner insulation

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<sup>1</sup> <http://www.climaticva.com/electric-heat-pumps-vs-gas-furnaces/>

- a. Insulation free of organohalogen flame retardants
- b. Low global-warming-potential insulation
5. Pre-remodel BESO assessment of home energy efficiency
6. Post-remodel energy, comfort, and air quality monitoring
7. Use of 100% Forest Stewardship Council (FSC)–certified sustainably harvested wood
8. Water conservation measures
  - a. 100% extra-low-flow fixtures and appliances
  - b. Water-permeable paving
  - c. Water-conserving landscape (edible landscaping exempt)
  - d. Laundry-to-landscape greywater and greywater-ready tub and shower plumbing

### Berkeley Deep Green Building: Level 2

1. Energy efficiency performance standard higher than in Level 1
2. Reduced carbon footprint (embodied energy) of building
  - a. Reduced concrete use (for hardscape and other nonstructural applications)
  - b. Low-carbon-footprint concrete
  - c. Wood in lieu of steel/concrete.
  - d. Alternative and creative measures to reduce carbon footprint and to support responsible sourcing in a special, flexible category:
    - i. Salvaged siding
    - ii. Earth finishes
    - iii. Fair trade/sustainably produced/green and fair labor–certified materials
    - iv. Other high recycled content, locally sourced/produced and rapidly renewable materials
3. Installed solar photovoltaic (PV) system and/or solar thermal system sufficient to achieve zero net energy for the building, where sufficient solar access exists
4. Reduced toxicity through avoidance of Living Building Challenge Red List chemicals
5. Advanced water conservation measures
  - a. Operational tub and shower greywater system
  - b. Operational rainwater collection for non-potable domestic use

To learn more about each of the Level 1 and Level 2 measures, refer to **Appendix A**, which is organized in the same manner as the above lists.

## Incentives

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Over time, some or all of the incentive-based measures in Berkeley Deep Green Building may be incorporated into the building code, while new measures (which become available through industry innovations) can be included in the incentive-based program. For the program to be successful, incentives must be meaningful, motivating and easily understood. Specific incentives will be developed in collaboration with city staff.

Tools and motivators might include assistance with financing (permit fee rebates, low interest loans), relaxation of zoning requirements, bonuses, acceleration of permitting and inspection process, and/or public recognition through competitions, awards and PR events.

In addition, there are a number of local, state and federally sponsored incentives that may apply to projects. These include the following incentives and programs.

1. **Property Assessed Clean Energy (PACE)**

Up to 100% financing of energy efficiency, water efficiency and renewable energy projects with little or no upfront costs, and payment through existing property tax bill. <http://energycenter.org/policy/property-assessed-clean-energy-pace>

2. **Bay Area Multi-Family Building Enhancements (BAMBE)**

Cash rebates and free energy consulting for multifamily properties that undertake energy efficiency enhancements. <http://bayareamultifamily.org>

3. **Property tax exclusion for solar energy systems**

Customers who install active solar systems such as solar water heaters and solar space heaters will not have their property tax re-assessed. (<http://programs.dsireusa.org/system/program/detail/558>).[http://www.pv-tech.org/news/california\\_property\\_tax\\_exemptions\\_for\\_pv\\_systems\\_extended\\_to\\_2025](http://www.pv-tech.org/news/california_property_tax_exemptions_for_pv_systems_extended_to_2025)

4. **Zero net energy pilot program by PG&E**

Supports research, conducts workshops and outreach activities, and provides design and technical consultations to customers.

5. **Energy efficient mortgages (EEM)**

The Federal Housing Agency's Energy Efficient Mortgages program helps families save money on their utility bills by enabling them to finance energy efficient improvements with their FHA-insured mortgage. The energy package is the set of improvements that the Borrower chooses to make based on the recommendations and analysis performed by a qualified home energy assessor.

([http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/eem/energy-r](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/eem/energy-r))

6. **PG&E residential energy efficiency rebate program**

- a. PG&E offers rebates to eligible residential customers who install energy efficient space conditioning systems and appliances.  
(<http://programs.dsireusa.org/system/program/detail/1428>)
  - b. A similar program is extended to multifamily residential buildings.
7. **PG&E California Advanced Homes (CAHP) incentives**  
For builders of new homes, incentives are applicable to homes that display a 15% to 45% improvement over Title 24 2008 codes. Additional incentives are available when onsite solar PV systems are installed or to homes that display more than 40% improvement over Title 24 2013. <http://cahp-pge.com/>

## Education and outreach

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Education and outreach are key to the success of the Berkeley Deep Green Building program, ensuring that property owners as well as building, finance and regulatory professionals understand deep green building practices in general and their value to both the environment, and to the bottom line. Outreach is intended to inspire stakeholders to participate in the Berkeley Deep Green Building program, and can appeal to long term financial advantages (lower operating costs and increased desirability/rents/prices for super green and non-toxic buildings), concern for global warming and the welfare of future generations, and civic pride.

Targets for education and outreach will include homeowners, contractors, architects, engineers, landlords, developers, lenders, appraisers, property managers, city planners and staff, building inspectors, press and members of the public.

The education and outreach program might include:

1. Classes covering all measures included in the Berkeley Deep Green Building programs program, organized in collaboration with PG&E, Build It Green, Realtor Associations, the Berkeley Permit Service Center and/or Berkeley's Adult School
2. A citywide design competition for energy efficient building retrofits
  - Winners displayed at Permit Service Center or other locations
  - PR/media attention
  - Awards ceremony or recognition at a City Council meeting
3. Permit Service Center displays and brochures
4. Promotional items such as high-performing Smart Strips, low-flow WaterSense showerheads, etc.

## Timeline for review

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Energy efficiency measures, renewable energy production technologies and green, certified and non-toxic building materials are evolving rapidly. Berkeley Deep Green Building anticipates periodic review of program components by planning staff and stakeholders, every 2-3 years. Some program components may be incorporated into the building code as mandatory,

while others can be modified, moved to a different Level or updated, and new components can be added. Mandatory periodic review builds in a mechanism for timely adoption of new materials, metrics and methods, as they become available and feasible. State-level changes can be incorporated as well, such as Title 24 updates. Finally, regular review will allow staff to evaluate the success of individual measures and to modify the program as appropriate.

## Residential versus commercial

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Berkeley Deep Green Building initially focuses on residential projects for several reasons. Commercial buildings are much more varied in their construction and use, requiring a more flexible set of goals. A manufacturing plant requiring 24/7 refrigeration or heat will have very different energy requirements from an office. An initial focus on residential energy efficiency is also consistent with the state's Long Term Energy Efficiency Strategic Plan, which targets zero net energy for all new residential construction by 2020 and for new commercial construction by 2030.

In the residential sector, recent technological changes enable dramatic improvements in energy performance and a shift to all-electric energy. Electric heat pump hot water heaters and new materials for reducing air infiltration have recently become commercially available, and PV prices have dropped significantly in the last 5 years. Commercial projects are addressed to some degree already under other City of Berkeley green building programs. Over time, commercial buildings can and should be incorporated in the program.

## New construction and remodeling

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Berkeley Deep Green Building components and incentives need to be tailored to new construction and remodels and various building types, i.e. single family, small multifamily and large multifamily. For remodels, thresholds will have to be established to determine when it would be appropriate for Deep Green features to be incorporated. City Staff are in the best position to consider what thresholds are feasible, and dovetail with other phased in requirements.

## Berkeley Deep Green Building and other City, Regional and State programs

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Berkeley Deep Green Building ties into other ambitious energy efficiency goals. These include:

1. **Building Energy Savings Ordinance (BESO)**

BESO requires all building owners in Berkeley to complete an energy efficiency audit, helping them save energy and encouraging them to participate in various State-sponsored whole building programs. The assessment is carried out by qualified energy assessors who inform the building owners of incentives and rebates specific to the energy efficiency opportunities of the building.

