



Office of the City Manager

CONSENT CALENDAR  
September 28, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Eleanor Hollander, Acting Manager, Office of Economic Development  
 Subject: Grant from the William and Flora Hewlett Foundation

RECOMMENDATION

Adopt a Resolution accepting a \$10,525 grant from the William and Flora Hewlett Foundation, which augments a prior grant of \$20,000 awarded and accepted in 2019 for an assessment of arts space affordability challenges, displacement risks and possible strategies to protect affordable spaces for arts organizations, artists and cultural workers in Berkeley.

FISCAL IMPACTS OF RECOMMENDATION

There are no immediate fiscal impacts because the grant covers the total cost of the assessment and does not require matching funds. The grant funds will be deposited into the One-Time Grant Fund and put into revenue account code 336-21-208-252-0000-000-000-434110. An appropriation for the additional amount received will be included in the First Amendment to the FY 2022 Annual Appropriations Ordinance (anticipated November 2021). If the grant is not accepted in a timely manner, the Office of Economic Development will not be able to make timely payment to a contracted consultant on an invoice for activities already underway.

CURRENT SITUATION AND ITS EFFECTS

The William and Flora Hewlett Foundation has awarded the City of Berkeley a supplemental grant of \$10,525, which augments a prior grant of \$20,000 awarded to the City and accepted in 2019. The supplemental grant amount will be used entirely to amend the contract with the project consultant who was hired by the City of Berkeley through a competitive process. The grant funds an assessment of affordability challenges, displacement risks and possible strategies to protect and increase affordable housing for artists and cultural workers in the City of Berkeley. Originally the study was intended to take one year to complete, but the project was halted due to COVID-19. In agreement with the Hewlett Foundation, the supplemental funding will allow the project to resume, however the study's scope will be narrowed to focus solely on housing affordability for artists and cultural workers, eliminating from the study an analysis of commercial art space affordability. Given the challenges of conducting this research during a pandemic, the change in scope of this study is intended to support its completion by the end of this calendar year (2021).

Under the supervision of Berkeley Civic Arts Program staff, the consultant has been working with an ad-hoc, multi-disciplinary advisory group comprised of artists, arts organization leaders, experts on affordable housing, and City staff. This group has informed the development of a survey to be distributed to Berkeley-based artists and cultural workers. Throughout the study period, the consultant will continue to convene the advisory group so that they may provide input on the analysis of the survey results and be engaged in vetting strategies for creating and preserving affordable housing for artists and cultural workers in Berkeley. The final deliverable will be a report, which outlines the survey findings, provides analysis, and lists the strategies for solutions in prioritized order, indicating the steps and resources needed for implementation.

This assessment supports the City's Strategic Plan Priorities by advancing our goal to:

- Create affordable housing and housing support service for our most vulnerable community members.

### BACKGROUND

The William and Flora Hewlett Foundation supported the 2018 *Arts and Cultural Plan Update* for the City of Berkeley, which originated in 2015 partially in response to economic conditions that were (and continue to) to affect affordability for Berkeley's arts community. This cultural planning initiative allowed the Civic Arts Program and the Civic Arts Commission to take a leap forward in identifying and clarifying a common vision for the arts in Berkeley and to build consensus and community support around the specific policy priorities to achieve it. Through the planning process, issues of housing affordability and art space affordability were identified as central concerns for artists and arts organizations in Berkeley. The plan identified as its first goal to increase access to affordable housing and affordable spaces for artists and arts organizations. It also specified a number of action steps towards that goal, while acknowledging that the resources to undertake many of these action steps did not currently exist.

In order to support Berkeley's arts and culture ecosystem, the William and Flora Hewlett Foundation has awarded the City of Berkeley additional funding to conduct an assessment of current housing affordability challenges and displacement risks within Berkeley specifically for artists and cultural workers, and based upon those findings, develop strategies to protect and create additional affordable housing in Berkeley for artists and cultural workers.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental sustainability effects or climate impacts.

