REVISED AGENDA (ADDED CONTINUED ITEMS FROM MAY 26, 2020)



BERKELEY CITY COUNCIL MEETING

Tuesday, June 2, 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://us02web.zoom.us/j/82518774480. 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: **825 1877 4480**. 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 <u>clerk@cityofberkeley.info</u> 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.

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. Contract: Animal Care Services for the City of Albany

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with the City of Albany for animal care services for FY2021-FY2023, which increases the existing contract by up to \$37,046, with a total contract amount not to exceed \$249,653.

Financial Implications: See report

Contact: Erin Steffen, City Manager's Office, (510) 981-7000

2. Contract No. 10039 Amendment: Koefran Industries to Provide Pick Up and Disposal of Deceased Animals for Berkeley Animal Care Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to extend and increase Contract No. 10039 with Koefran Industries to provide pick up and disposal of deceased animals for Berkeley Animal Care Services (BACS). The increase will be for \$20,400 through June 30, 2021 for a total contract amount not to exceed \$121,600 and subject to the city's annual appropriation process.

Financial Implications: General Fund - \$20,400

Contact: Erin Steffen, City Manager's Office, (510) 981-7000

3. Ballot Measure Increasing the City's Appropriation Limit to Allow Expenditure of Tax Proceeds for Fiscal Years 2021 through 2024

From: City Manager

Recommendation:

- 1. Adopt a Resolution placing the attached measure to increase the City's appropriation limit on the ballot 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: See report

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

4. Contract 10456 Amendment: Persimmony Electronic Case Management System for Software Licensing, Implementation and Maintenance Services for the Online Electronic Case Management System

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10456 with Persimmony International, Inc. for software licensing, implementation and maintenance services for the online Electronic Case Management system for the amount not to exceed \$127,947 and a total contract value not to exceed \$303,527 from July 12, 2016 to June 30, 2022.

Financial Implications: Targeted Case Management Fund - \$127,947 Contact: Savita Chaudhary, Information Technology, (510) 981-6500

Consent Calendar

5. Contract No. 10789 Amendment: AMS.NET for Network Support and Maintenance

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 10789 with AMS.NET for network support and maintenance, for the amount not to exceed \$534,000 and a total contract value not to exceed \$989,335 from July 1, 2017 to June 30, 2025.

Financial Implications: IT Cost Allocation - \$534,000

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

6. Contracts: On-Call Waterfront Engineering, Design, Environmental Permitting and Construction Administration Services for Capital Improvement Projects at the Berkeley Waterfront

From: City Manager

Recommendation: Adopt four Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call waterfront engineering, design, environmental permitting and construction administration services for capital improvement projects at the Berkeley Waterfront, for contract periods of June 15, 2020 through June 30, 2023:

- 1. Anchor QEA, LLC, for an amount not to exceed \$1,000,000.
- 2. COWI North America, Inc., for an amount not to exceed \$1,000,000.
- 3. Moffatt & Nichol, for an amount not to exceed \$1,000,000.
- 4. Transystems Corporation, for an amount not to exceed \$1,000,000.

Financial Implications: See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

7. Reject All Bids and Negotiate in the Open Market for the Grove Park Field Renovation and Park Improvements Project

From: City Manager

Recommendation: Adopt a Resolution: 1. Rejecting all bids for the work associated with the Grove Park Field Renovation and Park Improvements Project, Specification No. 20-11383-C. 2. Authorizing the City Manager to direct staff to negotiate in the open market in accordance with Article XI, Public Works and Supplies, Section 67(a) of the City Charter. 3. If negotiations are not successful, authorizing the City Manager to direct staff to re-scope and re-bid the work associated with the Grove Park Field Renovation and Park Improvements Project.