2. **Title 24**

Title 24 is a stringent, energy efficient, compulsory State building code. It is subject to triennial review and the requirements are revised based on available techniques and technologies. It is anticipated that Berkeley Deep Green Building will use the same metrics as those in force under Title 24, and that measures outlined in the Deep Green program will treat Title 24 as a baseline upon which Berkeley Deep Green Building will improve.

**3. Energy Upgrade California**

Energy Upgrade California is a state program supported by CPUC, CEC, utility companies, non-profit organizations, small businesses, and various state agencies to help realize California's climate action and energy efficiency goals. It has a partnership with Energy Star to promote the use of energy efficient products and practices.

This platform also informs home owners of the availability of incentives and rebates. Since it is anticipated that Berkeley Deep Green Building structures would be eligible for a number of incentives and rebates from the state and utility companies, Energy Upgrade California has the potential to encourage home owners to adopt Berkeley Deep Green Building and help realize California's climate action goals.

**4. California Long Term Energy Efficiency Strategic Plan**

This plan was formulated in 2008 and adopted by CPUC as a single roadmap to achieve maximum energy efficiency in California. The goal of the plan is that all new homes will be zero net energy or zero net energy-ready by 2020. Similarly, Berkeley Deep Green Building encourages all new and existing homes in the City of Berkeley to rapidly become zero net energy.

**5. California Advanced Home Program (CAHP)**

CAHP is a pay-for-performance whole building approach that aims to improve market demand for energy efficient single family and multi-family homes. It encourages builders of new homes to exceed Title 24 Part 6 by 15 to 45%. (New Residential Zero Net Energy Action Plan – pg. 14).

## Appendix A

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Level 1 and Level 2 components are explained in more detail below.

### Berkeley Deep Green Building: Level 1

#### 1) Above-code energy efficiency (performance component)

Establish robust site energy use intensity (EUI) maximums for various building types for new construction and remodels above a certain threshold size.

**Rationale:** Studies consistently show that energy efficiency is the most cost effective and generally the most environmentally benign method of reducing GHG emissions. Mainstream technologies available now and common building techniques can easily and significantly reduce building energy usage. In many cases, the upfront costs of improving energy efficiency are recouped with energy cost savings in under 15 years.

A performance target allows for flexibility in reducing energy demand, through a combination of design strategies depending on the specifics of the project. The current average EUI of residential buildings in the Western states is about 40 kBtu/sq. ft. /yr site energy. Analysis performed by Arup and Davis Energy Group on how to achieve State energy use reduction goals shows that close to half of the average energy use can be eliminated through the standard palette of energy efficiency measures:

- Greater insulation.
- Considered placement of windows and addition of thermal mass to optimize passive solar gain and daylighting.
- High efficacy lighting and vacancy controls.
- Reduced plug loads.
- High efficiency appliances and heating equipment.
- Better air sealing.
- Energy efficient windows.

As an example, the current 2030 Challenge target EUIs for residential buildings in western states are 15.4 to 19.1 kBtu/sq. ft. /yr site energy. The 2030 Challenge EUI maximums are set at increasingly lower levels each 5 years with a goal of zero for 2030. The 2030 Challenge allows for the inclusion of onsite generation of energy through solar hot water and PV in meeting the targets. For reference, the Passive House EUI maximum is 38 kBtu/sq. ft. /yr source energy. (This would be about 14.2 kBtu/sq. ft./yr if translated to site energy. In addition, the EUI target does include onsite PV offsets but only after a certain efficiency threshold has been met for the building envelope and solar hot water is included though as it is not related to envelope measures.) Finally, several cities and Architecture 2030, under the umbrella of the Carbon Neutral Cities Alliance, are developing a metric for setting EUI targets that in the future may be appropriate for Berkeley.

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[https://en.wikipedia.org/wiki/Passive\\_house](https://en.wikipedia.org/wiki/Passive_house)

<http://buildingscience.com/documents/digests/bsd152-building-energy-performance-metrics>

The Technical Feasibility of Zero Net Energy Buildings in California, Dec. 2012, by Arup and Davis Energy Group, prepared for PG&E and other California utilities.

Getting to Zero Carbon Buildings Sector, Rockefeller Brothers Fund, A meeting of City, State and Building Experts, March 14 - 16, 2016

## 2) Prescriptive energy efficiency measures on top of performance component

- a) **All-electric.** Establish program to shift gas end uses in existing buildings to electricity. New buildings to be all electric.
- b) **100% high-efficacy lighting.** All lighting, both interior and exterior to be high efficacy, such as fluorescent or LED as per Title 24 2016 definitions.
- c) **Best-in-class major appliances/equipment.** All new refrigerators, freezers, stoves, cooktops, dishwashers, washing machines, water heaters, and HVAC appliances must meet one of the following criteria:
  - i) Energy Star Most Efficient, OR
  - ii) CEE Tier 3, OR
  - iii) Enervee 90+ (or whatever benchmark seems most comparable to the two above)
- d) **Switched outlets.** At least one outlet in each room will be switched.

**Rationale:** The prescriptive energy efficiency measures are designed to both shift energy demand from fossil fuels to renewables and to reduce demand that is not easily addressed by the performance standards in component 1.

Shifting homes to all-electric power allows for energy demand to be met with 100% renewables, either onsite or off. In the past, because of line losses and the inefficiency of turning fossil fuel energy into electricity, electricity delivered to the home represented 3 times as much embodied energy as fossil fuel. This is now changing as more and more PV and wind power generation comes online. Both the State's commitment to increasing the Renewable Portfolio Standard, and Berkeley's intention to migrate to cleaner energy sources through the Alameda County Community Choice Energy program are quickly shifting the power sources for electricity to clean renewables.

In addition, recent developments in heating and lighting technologies have dramatically improved the performance of many sources of electrical demand. Heat pumps are more than twice as efficient as the resistance heaters they are replacing. LEDs and fluorescent lights are as much as 10 times more efficient than incandescent and last over 5 times as long. By requiring use of these new technologies, electrical demand can be dramatically reduced.

In addition, tank (heat pump) electric water heaters can be used for energy storage, helping to smooth the energy production/demand (“duck”) curve.

Further reductions can be achieved by requiring best-of-class major appliances and switched outlets. Energy Star, administered by DOE, is the main program that evaluates and rates appliance energy efficiency. Appliance efficiency is determined based on specific parameters for each category:

- Television: Power consumption under various modes, display screen size
- Computer monitor: Power consumption under various modes, display screen size
- Clothes washer: Energy efficiency, water efficiency, capacity
- Dishwasher: Energy efficiency, water efficiency, size
- Refrigerator and freezer: Energy efficiency, volume
- Ventilation fans (Range hoods, bathroom and utility room fans): Efficacy, noise
- Ventilation fans (Inline fans): Efficacy

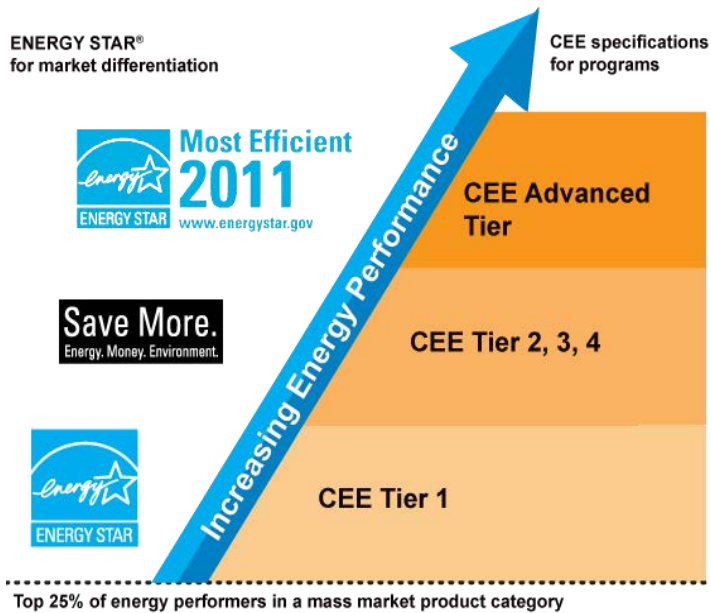
**Energy Star Most Efficient** is a program that identifies the most efficient Energy Star products in each category.