### RATIONALE FOR RECOMMENDATION

Berkeley's artists and cultural workers make enormous creative contributions to our city and keep diverse cultural and artistic traditions alive. Along with the cultural vibrancy that the arts infuse into the community, the arts sector is also a significant economic

driver, generating an estimated \$165 million annually in total economic activity in Berkeley, according to the economic impact analysis completed as part of the 2018 Culture Plan. To lose any part of our arts sector due to rising housing costs, is a loss to our city and our varied artistic and cultural legacies.

ALTERNATIVE ACTIONS CONSIDERED

No alternatives were considered.

CONTACT PERSON

Jennifer Lovvorn, Chief Cultural Affairs Officer, 981-7533

Attachments:

- 1: Resolution
- 2: Grant Award Letter from the William and Flora Hewlett Foundation

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

GRANT FROM THE WILLIAM AND FLORA HEWLETT FOUNDATION FOR AN  
ASSESSMENT OF AFFORDABLE HOUSING FOR ARTISTS AND CULTURAL  
WORKERS IN THE CITY OF BERKELEY

WHEREAS, Berkeley's artists and cultural workers make enormous creative contributions to the livability of our city and keep diverse cultural traditions alive; and

WHEREAS, Along with the cultural vibrancy that the arts infuse into the community, the arts sector is also a significant economic driver, generating an estimated \$165 million annually in total economic activity in Berkeley; and

WHEREAS, The William and Flora Hewlett Foundation supported the 2018 Arts and Cultural Plan Update for the City of Berkeley; and

WHEREAS, The 2018 Cultural Plan identified as its first goal to increase access to affordable housing and affordable spaces for artists and arts organizations; and

WHEREAS, Whereas the Civic Arts Program applied for a grant from the William and Flora Hewlett Foundation to conduct an assessment of current art space affordability challenges and displacement risks within Berkeley, and based upon those findings, develop strategies to protect affordable spaces for arts organizations, artists, and cultural workers in Berkeley; and

WHEREAS, the Hewlett Foundation awarded the City a \$20,000 grant in 2019 for this purpose and the City hired a consultant to commence the study, which was halted by the COVID-19 pandemic in 2020; and

WHEREAS, the Hewlett Foundation has awarded a supplemental grant of \$10,525 to resume the study and narrow its focus to housing affordability for artists and cultural workers, eliminating from the study an analysis of commercial art space affordability in order to support the study's completion by the end of this calendar year (2021); and

WHEREAS, these funds will be put into revenue account code 336-21-208-252-0000-000-000-434110.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council ratifies the action taken by the City Manager or her designee to accept a \$10,525 grant from the William and Flora Hewlett Foundation for an assessment of affordability challenges, displacement risks and possible strategies to protect and increase affordable housing for artists and cultural workers in Berkeley.

THE WILLIAM AND FLORA HEWLETT FOUNDATION

Office of the President

Jennifer Lovvorn  
Chief Cultural Affairs Officer  
City of Berkeley  
2180 Milvia Street, Fifth floor  
Berkeley, CA, 94704

Reference: Grant # 2021-00228-PRO

Dear Ms. Lovvorn:

I am pleased to inform you that The William and Flora Hewlett Foundation (the "Foundation") has authorized a grant of \$10,525 over 5 months to City of Berkeley ("Grantee") for an assessment of arts space affordability challenges, displacement risks, and possible strategies. The grant will be paid in 1 installment. This grant is for an assessment of arts space affordability challenges, displacement risks, and possible strategies.

In order for the Foundation to make payment, Grantee must accept the terms of the grant as set forth in the following paragraphs. The terms of this award letter constitute the entire agreement between the Foundation and the Grantee and supersede any prior oral or written understandings or communications between them. Please note that the Foundation reserves the right to cancel this grant if a signed copy of this Agreement is not received by the Foundation within 60 days of the date first written above.