Financial Implications: See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

8. Amendment and Assignment of Capital Contribution Agreement: 200 Marina Blvd, LLC for the Doubletree Hotel

From: City Manager

Recommendation: Adopt first reading of an Ordinance approving an Amendment and Assignment of the City's Capital Contribution Agreement with 200 Marina Boulevard, Berkeley, LLC (200 Marina LLC) for the Doubletree Hotel, which would assign the agreement by 200 Marina LLC to its parent company, Apollo Bright, LLC (Apollo LLC), and change the payment schedule for the capital contribution from \$3M due in June 2020 to \$375,000 due in October 2020 and \$2,675,000 due upon Council approval of the Marina streets construction contract, estimated to be in January 2021. Apollo LLC's obligation to make the two capital contribution payments totaling \$3 million will be backed by an irrevocable standby letter of credit, which will be provided to the City upon execution of the amendment and assignment.

Financial Implications: See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

9. Contract: Alta Group, Inc. for the T1 Corporation Yard Maintenance Building Upgrade Project at 1326 Allston Way, and the T1 Marina Corporation Yard Maintenance Building Upgrade Project at 201 University Avenue From: City Manager

Recommendation: Adopt a Resolution: 1. Approving plans and specifications for the T1 Corporation Yard Maintenance Building Upgrade Project and the T1 Marina Corporation Yard Maintenance Building Upgrade Project, Specification No.19-1 1302 -C; 2. Accepting the bid plus bid alternate of Alta Group, Inc. as the lowest responsive and responsible bidder; 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, for an amount not to exceed \$1,011,006 which includes a contingency of \$131,871.

Financial Implications: T1 Fund - \$1,011,006

Contact: Phillip Harrington, Public Works, (510) 981-6300

10. Contract: Urban Ore, Inc. for Salvage Operations at the City of Berkeley Transfer Station

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Urban Ore, Inc. for salvage operations of reusable materials at the City's Transfer Station for a three (3) year term commencing July 1, 2020 through June 30, 2023, for a total amount not to exceed \$114,576.

Financial Implications: Zero Waste Fund - \$114,576 Contact: Phillip Harrington, Public Works, (510) 981-6300

Council Consent Items

11. Berkeley Safe Open Air Dining

From: Councilmember Hahn (Author), Mayor Arreguin (Co-Sponsor), Councilmember Rigel Robinson (Co-Sponsor), Councilmember Kate Harrison (Co-Sponsor)

Recommendation:

- 1. Direct the City Manager to explore and, if and when safe and feasible, identify locations throughout Berkeley, including but not limited to wide sidewalks, street medians, building curtilages, surface lots, public parking areas, and parks, for the placement of tables and chairs to be used for open air dining to support restaurants, cafes, food shops, and other small businesses impacted by the COVID-19 emergency. The City Manager is recommended to consider pursuing the procurement of such tables and chairs via public grants and/or philanthropic sources. The City Manager is further recommended to partner with the Berkeley Chamber, Downtown Berkeley Association, and local business improvement districts (BIDs) to develop protocols related to sanitation, upkeep, and storage.
- 2. Direct the City Manager to return to Council with recommendations for an ordinance that anticipates future revisions of Berkeley health guidelines to provide local businesses, particularly restaurants, cafes, and food shops, to access public space and private adjacent property for open air operations, with the following considerations: a. Allow businesses and BIDs to apply for temporary use of streets, surface lots, public parking spaces, public recreation space, and adjacent parcels for outdoor dining that will enable compliance with public health dictates for physical separation. i. To eliminate financial burden and fees on small businesses, consider:
- 1. use of federal reimbursement or funding to cover application costs, or 2. "by right" permit in designated geographic locations that will not require additional processing. ii. Waive any sidewalk cafe permits/fees to allow restaurants and other appropriate businesses to operate outside seating and service for customers who comply with Berkeley health guidelines. iii. Work with the Berkeley Chamber, Downtown Berkeley Association, and Berkeley's BIDs to identify ideal geographic locations for use of streets, surface lots, public parking spaces, public recreation space, and adjacent parcels for outdoor food business activities, including outdoor restaurants and cafes.

Financial Implications: See report

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

Action Calendar

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

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

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

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

Action Calendar - Continued Business

A. Establishing a COVID-19 Business Damage Mitigation Fund (Continued from May 26, 2020)

From: Mayor Arreguin (Author), Councilmember Harrison (Author),

Councilmember Robinson (Author)

Recommendation: Refer to the City Manager to establish a COVID-19 Business Damage Mitigation Fund in an amount up to \$100,000 to provide one-time grants to small businesses who experience property damage due to vandalism and other problematic behavior during this COVID-19 local State of Emergency

Financial Implications: Up to \$100,000

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

Action Calendar – Public Hearings

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

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. 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.