**CEE (Consortium of Energy Efficiency)** uses the Energy Star as a benchmark for various tiers:

- CEE Tier 1 is aligned with Energy Star program. Top 25% of models.
- CEE Tier 2, 3 and 4: Tiers above Energy Star minimum to be eligible for incentives. If incentives are offered, this is tied with Save More. Cost effective for customers with incentives.
- CEE Advanced Tier: Stretch targets. Attracts innovations. Top performance. Cost effective in future.

**Enervee** collects performance data for various appliances, and gives a score from 0 to 100 (the higher the score, the more efficient the product), for each product based on energy efficiency, other product-specific features, and cost. Enervee claims that the data and the scores are updated on a regular basis and presents the most accurate information based on market transformations.

Switched outlets will also enhance energy efficiency by allowing electronic equipment to be easily shut off completely. Many electronic devices draw a small current of electricity all of the time, even when they are not in use. These loads can be significant and while state and federal regulations should be promulgated that eliminate these ghost loads, providing users with a simple switch to turn them off will help in the meantime.



(<https://www.cee1.org/content/cee-tiers-and-energy-star>)

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- <https://www.energystar.gov/products/appliances>
- [https://www.energystar.gov/index.cfm?c=partners.most\\_efficient\\_criteria](https://www.energystar.gov/index.cfm?c=partners.most_efficient_criteria)
- [https://www1.eere.energy.gov/buildings/appliance\\_standards/product.aspx/productid/43](https://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/43)
- <https://www.cee1.org/content/cee-program-resources>
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- <http://www.coonrapidsmn.gov/DocumentCenter/Home/View/2420>

Rachel Golden, The Role of Building Electrification in Achieving Long Term Climate Goals in the U.S, Prepared for NRDC, UC Berkeley Energy and Resources Group, June 2016

### 3) State-defined 'solar ready' plus additional measures, where sufficient solar access exists

Where sufficient solar access exists, provide the necessary components to make building solar ready as per Section 110.10 of the 2013 Building Energy Efficiency Standards (BEES), with the following additions, deletions and exceptions:

Photovoltaic (PV):

- a) Main Service panel: if a 200A service, busbar must be 225A minimum with a 200A maximum main breaker; if 100A service, busbar must be 125A minimum with a 100A maximum main breaker. There must be a reserved space in the panel for a double pole circuit breaker located at the opposite (load) end from the input feeder of the busbar.
- b) No center-fed main service panels will be used.

- c) Inverter location: minimum 3' wide unobstructed space (from ground to eave above) adjacent to the main service panel; include NEC required working clearance.
- d) Module sizing and location: sufficient area for PV modules must be reserved which allows for the anticipated power needs to achieve a zero net energy home, plus the anticipated power needs for Electric Vehicle charging, where parking is provided or required. For a typical zero net energy home there should be space allocated for 10 kW of PV, and if there are additional power needs (such as an electric spa) that power need must also be taken into account. The reserved PV roof area shall be unobstructed and unshaded and facing between 110° to 270° from North: Minimum dimension of the reserved area to be 11' in the ridge-to-eave dimension, and assuming a power density of 15W/sf; allow for current fire code ridge and side clearances beyond the designated module areas (currently 3' to ridge and 3' clear on one side)
- e) Clear and unobstructed pathway from the identified inverter location (preferably next to the main service panel) to the identified roof area.
- f) OSHA approved fall arrest anchors installed at or near ridges; 5000 lb. capacity each, 8' maximum on center covering the designated module area.

Solar Thermal:

- a) Solar water heater collector location: provide adequate unobstructed and unshaded roof area for an appropriate designated collector square footage on roof(s) facing between 110° (E) to 270° (W). Appropriate designated square footage shall be defined as 0.75 square feet per expected gallon-per-day (gpd) consumption for south facing pitched roofs or 1.5 square foot per expected gpd consumption for flat roofs. Area to be sized such that typical solar collector sizes can fit (no less than 4'x8' dimensions).
- b) Designated location for solar storage tank. Size of storage capacity to be one gallon per gpd of expected daily use (i.e.: A single family home with an expected hot water consumption of 65 gallons per day per household would need a 65 gallon storage capacity). Designated location must be selected to minimize heat losses between hot water heater (within 5 feet of hot water heater or on the roof if ICS or thermosiphon is selected).
- c) Minimum (1) 15A 120V receptacle on its own circuit within 5' of the solar storage tank location for solar water heating pumping and controls.
- d) Minimum (1) 50A 240V circuit terminating within 5' of the water heater location for electric/heat pump water heater.
- e) Solar water heater piping: either a chase of a minimum 12" x 12" dimension from within 5' of the storage tank location to a location even with or within 3' below the bottom of the designated solar collector location; or a pair of ¾" type M copper pipes plumbed and pressure tested to 100 psi from within 5' of the storage tank location to a location even with or within 3' below the bottom of the designated solar collector location.
- f) Solar water heating conduit: provide a ½" EMT conduit with pull twine from the solar storage tank location to the roof exit location for solar control wiring. Seal the conduit against weather where it is exposed to the exterior.

- g) Solar pool heating: Space must be allowed either on the roof or on the ground for a collector area that is 70% of the anticipated surface area of the pool, facing between 110° (E) to 270° (W). A pathway should be identified for (2) 2" pipes and (1) ½" conduit from the pool equipment area to the bottom of the designated solar collector location, and if feasible the pipe pathway should be sloped such that water could continuously drain back to the pool equipment area.
- h) The above provisions are intended to be additive to the solar ready provisions of the existing BEES, except in those cases where they contradict, preclude or replace existing provisions, in which case these provisions supersede.

#### 4) Cleaner Insulation

- a) **Insulation free of organohalogen flame retardants.** No insulation used on the project can contain halogenated flame retardants.
- b) **Low global-warming-potential insulation.** No insulation can have a lifetime global-warming-potential greater than .05/sq. ft.\* R based on chart below developed by Building Green and the Inventory of Carbon & Energy (ICE), Version 2.0, by Prof. Geoff Hammond & Craig Jones

**Rationale:** Organohalogen flame retardants (sometimes also called halogenated flame retardants, or HFRs) are a class of chemical that is commonly used as flame retardants in polyurethane and polystyrene materials, including insulations. They are also found in some polyisocyanurate insulations. These chemicals have been linked to a host of serious health and developmental problems and also lead to the formation of toxic halogenated dioxins and furans in fires or during thermal processing (Shaw et al, 2010; US EPA 2014; Weber & Kuch, 2003; Ebert & Bahadir, 2003). Many are persistent and bioaccumulative. Building insulation, including disposal at end of useful life, is estimated to be a significant source of these chemicals in the environment (ECHA 2009). 22 chemicals have been banned internationally under the Stockholm Convention on Persistent Organic Pollutants: all are organohalogens, and one is commonly used in polystyrene insulation materials. The American Public Health Association has issued a policy statement calling for reduced use of these flame retardants to protect public health (APHA 2015).