**Tax Status.** Grantee confirms that it is a governmental unit referred to in Section 170(c)(1) of the Internal Revenue Code, or a Federal, state, local, or foreign government body, agency, or instrumentality that is treated as an organization described in Code Sections 501(c)(3) and 509(a)(1).

**Use of Grant Funds.** Grantee agrees that the grant funds will be used exclusively for charitable purposes as described in Section 501(c)(3) or Section 170(c)(1) of the Internal Revenue Code, and only in support of the activities described in Grantee's proposal of 07/14/2021 and the budget attached thereto. Funds not used during the term of the grant (July 21, 2021 to December 31, 2021) must be returned to the Foundation unless an extension is approved at Grantee's request and in the Foundation's discretion.

Grantee agrees to repay to the Foundation any portion of the grant funds expended in violation of this Agreement.

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**Prohibited Use of Funds.** Grantee agrees to not use any portion of the grant funds to any extent for any of the following:

- a. To participate in any political campaign on behalf of or in opposition to any candidate for public office or to otherwise influence the outcome of any specific public election as described in Section 4945(d)(2) of the Internal Revenue Code; or
- b. For any non-charitable purposes.

**Prohibition on Lobbying Activity.** No grant funds may be used for the carrying on of propaganda or attempting to influence legislation within the meaning of Internal Revenue Code Sections 501(h), 4945(d)(1) and 4945(e) and related regulations (these provisions include local, state, federal, and foreign legislation), and neither Grantee nor the Foundation has entered into any agreement, oral or written, to the contrary.

Please note that in the event Grantee uses any of the grant funds to influence governmental action in ways permissible under the Internal Revenue Code and the terms of this Agreement, Grantee may have lobby reporting or other disclosure requirements under the laws of a particular state or other jurisdiction; note further, that state law may include influencing state administrative agencies within the definition of lobbying. Grantee acknowledges that Grantee is solely responsible for complying with any and all applicable lobby reporting or other disclosures.

*Special Limitations for Ballot Questions.* The Foundation intends that the grant funds shall not be used to influence the qualification or passage of any ballot question or similar legislative decision put to voters. As an essential condition for receiving the grant funds, Grantee shall not use any portion of the grant funds in any manner that would cause the Foundation to be identified as funding reportable lobbying, or require the Foundation to register under any applicable state or local disclosure law, except as may otherwise be provided in this Agreement.

**Human Subject Research.** Safeguarding the rights and welfare of human subjects involved in research is principally the responsibility of the Grantee. However, while the Foundation does not micromanage or seek to interfere in the implementation of grants, Grantees conducting human subject research must have appropriate standards to ensure compliance with generally accepted research ethics. If grant funds will be used in whole or in part for research involving human subjects, Grantee represents that it has such rules and review processes in place and that these rules and processes will be followed. (Such processes may include: obtaining and maintaining institutional review board (or a research ethics review committee) approval, and informed consent of participating research subjects.) Grantee agrees that any subgrant or subcontract awarded by Grantee in its performance of the activities under this grant shall include similar rules and processes in regards to human subject research.

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**Grantee Control of Funds.** Grantee acknowledges that there is no agreement, oral or written, whereby the Foundation has designated or earmarked any part of the grant funds for any specific named organization or individual. Furthermore, Grantee retains full authority and control over the selection process of any re-grants contemplated under the proposal. Specifically, any re-grants will be approved by the Grantee's Board of Directors or its designee. The Foundation may not select re-grantees.

**Reporting.** Grantee agrees to submit a narrative and financial report on use of the grant funds during the grant period. Reports should be submitted according to the following schedule:

Reporting requirements	Due date
Final Report	01/30/2022

*Please use the grant reference number located on the first page of this letter in all reports and correspondence."*

**Grant Payment.** The Foundation's disbursement of payments is contingent upon the Foundation's determination, in its sole discretion, that satisfactory performance of the grant purpose has occurred and is likely to continue to occur. Funding may be modified or discontinued, and any grant funds must be repaid, if at any time the Foundation determines that the conditions of this Agreement are not being met or that satisfactory performance has not occurred.