12. Fiscal Year 2021 Proposed Budget Update Public Hearing #2

From: City Manager

Recommendation: Conduct a public hearing regarding the FY 2021 Proposed

Budget Update.

Financial Implications: See report

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

Action Calendar – Continued Business

B. FY 2020 Mid-Year Budget Update (Continued from May 26, 2020)

From: City Manager

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

Action Calendar

13. Presentation and Discussion of Community Survey Results and Direction About Next Steps for Possible Ballot Measure Development

From: City Manager

Recommendation: Discuss results of the community survey and provide direction to the City Manager about the drafting of possible measures for inclusion on the

November 2020 ballot.

Financial Implications: See report

Contact: David White, City Manager's Office, 981-7000

14. Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers (Continued from April 28, 2020)

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

15. Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral (Continued from April 28, 2020)

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

16. Contract No. 32000094 Amendment: Youth Spirit Artworks for Transition Age Youth Case Management and Linkage Services and Tiny House Case Management (Continued from April 28, 2020)

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

Action Calendar

17. Contract: ERA Construction, Inc. for Strawberry Creek Park Play Area and

Restroom Renovation Project (Continued from May 12, 2020)

From: City Manager

Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the Strawberry Creek Park Play Area and Restroom Renovation Project, Specification No. 20-11382-C; and 2. Accepting the correction of the sum of bid items for ERA Construction, Inc.'s bid; and 3. Accepting the bid of the lowest responsive and responsible bidder, ERA Construction, Inc.; and 4. Rejecting the bid protest of Suarez and Munoz Construction, Inc., the second lowest bidder; and 5. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with ERA Construction, Inc., for the Strawberry Creek Park Play Area and Restroom Renovation Project at 1260 West Street, Berkeley, CA 94702, in an amount not to exceed \$900,122, which includes a contract amount of \$782,715 and a 15% contingency in the amount of \$117,407.

Financial Implications: Various Funds - \$900,122

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

18. Proposed Amendment to Berkeley's Minimum Wage Ordinance: Berkeley Municipal Code Chapter 13.99

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, revising Section 13.99.040 to reinstate the exemption for youth job training programs, and freezing the youth wages at \$14.50 per hour for FY21, then increase the wage annually according to the Consumer Price Index as will occur with the Berkeley Minimum wage.

Financial Implications: See report

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

Information Reports

19. City Council Short Term Referral Process – Quarterly Update

From: City Manager

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

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 May 28, 2020.

Mark Numainville, City Clerk

Mad Munimit

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.

Item #11: Berkeley Safe Open Air Dining

1. Thomas Lord (2)

Item #12: Fiscal Year 2021 Proposed Budget Update Public Hearing #2

2. Michael Katz

Safe Streets

3. MaryAnn Furda

Sanctuary Contracting Ordinance – Right to cure violation

4. Brian Hoffer

Salary of City of Berkeley Employees

5. Genevieve Wilson (2)

Pride Month

- 6. Brian Brunett
- 7. Marjo
- 8. Adrianne Penney

Zoom Meetings

9. Thomas Lord

Sewer Service Fees

10. Barbara Gilbert

Preparing for a Wildfire Disaster

11. Jurgen Aust

Riots Will Be Starting Soon

12. Wanda Warkentin

Berkeley Manufacturing

13. Sam Johnson

14. Dee Williams-Ridley, City Manager

African American Resource Center

15. Derethia DuVal

16. Michael McBride

17. Akilah Shaheed

Fall Semester UCB - Berkeley Businesses Affected

18. John Caner, on half of Downtown Berkeley Association, et al

Homelessness

19. Charles Durrett

Homeless Are Harassing Kids

20. Nicoletta Karam

Green Energy

21. Ethan Young

COVID-19 - General

22. David Lerman (4)

23. Thomas Lord

24. Holly Scheider

25. Russbumper

26. Councilmember Harrison

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.