Embodied energy is the measure of the energy that goes into harvest/extraction, manufacture and transport of a product. Reducing and minimizing the embodied energy of materials used in construction, reduces the carbon footprint of the buildings. Reducing the carbon footprint of buildings reduces GHG emissions at the start of a building's life, when they are needed most. Because of the delayed impact of GHGs and the self-reinforcing loops that GHGs trigger, reductions now are more significant than reductions in the future. By limiting the global-warming potential of insulation materials to .05/sq. ft./R, highly insulated buildings will 'pay back' the added carbon footprint of this extra insulation generally in 5 years at most. The only insulations that currently don't meet this standard are extruded polystyrene and closed-cell spray polyurethane.

Because of the chemicals commonly used to expand the foam, extruded polystyrene and closed cell spray polyurethane have an extremely high lifetime global-warming potential. In a 2010 study by Buildinggreen.com ("Avoiding the Global Warming Impact of Insulation," by Alex Wilson,

Environmental Building News, Vol 19.6), the payback from using extruded polystyrene and closed-cell spray polyurethane foam as an additional insulation layer on the outside of a 2 x 6 framed and insulated house was a minimum of 30 years for a house in a very cold climate like Boston. With less than half of the heating and cooling loads of Boston, the payback time in Berkeley for a similar house would be a lot longer.

Another study by Passive House researcher Rolf Jacobson, shows payback periods of 20+ years from using these high global-warming-potential insulations to meet Passive House energy efficiency goals. ("Comparing 8 Cold Climate PH Houses," by Mary James, Home Energy Magazine, Oct. 2014)

Manufacturers are developing safer alternative methods of expanding the foam.

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<http://greensciencepolicy.org/topics/flame-retardants/>

[http://e360.yale.edu/feature/pbdes\\_are\\_flame\\_retardants\\_safe\\_growing\\_evidence\\_says\\_no/2446/](http://e360.yale.edu/feature/pbdes_are_flame_retardants_safe_growing_evidence_says_no/2446/)

<http://www2.buildinggreen.com/blogs/avoiding-global-warming-impact-insulation>

<http://www.homeenergy.org/show/article/nav/issues/magazine/139/id/1993>

**Lifetime Global Warming Potential of Insulations**

| Insulation Material                                     | R-value R/inch | Density lb/ft <sup>3</sup> | Emb. E MJ/kg | Emb. Carbon kgCO <sub>2</sub> /kg | Emb. Carbon kgCO <sub>2</sub> /ft <sup>2</sup> •R | Blowing Agent (GWP)               | Bl. Agent kg/kg foam | Blowing Agent GWP/bd-ft | Lifetime GWP/ft <sup>2</sup> •R |
|---------------------------------------------------------|----------------|----------------------------|--------------|-----------------------------------|---------------------------------------------------|-----------------------------------|----------------------|-------------------------|---------------------------------|
| Cellulose (dense-pack)                                  | 3.7            | 3.0                        | 2.1          | 0.106                             | 0.0033                                            | None                              | 0                    | N/A                     | 0.0033                          |
| Fiberglass batt                                         | 3.3            | 1.0                        | 28           | 1.44                              | 0.0165                                            | None                              | 0                    | N/A                     | 0.0165                          |
| Rigid mineral wool                                      | 4.0            | 4.0                        | 17           | 1.2                               | 0.0455                                            | None                              | 0                    | N/A                     | 0.0455                          |
| Polyisocyanurate                                        | 6.0            | 1.5                        | 72           | 3.0                               | 0.0284                                            | Pentane (GWP=7)                   | 0.05                 | 0.02                    | 0.0317                          |
| Spray polyurethane foam (SPF) – closed-cell (HFC-blown) | 6.0            | 2.0                        | 72           | 3.0                               | 0.0379                                            | HFC-245fa (GWP=1,030)             | 0.11                 | 8.68                    | 1.48                            |
| SPF – closed-cell (water-blown)                         | 5.0            | 2.0                        | 72           | 3.0                               | 0.0455                                            | Water (CO <sub>2</sub> ) (GWP=1)  | 0                    | 0                       | 0.0455                          |
| SPF – open-cell (water-blown)                           | 3.7            | 0.5                        | 72           | 3.0                               | 0.0154                                            | Water (CO <sub>2</sub> ) (GWP=1)  | 0                    | 0                       | 0.0154                          |
| Expanded polystyrene (EPS)                              | 3.9            | 1.0                        | 89           | 2.5                               | 0.0307                                            | Pentane (GWP=7)                   | 0.06                 | 0.02                    | 0.036                           |
| Extruded polystyrene (XPS)                              | 5.0            | 2.0                        | 89           | 2.5                               | 0.0379                                            | HFC-134a <sup>1</sup> (GWP=1,430) | 0.08                 | 8.67                    | 1.77                            |

1. XPS manufacturers have not divulged their post-HCFC blowing agent, and MSDS data have not been updated. The blowing agent is assumed here to be HFC-134a.

<http://www.greenbuildingadvisor.com/blogs/dept/energy-solutions/avoiding-global-warming-impact-insulation>

### 5) Pre-remodel BESO assessment of home energy efficiency.

Submit paperwork from BESO assessment with permit application for remodel.

**Rationale:** BESO requires building owners to complete an energy performance assessment and publicly report the building performance information via an electronic reporting interface controlled by the Director of Planning and Community Development or their designee. Energy assessment is carried out by registered energy assessors who provides recommendations to improve the energy performance of the building. For BESO energy assessment one of the following is required:

- a) Home Energy Score: Home Energy Score is developed by LBNL and rates homes on a scale of 1 to 10, 10 indicating excellent energy performance. Home energy Score includes the score, energy use breakdown, data collected and recommendations to improve energy performance.
- b) Energy Upgrade California (EUC) Advanced Assessment: Home Upgrade has a network of qualified energy assessors in the bay Area who can assess homes and identify opportunities for energy performance improvement.



- c) High Performance: If a qualified energy upgrade has been completed or if the building is already very energy efficient, the owner can submit evidence of these upgrades or this efficiency in lieu of the BESO audit.

The BESO assessment informs owners on the building’s energy performance and provides a roadmap for improvement. Assessments are carried out by registered assessors using advanced diagnostic tools. While encouraging them, the system makes it voluntary to incorporate performance improvement measures. Reducing one’s carbon footprint, improving comfort in the house and saving on energy bills are all incentives for building owners to carry out recommended changes. Improved marketability of energy efficient residences is a further incentive to owners to implement recommended energy conserving measures.

**6) Post remodel energy, comfort, and air quality monitoring (operational rating)**

- a) For a period of one year following completion of construction, monitoring will be carried out for the following parameters: hot water use, appliance loads, space heating loads, interior temperature, relative humidity and CO2 levels. Consider requiring entry of projects as case studies into the NZEC-NESEA inventory, for which all case studies are QA’d by NREL before publishing.
- b) Project must document energy use meets target expectations to be eligible for incentives from the City.
- c) Monitoring data will be included in a public database (that protects privacy) and compared to pre-construction projected energy use in bi-annual reports. Reporting could potentially be less frequent if incorporated into NZEC-NESEA inventory.

**Rationale:** The intention of Berkeley Deep Green Building is to radically improve the comfort, performance and indoor air quality of buildings throughout the City of Berkeley. However, without a means to track these improvements, it may not achieve the outcomes required to reduce our global carbon emissions. Therefore, the program includes a mandatory monitoring for all participants. A list of devices for tracking both energy performance and indoor air quality are included below.