Payment will be made as follows, subject to the contingencies provided in this grant agreement letter:

Projected date	Amount	Contingency
Within 30 days of receipt of signed letter agreement	\$10,525	Receipt of signed grant agreement letter

Grant payments will be made by wire transfer into the Grantee's bank account in accordance with the instructions on the signed wire transfer form, which is incorporated herein by reference.

**Grant Conditions (Financial Accounting Treatment Only).** While grant funds are restricted and intended for use for the purposes described in this Agreement, for financial accounting treatment, the grant funds shall not be deemed to be conditioned upon the accomplishment of any particular, measurable goal or metric, unless that condition is specifically identified in the space below:

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<b>Projected date of payment</b>	<b>Amount</b>	<b>Financial accounting condition</b>
Not Applicable	Not Applicable	Not Applicable

**Compliance with Laws; Government Officials.** Grantee represents to the Foundation that Grantee is legally authorized to enter into this Agreement and that Grantee has complied with and will continue to comply with all applicable local, state, federal and international laws or requirements, including laws governing contacts with government officials (e.g., anti-bribery laws such as the Foreign Corrupt Practices Act) and anti-terrorism laws and sanctions, in connection with the performance of the activities under this grant.

Grantee further represents, except as otherwise set forth in this Agreement, that there is no agreement, written or oral, between the Foundation and the Grantee whereby the Foundation may direct the activities of the Grantee, including, if applicable, causing the selection of any government official to attend or participate in any event or activity of the Grantee. The Grantee exercises control over that selection process and makes the selection completely independent of the Foundation. Grantee acknowledges that the Foundation is relying upon the representations made by the Grantee in this section in determining that there is no legal impediment to the Foundation's making a grant to the Grantee.

**Anti-Terrorism.** You will not use funds provided under this Grant Agreement, directly or indirectly, in support of activities (a) prohibited by U.S. laws related to combatting terrorism; (b) with or related to parties on the List of Specially Designated Nationals ([www.treasury.gov/sdn](http://www.treasury.gov/sdn)); or (c) with or related to countries against which the U.S. maintains a comprehensive embargo (currently, Cuba, Iran, Syria, North Korea, and the Crimea Region of Ukraine), unless such activities are fully authorized by the U.S. government under applicable law and specifically approved by the Foundation in its sole discretion. Further, you represent that Grantee is not the target of economic or trade sanctions, and Grantee will immediately inform the Foundation if Grantee becomes the target of economic or trade sanctions, including any ownership or control of Grantee by one or more persons on the List of Specially Designated Nationals.

**Intellectual Property.** Grantee will retain all rights, including intellectual property rights, in and to final works resulting from projects supported by Foundation grant funds (the "Work Product"), and nothing in this Agreement will be deemed or interpreted to transfer ownership of any such rights to the Foundation. Nevertheless, to ensure that Foundation's grants have as broad an impact as possible, the Foundation requires grantees to license Work Product through an open license. Accordingly, Grantee agrees to make Work Product available to the public in a readily accessible format (e.g., on Grantee's public website) under the most recent version of the Creative Commons Attribution license (CC BY). In addition, the Foundation



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acknowledges that Grantee retains the right to also make the Work Product available under separate license terms, in its discretion.

Full legal text of the above referenced license is available at the following URL and Grantee should take the time to read and understand the license terms and conditions:

- <http://creativecommons.org/licenses/by/4.0/legalcode> (a summary may be found at <http://creativecommons.org/licenses/by/4.0/>)

The Foundation respects the intellectual property rights of others. Accordingly, the Foundation requires, and Grantee represents to the Foundation, that the Work Product produced hereunder are the original work of Grantee, or that Grantee has obtained sufficient rights, licenses, and permissions to distribute and license Work Product under CC BY, except and solely with respect to any particular item in the Work Product that is expressly identified in writing as owned by a third party not licensed under CC BY.