Bi-annual reports examining the data will help to direct future improvements to Berkeley Deep Green Building.

| Energy Use Monitoring Systems: |                                                             |       |           |              |
|--------------------------------|-------------------------------------------------------------|-------|-----------|--------------|
| Name                           | Website                                                     | Cost  | #circuits | Cost/circuit |
| eGauge EG3010 (Residential)    | <a href="http://www.egauge.net/">http://www.egauge.net/</a> | \$544 | 12        | \$45.33      |



|                                                                                                     |                                                                                             |          |          |          |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|----------|----------|----------|
| eGauge<br>(commercial)                                                                              | EG300<br><a href="http://www.egauge.net/">http://www.egauge.net/</a>                        | \$494.00 | 12       | \$41.17  |
| SiteSage                                                                                            | <a href="http://powerhousedynamics.com/">http://powerhousedynamics.com/</a>                 | tbc      | 44       |          |
| PowerSave Envi                                                                                      | <a href="http://www.currentcost.net/">http://www.currentcost.net/</a>                       | \$129    | 10       | \$12.90  |
| Lgate                                                                                               | <a href="http://locusenergy.com/">http://locusenergy.com/</a>                               | tbc      | 2        |          |
| EnergyCloud                                                                                         | <a href="http://bluelineinnovations.com/">http://bluelineinnovations.com/</a>               | \$89     | 1        | \$89.00  |
| TED 5000                                                                                            | <a href="http://www.theenergydetective.com/">http://www.theenergydetective.com/</a>         | \$199.00 | 1        | \$199.00 |
| TED Pro Home                                                                                        | <a href="http://www.theenergydetective.com/">http://www.theenergydetective.com/</a>         | \$300.00 | 32       | \$9.38   |
| Wattvision                                                                                          | <a href="http://www.wattvision.com/">http://www.wattvision.com/</a>                         | \$99.00  | 1        | \$99.00  |
| (Highlighted cells are the ones that look most viable and informative for tracking home energy use) |                                                                                             |          |          |          |
| IAQ Monitoring Systems:                                                                             |                                                                                             |          |          |          |
| Foobot                                                                                              | <a href="http://foobot.io/">http://foobot.io/</a>                                           | \$199.00 |          |          |
| Elgato Eve Room                                                                                     | <a href="https://www.elgato.com/en/eve/eve-room">https://www.elgato.com/en/eve/eve-room</a> | \$75.00  |          |          |
| Netatmo Home Weather Station                                                                        | <a href="https://www.netatmo.com/">https://www.netatmo.com/</a>                             | \$148.00 |          |          |
|                                                                                                     |                                                                                             |          | updated: | 3/2/2016 |

<http://www.homepower.com/articles/home-efficiency/electricity/tracking-your-energy-use>

## 7. FSC-certified wood

FSC-certified wood and wood products are to be used when available.

**Rationale:** FSC is an independent member-led group that advocates use of wood sourced from sustainably managed forests (see [us.fsc.org/en-us](http://us.fsc.org/en-us)). FSC-certified wood aligns with the Berkeley Deep Green Building requirement for sustainably sourced materials and offers the following benefits:

- FSC standards for forest management discourages harvesting wood from old-growth forests, thus preventing loss of natural forest cover.
- The standards extend to protection of water bodies and prevention of use of hazardous chemicals, such as Atrazine, that are otherwise allowed in the US.
- FSC requires forest managers on both private and public lands to involve the local community and protect indigenous people. It requires the local community to be part of the decision-making on impacts of operations and certification.

- FSC audit reports on public and private lands are available to the public.

FSC wood and wood and cabinetry and windows made with FSC wood are available from many local sources. A list of these sources, updated annually, is available from the Ecology Center on San Pablo Ave.

Note: the SFI certification is not a comparable alternative and cannot be used as a substitute certification program.

## 8. Water Conservation

**All new plumbing fixtures to be 100% extra-low flow fixtures and appliances.**

| Fixture        | Flow rate mandated by California Energy Commission (gpm) | Maximum flow rate recommended by Berkeley Deep Green Building (gpm) |
|----------------|----------------------------------------------------------|---------------------------------------------------------------------|
| Faucet         | 1.2                                                      | .5                                                                  |
| Shower         | -                                                        | 1.25                                                                |
| Kitchen Faucet | 1.8 that can be increased to 2.2                         | 1.8 (for functional reasons such as pot filling)                    |
| Toilets        | 1.28                                                     | 1                                                                   |

**Permeable paving.** Maximize permeable paving. Paving materials such as gravel, pervious concrete or asphalt, spaced paving blocks, loose materials, or tire spurs allow storm water to percolate and infiltrate into the ground, allowing for groundwater recharge and reduction in runoff and flooding. When choosing a permeable paver, consider Americans with Disabilities Act (ADA) access requirements and the anticipated vehicular load in hardscape areas. Areas with very high traffic or very heavy anticipated loads may not be suitable for pervious paving strategies. Examples of permeable paving are: Pervious concrete or asphalt, an open-grid pavement system with at least 50% permeability, permeable materials, such as gravel, decomposed granite, or sand.

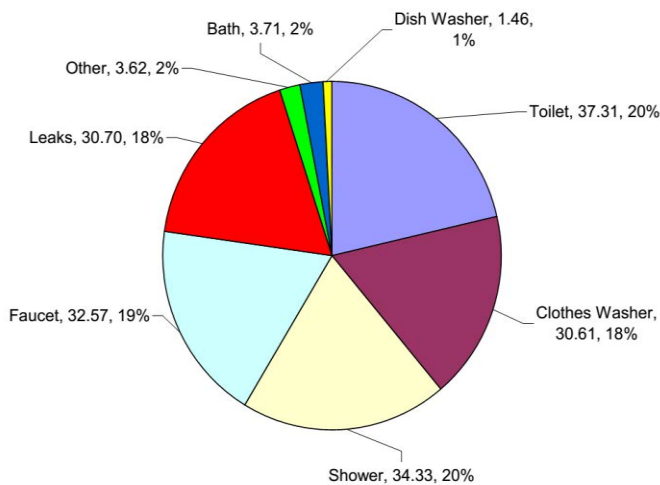
**Water conserving landscape.** Post construction landscape design shall be designed to achieve the following:

1. Areas disrupted during construction are restored to be consistent with native vegetation species and patterns.
2. Limit Turf areas to 10 percent of the total landscaped area.
3. Utilize at least 75 percent native California or drought tolerant plant and tree species appropriate for the climate zone region. Areas devoted to edible landscape exempt because of importance of localizing food supply.
4. Plants to be hydrozoned by water needs.

**Laundry-to-landscape greywater and greywater-ready tub and shower plumbing.** Install laundry to landscape greywater system. New showers and tubs to be plumbed to be greywater ready: i.e. greywater piping kept separate from black water piping in such a fashion as to provide easy access for diversion into a greywater system at a future date.

**Rationale:** It is estimated that the average resident in Northern California uses 171 gallons per day for indoor use and 125 gallons per day for outdoor use. It is also estimated that residents of the Bay Area use less than 171 gallons of water for indoor use (California Single Family Water Use Efficiency Study, 2011).

The following chart presents a perspective on the average residential water use in California.



A state of emergency was declared in California in 2014 due to drought conditions. Record low precipitation in 2014 affected drinking water reserves in the state. Precipitation in subsequent years has not been enough to bring California out of the drought situation. This emergency prompted the State to take corrective actions and make the water efficiency standards in buildings and in agricultural practices more stringent. It is imperative that all new and existing buildings honor this commitment by the State. The water efficiency goals of the Berkeley Deep Green Building program will be in line with the State’s commitment and requirements.