**Notification.** Grantee agrees to notify the Foundation promptly of any organizational changes during the term of the grant, including, but not limited to, changes in key personnel and changes in tax status, and changes in the project timing or goals. Any such notification shall be provided in writing, which may be by electronic mail to the Program Officer or other Foundation representative responsible for overseeing this grant.

**Evaluation.** The Foundation may choose to conduct an evaluation of the effectiveness of this grant (the “Evaluation”) either individually or as part of a broader Foundation strategy. Grantee agrees to cooperate in the Evaluation and provide such information to the Foundation or its representatives as is reasonably requested.

Grantee further agrees that the Foundation can disseminate to the public the results of the Evaluation, including any data created in connection with the Evaluation. In such cases, the Foundation agrees to first share the results of the Evaluation with the Grantee and provide an opportunity for the Grantee to comment.

**Grant Disclosure and Acknowledgement.** The Foundation supports transparency and will disclose its grants as required by law and through its own digital content, principally its website ([www.hewlett.org](http://www.hewlett.org)) and automated feeds to other data sources in the foundation sector. This data generally includes grantee name, grant amount, duration, award date and purpose. No additional permission from the Foundation is required for a grantee to share this information. The Foundation encourages, but does not require, grantees to include the Foundation in lists of funders and annual reports as a matter of transparency and accountability. Similarly, the Foundation encourages, but does not require, that Grantees that use our funds specifically for nonpartisan research and analysis should disclose us as a funder, as a matter of sound research practice. When it serves an organization’s charitable

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goals and strategies, grantees are also welcome to acknowledge the Foundation's support in other ways. To ensure that the Foundation's grantmaking programs are portrayed accurately, any other use of the Foundation's brand, such as its name, logo or names of its staffers, in cases including but not limited to titles of programs, research reports, paid advertisements, press releases, in meeting materials and digital content, must be reviewed and preapproved by the Foundation. Grantees receiving project support should acknowledge Foundation support only in relation to the relevant project being funded. All requests for approval should be directed to the appropriate Communications Officer.

(<http://www.hewlett.org/communicating-about-your-grant/>) The Communications

Department endeavors to review and respond to requests within five business days.

Upon the expiration of this Agreement (including any Foundation-approved extensions) or the termination of this Agreement, or at the request of the Foundation at any time, Grantee shall promptly discontinue the use of the Foundation's name and logo in electronic materials and shall discontinue use within a reasonable period of time for printed materials. All uses beyond this period must be pre-approved in writing by the Foundation, which may be granted or withheld in the sole and absolute discretion of the Foundation.

**Signature.** Please have a corporate officer authorized to sign on behalf of the Grantee **sign and return** a copy of this grant agreement letter in its entirety to the Foundation to indicate the Grantee's acceptance of the terms of the grant. Grantee will return a signed copy of the entire grant agreement letter to the Foundation electronically through DocuSign CLM, which will ensure faster processing of your grant payment. The parties agree that this grant agreement may be electronically signed, and that electronic signatures appearing on this agreement are the same as handwritten signatures for purposes of validity, enforceability and admissibility. Alternatively, Grantee may return an original signed copy of the grant agreement letter by mail to the Foundation's offices at 2121 Sand Hill Road, Menlo Park, CA 94025, Attention: Grants Management. This grant agreement may be executed by Grantee and the Foundation in one or more counterparts, each of which will be deemed an original and all of which will constitute one and the same agreement.

**Foundation Contact.** Should you have any questions related to this grant, please contact Adam Fong, Program Officer for Performing Arts. We are pleased to be able to assist you.

ACCEPTANCE: On behalf of City of Berkeley, I hereby accept and agree to be legally bound by the terms of the grant as set forth herein.