Water-permeable paving allows infiltration of rainwater into the ground and helps recharge ground water. It prevents excess storm water runoff that overloads the capacity of our wastewater treatment plants (where there are combined sewer and stormwater systems). Additionally it filters pollutants from runoff thus improving the quality of storm water runoff and preserves ground water quality.

Limiting turf area conserves water as turf has high irrigation needs. Native turf varieties are recommended instead because of their lower irrigation needs. Limiting turf area will allow the owner to explore alternate irrigation options such as drip irrigation which work well with other landscaping species

More efficient irrigation can be achieved by clumping species with similar irrigation needs together in the landscape.

Re-use of greywater for landscape irrigation has been estimated to offset from 16 to 40% of municipal potable water use.

Laundry-to-landscape greywater systems are easy to install, economical, and do not require a permit so long as explicit guidelines are followed.

Tub/shower greywater can readily be diverted for re-use in the landscape so long as the drainage piping is accessible and there is adequate space in the piping to install a backwater valve and diverter valve. If not anticipated with the installation of “greywater ready plumbing”, it can become cost prohibitive in the future to attempt to capture that greywater for re-use. Where a new tub/shower is situated on a slab, the drain piping can be routed to an area (even outside the building footprint) where access can be provided before it joins black water drain piping. Similarly, upstairs tub/showers can have drainage piping extend into lower walls or the crawlspace to provide that access, before combining with black water piping.

Ideally, landscaping would be designed to optimize greywater re-use from various sources in the home using the least expensive types of greywater irrigation systems.

#### References:

Stormwater fact sheet.pdf by Bay Area Stormwater Management Agencies Association

California Code of Regulations Title 23, Division 2, Chapter 2.7. Model Water Efficient Landscape Ordinance.

([https://govt.westlaw.com/calregs/Document/I8403E54417874B8B94843C8A8341823B?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)&bhcp=1](https://govt.westlaw.com/calregs/Document/I8403E54417874B8B94843C8A8341823B?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1))

DWR offers rebates to replace turf with other native species. (<http://www.saveourwaterrebates.com/turf-replacement-rebates.html>)

## Berkeley Deep Green Building: Level 2

### 1. Higher above code energy efficiency ( performance component)

Establish even lower energy use intensity maximums than tier 1 for both new construction and remodels above a certain threshold in size. See item 1. above for rationale.

### 2. Reduced embodied energy (prescriptive measures)

- a. Reduce concrete use (reduce concrete use for hardscape and other nonstructural applications). Consider prohibition on use of materials high in

embodied energy such as new concrete and kiln-fired brick, pavers, etc., for non-structural purposes.

- b. Low embodied-energy concrete.** Specify concrete with global-warming potential 30% or more below standard mixes as established by the NRMCA.

“Supply concrete mixtures such that the total Global Warming Potential (GWP) of all concrete on the project is 30% or more below the GWP of a reference building using Benchmark mixes as established by NRMCA and available for download at [www.nrmca.org](http://www.nrmca.org). Submit a summary report of all concrete mixtures, their quantities and their GWP to demonstrate that the total GWP of the building is 30% or more below the GWP of the reference building. Contractor may use the Athena Impact Estimator for Buildings software available at [www.athenasmi.org](http://www.athenasmi.org) or other similar software with the capability of calculating GWP of different mix designs.”

- c. Wood in lieu of steel/concrete:** Where it is possible to substitute, wood (including cross-laminated timber and other engineered wood products) will be used in lieu of concrete and steel structural systems.
- d. Petition for consideration of alternative measures for reducing embodied energy. For example, salvaged siding, earth finishes, high recycled content, locally sourced, rapidly renewable materials, and remodeling rather than constructing new.**

**Rationale:** As operational energy goes down, the significance of energy embodied in materials increases. Currently over a buildings whole life, embodied energy accounts for roughly 20% of a building’s total GHG footprint. However, in the first 20 years of a building’s life, this can be 50% or more. In addition, as we approach zero net operating energy, these numbers increase, eventually reaching 100%.

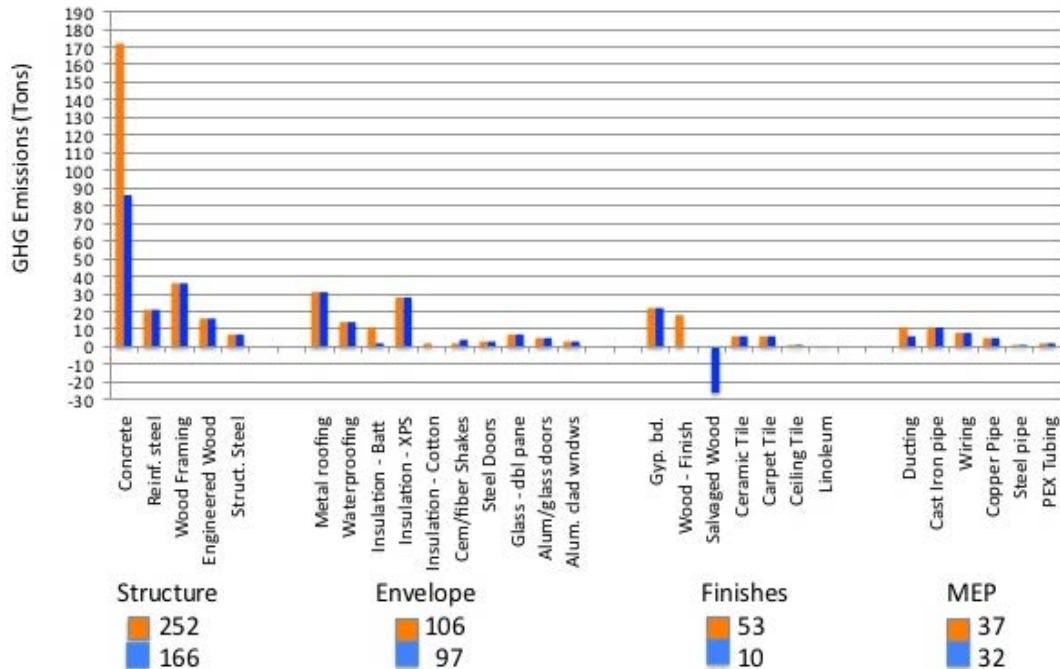
Low-carbon materials provide net GHG emissions reductions now, when GHG emissions reductions are most effective and are needed most because of the delayed impact of GHGs and the self-reinforcing loops that GHGs trigger.

Low-carbon construction can reduce the embodied energy of a typical building by 30 to 50%, with 20% achieved through simple substitutions.

Rapidly renewable plant materials, wood, earth and stone are the primary low-carbon construction materials. Use of rapidly renewable plants and wood products actually sequesters atmospheric carbon and could be assembled to create a carbon negative house. Metal and plastics in general have a very high carbon footprint and should be avoided where possible. Concrete, while lower in embodied energy per pound, is used in such great quantities that its global warming impact tends to dwarf that of other materials used in construction. A detailed analysis of the embodied energy of a building recently designed by Siegel and Strain Architects shows the relative significance of various components:

GHG Emissions – Construction Materials - **Buildings**

■ Base Case – 449 Tons  
■ As Built– 305 Tons - Reduction - 144 Tons (32%)



Berkeley Deep Green Building focuses on reducing concrete in nonstructural uses because there are many good low-carbon alternatives. It encourages use of wood instead of concrete and steel structurally because structural systems contribute most to a building's overall embodied energy. Where concrete is essential structurally, many methods exist to reduce the embodied energy of concrete significantly without compromising its performance.

Finally, where wood is use mainly for the structure, advanced framing techniques can be employed that can reduce the amount of lumber used by up to 25%. Advanced framing components include:

- Framing walls with studs at 24" on center.
- Designing windows and doors on the plywood/sheetrock module
- Single top plates instead of double top plates
- Single stud at window
- No headers over doors and windows in nonbearing walls
- No cripple under windows
- Hang window and door headers instead of using Jack studs
- Use only 2 studs for corners

Additional information about this construction technique is available in **Efficient Wood Use in Residential Construction: A Practical Guide to Saving Wood, Money, and Forests** by Ann Edminster and Sami Yassa, 1998. Natural Resources Defense Council

**References:**

“Greenhouse Gases and Home Building: Manufacturing, Transportation, and Installation of Building Materials,” by Warren Carnow, National Home Builders Association, September 2008  
<http://www.nahb.org/en/research/housing-economics/special-studies/archives/greenhouse-gasses-and-home-building-2008.aspx>

Lessons Learned from Recent LCA Studies, SEAOC 2013 Convention Proceedings, by Frances Yang  
 SEAOC LCA Study: Comparing Environmental Impacts of Structural Systems, SEAOC 2013 Convention Proceedings, by Anthony Court, Lisa Podesto, Patti Harburg-Petrich

<http://www.usda.gov/wps/portal/usda/usdamediafb?contentid=2011/09/0426.xml&printable=true&contentidonly=true>

Science Supporting the Economic and Environmental Benefits of Using Wood and Wood Products in Green Building Construction, by Michael Ritter, Kenneth Skog, and Richard Bergman, USDA, Forest Products Laboratory, GTR FPL-GTR-206, page 4  
[http://www.fpl.fs.fed.us/documnts/fplgtr/fpl\\_gtr206.pdf](http://www.fpl.fs.fed.us/documnts/fplgtr/fpl_gtr206.pdf)

<http://www.woodworks.org/why-wood/>

<http://www.rethinkwood.com/>

“Clock is Ticking,” by Larry Strain, greensourcemag.com, May/June 2011,  
[http://www.siegelstrain.com/site/pdf/201105\\_ClockisTicking-LStrain.pdf](http://www.siegelstrain.com/site/pdf/201105_ClockisTicking-LStrain.pdf)

<http://archpaper.com/2016/04/time-to-experiment-anew-david-benjamin-on-embodied-energy-and-design/#gallery-0-slide-0>

[http://apps1.eere.energy.gov/buildings/publications/pdfs/building\\_america/26449.pdf](http://apps1.eere.energy.gov/buildings/publications/pdfs/building_america/26449.pdf)

<http://www.apawood.org/data/sharedfiles/documents/m400.pdf>

<http://www.usahers.com/pdffiles/VEFraming1-17-01.pdf>

### **3. Solar photovoltaic (PV) system and/or a solar thermal system sufficient to achieve zero net energy for the building, where sufficient solar access exists**

Where sufficient solar access exists, install a solar PV and/or solar thermal system, sized as required to achieve zero net energy for the building, including excess inverter capacity for expansion.

**Photovoltaics:** The PV system shall be sized to offset 100% of on-site electrical loads, and in addition shall include either 1) inverter capacity for the PV modules needed to supply power for at least 2 EVs which travel 30 miles per day round trip, or 2) adequate space and breaker capacity at the main service panel to add this inverter capacity later. If the system uses micro inverters then no added inverter capacity is required. Prioritize usage of roof areas which have a 90% or

greater annual solar access; if those areas prove insufficient, utilize areas with not less than a 70% solar access. System sizing should be done using one of the nationally accepted solar calculator tools, such as PVWatts, PVSyst, Helioscope, and SAM.

**Solar thermal:** A solar thermal system will typically offset between 50% and 70% of a residence's annual hot water loads. If the building design indicates a need for solar thermal to achieve zero net energy, then the system must be installed in a way that achieves a minimum 50% solar fraction. Any SRCC OG300 certified system may be used; however, if the system involves hot water storage on the roof then the roof structural design must be proven adequate to carry the additional load. If there is going to be a swimming pool on the property there should also be an adequately sized unglazed or glazed solar pool heating system.

#### 4. Reduced toxicity through avoidance of Living Building Challenge Red List chemicals

Projects cannot use products that contain chemicals on the Living Building Challenge Red list. These chemicals are:

- Alkylphenols
- Asbestos
- Bisphenol A (BPA)
- Cadmium
- Chlorinated Polyethylene and Chlorosulfonated Polyethylene
- Chlorobenzenes
- Chlorofluorocarbons (CFCs)
- Chloroprene (Neoprene)
- Chromium VI
- Formaldehyde (added)
- Halogenated Flame Retardants (HFRs)
- Hydrochlorofluorocarbons (HCFCs)
- Lead (added)
- Mercury
- Polychlorinated Biphenyls (PCBs)
- Perfluorinated Compounds (PFCs)
- Phthalates
- Polyvinyl Chloride (PVC)
- Polyvinylidene Chloride (PVDC)
- Short Chain Chlorinated Paraffins
- Wood treatments containing Creosote, Arsenic or Pentachlorophenol
- Volatile Organic Compounds (VOCs) in wet-applied products (above specified amounts)

The International Living Future Institute, which manages the Living Building Challenge, grants temporary exceptions for many Red List Chemicals owing to current limitations in the materials economy. These same exceptions, as outlined in the Living Building Challenge 3.0 Materials Petal Handbook, shall apply in Berkeley Deep Green Building. However, no exceptions shall be made



for halogenated flame retardants (HFRs) in insulation given the availability of alternative materials that do not contain HFRs.

**Rationale:** The International Living Future Institute has assembled a list of chemicals it identifies as the “worst in class” materials, chemicals, and elements known to pose serious risks to human health and the greater ecosystem.” Ultimately, they should be phased out of production because of toxicity concerns. A growing body of research is demonstrating the role of chemical pollutants in the development of a broad array of childhood and adult diseases (e.g. neurodevelopmental disabilities, asthma, allergies, psychiatric disorders, immune deficiencies, birth defects, cancers, diabetes, endometriosis, infertility, and Parkinson's disease). The time of greatest vulnerability is during pregnancy, when minute exposures to the fetus during critical developmental windows can set a child up for a lifetime of chronic illness.

Unfortunately, there is very little federal regulation to ensure the safety of the >85,000 synthetic molecules developed since WWII. When Toxics Substances Control Act (TSCA) was passed in 1976, 62,000 chemicals were simply grandfathered in as being permissible to use in commercial products. Of the 20,000 plus new chemicals developed since then, health data has been generated on only 15% of them. Since the passage of TSCA, the EPA has outlawed only 5 chemicals under this law.

Building consumes 40% of raw materials globally (3 billion tons annually) and therefore contributes substantially to the extraction, manufacture and use of materials in our environment. Avoidance of building products containing ILFI Red List Chemicals helps to create safe environments in our homes and redirects manufacturing to a more sustainable future.

**References:**

[www.greensciencepolicyinstitute.org](http://www.greensciencepolicyinstitute.org)

[www.braindrain.dk](http://www.braindrain.dk)

<http://jama.jamanetwork.com/article.aspx?articleid=185391>

<http://www.healthandenvironment.org/about/consensus>

<http://arjournals.annualreviews.org/e...>

<https://www.youtube.com/watch?v=E6KoMABz1Bw> Little Things Matter by Bruce Lanphear, MD, Prof at Simon Fraser University, Published on Nov 11, 2014

## 5. Advanced Water Conservation Measures

- a. **Operational tub and shower greywater system.** Direct all shower/tub water to permitted outdoor greywater system.

- b. **Operational rainwater collection for non-potable domestic use.** A minimum 1000 gallon rainwater system to be installed for use for toilets and/or laundry.

**Rationale:**

California enacted the Rainwater Recapture act in 2012 which allows residents to capture and use rainwater collected onsite. There are many benefits to capturing and reusing rainwater onsite:

- Rainwater use offsets the demand on the potable water supply which is under a great strain because of the State's drought conditions.
- While the individual capacities of rainwater barrels or cisterns are inadequate for agricultural or industrial purposes, they are adequate for residential non-potable applications. If every home in the City of Berkeley collected and used rainwater, at the minimum for outdoor irrigation, the water saved in the reservoirs could be diverted to other applications that do not offer much flexibility, such as agricultural and industrial applications. Consequently this relieves the demand on the potable water supply.
- Rainwater is a free and clean source for irrigation. It is low in sodium and chloramine and is fluoride free.
- Additionally, basic filtration and treatment makes rainwater fit for other uses such as toilet flushing and cleaning laundry (subject to permitting requirements).
- Capturing rainwater reduces the speed of flow in storm water systems and into the Bay. This helps in preventing changes in the local ecosystem.

Greywater is lightly used water from tubs, showers, sinks and clothes washers: so long as care is taken in the choice of cleaning products it can be effectively re-used for outdoor irrigation. Using municipal water twice lowers the embodied energy/carbon footprint per use, reducing the chemicals and costs involved in treating water initially to potable standards and later in treating it before release back into the environment.

Fortunately there are many systems available ranging in price and suitability for different types of landscapes. The simplest and least expensive sends the greywater directly to the garden as it is produced, via gravity or using the pump already in the washing machine. Mulch basins in the landscape allow the greywater to infiltrate into the soil, and are best suited for irrigating larger trees, shrubs, vines, perennials.

More expensive systems utilize tanks, pumps, filtration and sophisticated controls in order to distribute the greywater in regulated amounts through special drip tubing. Some require that the homeowner clean the filters, others provide automatic back flushing of filters using potable water (with cross connection protection) or air.

There are even specialized greywater systems that can be installed under turf. Other whole house systems gather the greywater, treat it onsite to the NSF 350 standard so that it is no longer technically greywater, and utilize it for toilet flushing.

It is wise to anticipate the desired type of system (and budget) and design/plumb accordingly—some systems require space for necessary equipment to be installed, either indoors or out, and require that all greywater piping lead to one location.

Even if there is no plan to implement a system, installing plumbing to be 'greywater ready' is a courtesy to all future owners of the property when greywater re-use may be mandatory.

Currently all systems require a permit except the laundry-to-landscape system, which must abide by code-specified guidelines to be exempt.

**References:**

The Water Wise Home, by Laura Allen, Storey Press, 2015

Stormwater fact sheet.pdf by Bay Area Stormwater Management Agencies Association

[http://www.ci.berkeley.ca.us/Planning\\_and\\_Development/Energy\\_and\\_Sustainable\\_Development/Rainwater\\_Harvesting.aspx](http://www.ci.berkeley.ca.us/Planning_and_Development/Energy_and_Sustainable_Development/Rainwater_Harvesting.aspx)

## Ideas from community input session 06.14.2016

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**Level 1**

1. Bike parking to be included in both new and existing homes
2. Clause to be added on EUI with respect to number of bedrooms.
3. Carbon sequestration (need more inputs on how this can be achieved without cluttering the program). One is encourage residents to separate recyclables, composting and landfill trash, similar to what is done in San Francisco. (<http://sfenvironment.org/zero-waste/recycling-and-composting/residential-recycling-and-composting>) However, not sure if this accounts to carbon sequestration.
4. Secondly under carbon sequestration, we could add construction waste recovery and recycling, which requires collecting construction waste and sending all recyclable waste to authorized recyclers and / or send reusable materials to other construction sites. This is to minimize waste going to landfills. This is similar to the measures in LEED.

**Level 2**

1. Incorporate EV charging points in all multifamily homes and newly constructed single family homes
2. Reduce number of parking spaces in homes within 0.25 miles of public transit.



Councilmember Ben Bartlett  
City of Berkeley, District 3

CONSENT CALENDAR  
June 13, 2017

To: Honorable Mayor and Members of the City Council

From: Councilmembers [Ben Bartlett](#), [Kate Harrison](#), [Sophie Hahn](#), [Susan Wengraf](#)

Subject: Referral to the Energy Commission and the City Manager: Electric Vehicle Charging Ordinance

RECOMMENDATION

Refer to the Energy Commission and the City Manager to develop an Electric Vehicle (EV) Charging Ordinance for the City of Berkeley.

The Ordinance shall consider the following requirements for installation of electric vehicle charging infrastructure in all new buildings or buildings undergoing major alterations:

- 1) Electrical capacity is sized to simultaneously charge vehicles in 20% of parking spaces. At this electrical capacity, load management systems can readily be installed later as needed to enable cost-effective electrical vehicle charging to 100% of parking spaces.
- 2) 10% of parking spaces have full circuits (breakers, conduit, wiring, etc) enabling simple installation and activation of standard Level 2 chargers.
- 3) 10% of parking spaces have conduit installed from the electrical panel(s) to each parking space enabling either Level 2 chargers or the option to upgrade selected circuits to higher amperages.
- 4) 80% of parking spaces are “electrical vehicle capable” with project plans indicating the path of future wiring to each parking space and conduit is installed at critical points such as trenches, concrete wall penetrations, etc.
- 5) Allow the option of installing fast chargers to meet the EV-Ready requirements.<sup>1</sup>

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<sup>1</sup> San Francisco officials estimate that installing such infrastructure during construction is expected to save developers and the city 75% of the cost to retrofit buildings and parking spaces to meet future electrical vehicle charging needs.

- 6) 10% of new parking spaces have Level 2 electrical chargers installed.

### BACKGROUND

As adoption of electric vehicles grows in the region and statewide, there is a greater demand for residential, workplace, and commercial electric vehicle charging stations.

An abundance of publicly accessible electrical vehicle charging infrastructure is critical to reassuring consumers who purchase, clean, low carbon electric vehicles that they can reach desired destinations by recharging their car batteries along the way. Access to ample electrical vehicle charging for those living in apartment and condo buildings is also essential.

Charging infrastructure not only needs to be installed for existing electric vehicles, but also to accommodate up to 1 million zero-emission vehicles by 2020 and 1.5 million zero-emission vehicles on California roadways by 2025 per Governor Brown's Executive Order.<sup>2</sup>

California's Green Building Standards Code was the first state-adopted green building code in the nation. It includes mandatory and voluntary measures to ensure residential and commercial new construction projects are ready for electric vehicle infrastructure.

Local jurisdictions have authority to adopt more stringent electric vehicle readiness standards beyond the mandatory requirements. Many other Cities in the region, including San Francisco, Fremont, Palo Alto, and Oakland, have already done so. Berkeley is lagging behind.

Berkeley must establish additional policies to support electric vehicle charging infrastructure. Transitioning to renewable energy will benefit the health, welfare, and resiliency of Berkeley and its residents. It will make Berkeley less vulnerable to climate change, heat events, rising sea levels, and the associated health and infrastructure impacts.

### FINANCIAL IMPLICATIONS

Staff time.

### ENVIRONMENTAL SUSTAINABILITY

This item will result in positive effects on the environment.

### CONTACT PERSON

Councilmember Ben Bartlett, 510-981-7130

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<sup>2</sup> Governor Brown's Zero-Emission Vehicle Executive Order, March 23 2012.  
<https://www.gov.ca.gov/news.php?id=17463>





# Communications

All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

## **City Clerk Department**

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

## **Records Online**

<http://www.cityofberkeley.info/recordsonline>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF