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# Albany Waterfront Task Force

MEETING NO.	3
DATE	October 30, 2011



## GOLDEN GATE FIELDS TASK FORCE REGULAR MEETING

Community Center Main Hall  
1249 Marin Avenue, Albany  
October 30, 2011 – 7:00 p.m.

### 1. WELCOME AND INTRODUCTIONS

### 2. DISCUSSIONS AND POSSIBLE ACTION ON MATTERS RELATED TO THE FOLLOWING ITEMS:

2-1. Task Force Members comments or updates

2-2. Presentation of information, questions and discussion on the following topics related to the proposal by the property owner of Golden Gate Fields (The Stronach Group) for the Lawrence Berkeley National Laboratory second campus and associated development:

- Ownership of property and improvements
- City of Albany Measure C
- Entitlement process
- California Environmental Quality Act (CEQA)
- Voter Initiative Process

2-3. Open Space aspects of the proposal/property (if time permits)

### 3. PUBLIC COMMENT

For persons desiring to address the Task Force on an item that is not on the agenda please note that each speaker is limited to two (2) minutes. The Brown Act limits the Task Force's ability to take and/or discuss items that are not on the agenda; therefore, such items are normally referred to staff for comment or to a future agenda.

### 4. NEXT MEETING—November 6th

### 5. ADJOURNMENT

*The Committee packet is available for public inspection at the Albany Library, Fire Department and City Hall. The agenda and supporting staff reports, if available, can be found on our web page at [www.albanyca.org](http://www.albanyca.org). Please note that if you provide your name and address when speaking before the Committee it will become part of the official public record, which will be posted on the Internet. Agenda related writings or documents provided to a majority of the Task Force members regarding any item on this agenda will be made available for public inspection in the City Clerk's Office, 1000 San Pablo Avenue, Albany CA.*

**Albany Waterfront Development Task Force  
Orientation Meeting Notes  
October 16, 2011**

**Members:**

Francesco Papalia, David Arkin, John Miki, (absent), Tom Cooper, Gary Class, Brian Johns, Ellen Toomey, Robert Cheasty, Pam Radkey, Bob Fierce, Bob Uhrhammer, Anne Foreman, John Dyckman, Brian Parker, Peggy McQuaid, Nick Pilch, Susan Moffat, Dolores Dalton, Amy Tick, Charlie Blanchard, Spencer Perry, Edward Gong

Meeting facilitated by Fern Tiger Associates

**Introductions/ Overview of Meeting**

Fern Tiger, Fern Tiger Associates, city-hired facilitator, reviewed meeting topics: Brown Act, with City Attorney present to make brief presentation and answer questions; project proposal in relation to city process and task force, including voter initiative (based on recent communication by The Stronach Group, with City Attorney and City Manager present to answer questions); and current site plan, with representatives of The Stronach Group present to make brief presentation, answer questions, and respond to requests of the Task Force.

**The Brown Act**

Per the request of the Task Force at its Orientation Meeting on 10/9/11, City Attorney Robert Zweben made a short presentation to the Task Force about the Brown Act.

Mr. Zweben noted that the Task Force would function, in accordance with the Brown Act, including: (1) issuing agendas prior to meetings; (2) posting agendas 72 hours prior to meeting; (3) following set agendas (topic areas); (4) allowing public comment on agendized topics, after Task Force discussions and at the end of the meeting for non-agendized topics. It also means that if group conversations, or serial conversations, take place outside of the Task Force meetings, they cannot include a quorum of members (in this case, 12 of the 22 members).

With regard to online discussions in social media forums, Zweben noted that as a matter of general policy, Task Force members should not have discussions in public media such as Albany Patch. Rather, he suggested that if the committee desired to provide information to the community, it should consider forming a subcommittee structure that could be responsible for information dissemination. He also pointed out that being on the Task Force does not take away any First Amendment rights.

Mr. Zweben further stated that if any Task Force members had additional questions, they could call him (or contact Fern Tiger - 5102087700 or fern@ferntiger.com).

Q & A from the Task Force (and from general public) re: Brown Act:

Q. Doesn't the Brown Act only apply to decision making bodies?

A. Given the fact that the Task Force was appointed by the City Council, it is the City's determination that it is best to have this body conform to Brown Act guidelines.

It is unclear, at this time, whether or not the Task Force will make a decision. The mandate for the Task Force, by the Council, does not require it to make a decision, but it does not preclude the Task Force from making a recommendation(s) to the City Council (either at the end of the process, on particular issues, or periodically).

Q. Isn't it very unlikely that 12 members (majority of Task Force) would ever become involved in an online discussion?

A. While it is unlikely this would happen, it can happen. Perhaps, more important, it is possible for some Task Force members to want to participate in such a discussion, but that discussion could compete with this forum (the Task Force), which could lead to frustration and confusion for the public.

Q. Could a sub-group of members prepare a presentation for a public body? For example, could the five members appointed by the School Board develop and create a presentation for that body?

A. Yes, that would be permissible under the Brown Act. Subcommittees are not subject to Brown Act rules. If another public body has a meeting, that discusses the project or the work of the Task Force, Task Force members may attend. But if more than 12 Task Force members wanted to speak at that meeting, that would need to be worked out. There could be a joint meeting in order to avoid Brown Act matters.

Q. Is the issue really this: who may speak for the Task Force? Does it make a difference if we identify ourselves specifically as *not* speaking on behalf of the Task Force?

A. Unless you are authorized to speak on behalf of the Task Force, comments that members may make to a news forum should clearly state that the member is speaking on his/her own behalf.

Following the question period, Mr. Zweben pointed out that once an initiative process begins, the Task Force, as a public body, cannot be "pro" or "con" (as a group). When asked whether "starting" meant "starting of signature drive" or "filing of initiative," Mr. Zweben responded that he will need to consider this question and would provide a response to the Task Force shortly.

**Project proposal in relation to City process**

City Manager Beth Pollard noted that the topic (Waterfront Development Proposal and City process to ensure public information) will be included in the City Council's agenda for Monday, October 17.

She referred Task Force members to the memo from the developers included in the packet, and stated that it was the City's expectation that The Stronach Group would continue to fund the City's time as well as those consultants the City deemed necessary to fully understand the impact of the proposal on the City.

Questions from the Task Force (and general public) to the City Manager re: Payments to City by The Stronach Group:

Q. What will happen if The Stronach Group does not continue to fund the City? What would be the practical effect on the Task Force if The Stronach Group does not pay?

A. In the event that the Stronach Group decides to stop funding the City for its work or for the work of consultants the City deems critical to the process, the City will need to determine how to proceed. The City Manager clarified that 'there is much work to do in a very short time.'

Q. Is The Stronach Group current in paying the city's bills?

A. The City Manager stated that she didn't have the information available at the meeting, but would check the status and provide that information to the Task Force prior to the next meeting. TSG has made some payments and it is the expectation of the City that they will continue to cover city costs related to analysis, outreach, and engagement related to the proposal.

Q. Is the lab still expected to make a decision at the end of November?

A. As far as the City knows, LBNL/UC will announce it's preferred site (or possibly sites) by the end of November.

Q. Will TSG put the ballot initiative on the ballot even if they are not the lab's selected site?

A. No information is available to answer that question.

Comments from Task Force and General Public (Task Force and General Public):

During the public comment periods there were questions raised regarding:

- the relationships between the proposed voter initiative, Measure C, and CEQA requirements [Response: With regard to the voter initiative and CEQA, the City Attorney explained that a ballot initiative filed (as described by TSG in its memo) would *not* be City Council sponsored measure and would *not* require an EIR prior to the election. It appears that if an initiative – as currently being described by TSG – was to pass, the “project” itself would not be approved by the voters, but would require that an application be filed that is consistent with the specifics of the initiative. That application, filed after the initiative, would be subject to a CEQA environmental review.

According to the City Attorney, it appears likely that the initiative under discussion by the developers would set up some type of project review process, and that CEQA review could be

less detailed, given that certain entitlements and zoning amendments would be “granted” through the ballot measure.

In other words, if the initiative intended to be placed on the ballot this June, passes (50% + 1 vote), Albany residents would be approving changes to the zoning ordinance (and possibly the General Plan) without a prior CEQA review, but when an application is filed that is consistent with whatever the initiative criteria are, a CEQA review would be required prior to approving the project application. (This assumes that the “project” – which will come to the City after approval of the initiative by the voters – conforms to the new zoning included in the ballot initiative.

- the costs to the city related to the proposal (including costs related to the Task Force). [The City Manager stated that she did not have the information available at the meeting, but would provide it as a follow up, prior to the next Task Force meeting.] As noted, TSG has made some payments and it is the expectation of the City that they will continue to cover city costs related analysis, outreach, engagement related to the proposal.

**Proposed Waterfront Development (“The Project”): Site Plan** (presented by Wei Chiu (WC), representative of The Stronach Group (TSG).

Mr. Chiu explained the qualifications of the TSG team and their vision for the project. He then reviewed various aspects of the site plan.

Following the October 9, 2011 Task Force meeting, the developer was asked to prepare and deliver particular materials prior to October 12 (for Task Force review). That list and status is noted below:

<b>Materials Requested for October 16 TF meeting (available 72 hours prior)</b>	<b>Available Prior to TF Session</b>	<b>Updated Information</b>	<b>Status</b>
Master Plan Documents (most recent version – presented by Developers at developer-hosted Open House)	Yes		
Intended land uses in Albany beyond currently allowed by zoning	Yes		
Intended land uses in Berkeley beyond currently allowed by zoning	Yes		
Acreage and Sq. Ft. Calcs for Open Space, Buildings, Infrastructure, Parking	Open Space calcs provided prior to TF	Parcel info (acreage only) - provided Oct 19; posted	Still need sq ft calcs for each building, parking, infrastructure
Calculation of parking needed to comply with current zoning; calculation of parking sq ft/acreage anticipated and ratio	No WC stated that TSG plans to do project as PUD, enabling TSG to deal with parking		

<b>Materials Requested for October 16 TF meeting (available 72 hours prior)</b>	<b>Available Prior to TF Session</b>	<b>Updated Information</b>	<b>Status</b>
	calculations differently; TSG will also rely on TDM programs		
Anticipated building heights and locations on site	TSG states that they have created "height zones" on the site. Floor to ceiling heights for lab buildings are 16 to 20'; 4-story lab building is 68'; buildings at the site will range from 65' to 90', and the hotel is to be 120' (12 floors)	Height zone diagram not yet provided	
FAR Studies (floor area ratios)	Not provided; there is 6M sq ft of land and 4.5M sq ft of buildings + parking (1.5M sq ft for 5,000 cars?)		
Land Survey	Not provided	Not provided as of this date	
Site sections from various locations	Provided in packet		
Site and building elevations	Not available	TSG: only master planning dwgs available	
Architectural drawings	Not available		Follow up from Task Force: can massing drawings be provided from locations at the site and also Albany Hill and also Freeway
Views from public locations (Pierce Street, Bulb, Beach, Freeway, Albany Hill, etc.)	Not prior to session	Views from Pierce Street and Solano Street provided posted	Other requested views not yet provided
Simulated skyline points in Albany	Not prior to session	Some skyline views provided (see above)	

<b>Materials Requested for October 16 TF meeting (available 72 hours prior)</b>	<b>Available Prior to TF Session</b>	<b>Updated Information</b>	<b>Status</b>
Phasing Plan	Not provided prior to session	At session, it was explained that there would be 400 residential units in Berkeley; conference ctr, hotel, and 500K sq ft for LBNL in Albany; road infrastructure – in Phase One; market studies will determine any other decisions	

Additional comments, questions, suggestions from Task Force and general public:

- Consider the possibility of Task Force members visiting locations where there are buildings of similar scale to what is being proposed and/or similar projects so that the Task Force can get a better sense of the proposed project size, heights, massing)
- Consider potential to hear from urban designers/planners (perhaps faculty at UC Berkeley or planners/architects who have worked in the East Bay on projects of similar scale) to help the Task Force understand:<sup>1</sup>
  - if/how the project reflects distribution of open space and buildings;
  - whether proposed parking will block views and/or be sufficient for the project;
  - whether the development could be compacted even further;
  - whether the drawings portray the square footage delineated and intended to be built;
  - whether footprint of garages portray the amount of space needed for 5,000 cars; whether heights are accurately portrayed; etc.).

One of the focused topic areas for the Task Force includes a review of Measure C, CEQA, and entitlement processes. The City Attorney was asked to provide additional information on these topics to help the Task Force understand the issues.

### **Other Information**

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<sup>1</sup>

List expanded as to what Task Force would like explained, based on follow up questions, comments after Task Force meeting by members and others. Comments from Task Force members and general public indicate it is difficult to assess the project by viewing primarily flat, diagrammatic site plans without shadows and other information that helps understand massing and heights.



- Clarification re: land uses (currently intended by developers to be added to existing uses in Albany and in Berkeley – uses beyond what are currently allowed through Albany Measure C and Berkeley Measures N and Q))

*Land uses currently intended by TSG to be added to existing uses in Albany:*

*Public Laboratory (LBNL, including 1800' long linear accelerator, underground), child care center, hotel, retail (cafes, restaurants, small specialty retail), conference facilities, “forum/learning center,” private lab/office*

*Land uses currently intended by TSG to be added in Berkeley:*

*housing (600 units), private lab/offices*

- Status of Fleming Point/ What are the dimensions of the landscaped area on Fleming Point that is above parking deck?

*See acreage chart by parcel area, posted October 19.*

- Phasing Plan

*According to TSG, Phase One (timing?) Will include 400 of the 600 residential units in Berkeley; conference center, hotel, and 500,000 sq. ft. of LBNL labs in Albany; road and infrastructure. All other decisions will be dictated by market studies.*

- Plan for toxics disposal (as related to Master Plan)

*TSG stated that is hoping no toxics will be uncovered during construction, but if they are, they will deal with it. Regarding toxics that might be associated with lab operations, TSG is unable to answer that question. (FTA has sent an invitation to LBNL to attend a Task Force meeting.)*

- Infrastructure costs (by component)

*TSG stated that overall infrastructure costs will total \$300,000,000; of that \$135,000,000 are costs associated with parking. Other costs include: roads, sewer, water, grading, raising the site level 36" to address sea level rise, landscaping, and utility connection fees. TSG stated that the cost breakdown (by component) would be made available. (This information has not been received, as of this date.)*

Additional questions posed by Task Force and general public, following presentation by developer:

- Why is the housing located in Berkeley; wouldn't make sense to have some housing in Albany to enhance “eyes on the park”?

*Housing is planned for Berkeley portion of site due to what developers have been told about community responses to notion of housing on waterfront site, and results of Voices*

to Vision/ citizen input.<sup>2</sup>

- Why is the hotel 120' tall (approximately 12 stories)?  
*TSG explained that the height of the hotel allows for 'vertical definition' on the site, and also responds to demands for open space.*
- Are the square footage calculations gross or net building area?  
*Calculations are gross building area; they include internal corridors, etc.*
- Is Phase One financially feasible?  
*TSG is not certain Phase One is feasible, because they have not yet received confirmation from LBNL regarding how much LBNL would allocate toward infrastructure costs for the first phase of the project.*
- If/where: co-generation facilities located?  
*TSG does not know where a co-generation facility would be located. LBNL is currently discussing WAPA power, which provides low rates for federal facilities.*
- What kind of non-motor vehicle connections are being designed to accommodate access to site?  
*According to Mr. Chiu, one of TSG's dreams for the site would be to extend Solano Avenue for pedestrian/bicycle access, but that they have not yet determined how to address the tracks or an at-grade crossing (multiple issues related to this idea were raised by the Task Force).*
- Is TSG still considering bike/pedestrian connection over the freeway at Codornices Creek?  
*TSG stated that they would love to do that; but it is estimated at \$10 million, and is not currently in the budget.*
- What are plans for LEED certification?  
*TSG stated that the baseline for LBNL buildings is LEED Gold, which would be the intended minimum for private development as well. Other levels of LEED certification are also being investigated.*
- How will aesthetics and architectural quality be addressed?

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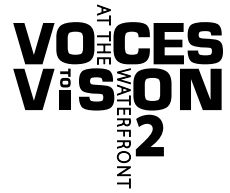
In both Voices to Vision (participatory sessions and online survey) and prior visioning sessions about the Waterfront over the years, it has been confirmed over and over again that Albany residents do not support housing at the waterfront for a variety of reasons, including the concern that housing on “the other side of the freeway” will create a split community and that the concerns of residents on one side of the freeway may be very different from concerns and perceptions of residents on the other side of the freeway. Similarly residents believe the freeway is too big a divider to create a cohesive city for a population the size of Albany.

*Aesthetics and architectural quality will be addressed later. Currently the developer is addressing Master Plan level issues; architecture would be developed at a later phase.*

- How has the value of changes to zoning been calculated by TSG? How will the cities of Albany and Berkeley benefit in relation to increased value of property?  
*TSG stated that the value of the property will depend on the uses allowed; changes to the taxation level would be determined based on city/county processes.*
- How would the Master Plan accommodate less building than anticipated? [E.g. if LBNL builds less than 2M sq. ft., what would site plan /development scheme look like?]  
*TSG has not studied this issue.*
- Can TSG estimate the amount of excavation and describe nature of construction (piles, foundations, etc.) below grade?  
*TSG anticipates that the key issue will be fill, rather than excavation. The 100 year plan for the site will anticipate 55" of sea level rise; Treasure Island is being required to accommodate 36" sea level rise.  
It is anticipated that there will be drilling, not pile driving.*
- How will title to the property be held?  
*Over the past few weeks, there has been some discussion about different forms of ownership, but the concept has been, and remains, for TSG to continue to own the property and to provide a long term land lease.*
- Have there been studies made regarding fiscal impacts in a “worst case scenario”?  
*Question deferred to the Task Force session focused on Economic Impacts.*
- Will there be an on-site solar program?  
*TSG noted that there is a full sustainability program being developed.*
- What would happen if LBNL does not get the contract for the FSF (future science facility/ linear accelerator)?  
*No answer provided*
- How much of the infrastructure is deemed a federal project?  
*No answer provided*

**Golden Gate Fields Task Force**  
 (Albany Waterfront Development Task Force)  
**Meeting Dates and Time** (as of 10-26-11)

<b>DATE</b>	<b>STATUS</b>	<b>LOCATION</b>	<b>TIME</b>
October 9	Complete	Community Hall	7-9pm
October 16	Complete	Community Hall	7-9pm
October 30	Scheduled	Community Hall	7-9pm
November 6	Proposed	Community Hall	7-9pm
November 13	Proposed	Community Hall	7-9pm
November 20	Proposed	Senior Center	7-9pm
January 8	Proposed	Community Hall	7-9pm
January 15	Proposed	Senior Center	7-9pm



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## Handouts for October 30 Task Force Meeting

- Background Information / Questions from Task Force and others related to Ownership and CEQA
- Memorandum to Task Force from City Attorney
- Full Text of Measure C
- Memos to Berkeley City Council (2002/2001)
- Voter Initiative Process
- Potential Initiative Calendar
- Parcel Exhibit
- Email from the Stronach Group

## **Background Information/ Questions From Task Force and Others Ownership and CEQA**

- Q. What is the legal opinion on implications of ownership vs. leasing arrangements (including taxes and future decision making about subsequent zoning/ planning changes at the waterfront?)
- A. According to the City Attorney, there are a number of complicated issues relating to both the tax questions and subsequent changes at the Waterfront. If LBNL or UC purchases a portion of the land, they would not have to comply with Albany land use regulations for any project that is considered in furtherance of their educational missions. If they own the land, they would probably be exempt from property-related taxes. The City has retained attorneys who specialize in tax matters to look into this area in more depth. The obligations to pay property-related taxes may also be affected if LBNL or UC own the buildings but lease the land.
- Q. What is the legal opinion about the role(s) of LBNL vs. UC vs. DOE (re: ownership of land/buildings, and related uses) vs. developer?
- A. According to the City Attorney, if UC or LBNL owned the land and wished to build on the property, they would not have to comply with Albany regulations for that part of the project in furtherance of their educational mission. If the developers proposed private commercial or retail uses, they would have to comply with Albany regulations.
- Q. What is the legal opinion about the role of the city of Albany (and city of Berkeley?) in determining/ approving/ monitoring specific uses at the site (ie. type of science, materials, development, etc. in private and public labs)?
- A. According to the City Attorney, Albany would have jurisdiction of matters within the City of Albany, to the extent that UC or LBNL activities did not preclude Albany from exercising oversight authority. The same would be true for Berkeley as to what is built there.
- If the project proceeds in both jurisdictions the two cities would likely undertake some shared oversight.
- Q. Who bears long term responsibility for maintenance of open space at the site?
- A. According to the City Attorney, it depends on who has ownership or what agreements have been made, with the developer/owner. TSG may decide to 'gift' or 'sell' the open space. EBRPD or the State may become involved as owners. These are matters that as of now are unclear.
- Q. What is the status of the acquisition of land by EBRPD to create the Bay Trail at the GGF site?

- A. The City Attorney states that there is a pending condemnation action in court. EBRPD is seeking to acquire the rights to the land for a Bay Trail. TSG has not agreed, as far as the city of Albany knows, to come to some resolution as of this time.
- Q. Could the property be subdivided and re-zoned so that there were different land uses allowed in distinct parts of the property (or would the entire waterfront district have the same new zoning restrictions, if approved by the voters)?
- A. It is the understanding of the city that the voter initiative being prepared by the Stronach Group will refer to “zones” with different allowable building uses and heights. However, the actual language of the initiative has not yet been seen by the City.
- Q. If LBNL does not locate at the GGF site, would the property owners be allowed to build out to the intended square footage (4.5 million square feet)?
- A. This would depend on how the ballot initiative is written; as noted, the City has not yet seen the language the developers are proposing for their citizen’s initiative.
- Q. What is LBNL’s commitment to Albany’s community process to understand the proposed project (public and commercial portions), especially given the special rights it has as a public agency?
- On September 1, FTA (on behalf of the City of Albany) suggested to LBNL that they participate in a facilitated, citywide Q&A (similar to the August 29<sup>th</sup> event with the City and the Stronach Group); most recently, LBNL has been asked to attend a meeting of the Task Force.
- Q. What public agency (City of Albany, City of Berkeley, Lawrence Berkeley National Laboratory, University of California) would serve as the lead agency for the EIR?
- A. Based on the City’s understanding that TSG will be the applicant and will build the project (assuming zoning changes as a result of a ballot initiative); that TSG will continue to own the property (including that portion of the land where LBNL will be located); that UC either leases or purchases the buildings, then leases the buildings to LBNL; and that neither UC nor federal monies will be used to process or build the project — the City of Albany believes that it (City of Albany) would be the appropriate entity to serve as the lead agency for CEQA purposes. [If UC were to purchase the land, be the project applicant, and build the project, it could qualify to be the lead agency.]
- Q. If LBNL were to carry out the project at GGF (for its portion of the site), who would be the lead agency for CEQA purposes (the EIR)?
- A. If a project is carried out by a public agency, that agency is the lead agency for the project, even if the project is located within another agency’s jurisdiction (e.g. in the City of Albany or the City of Berkeley). For example, UC acted as the lead agency for the University Village and Albany/Northwest Berkeley Properties Master Plan and certified a focused EIR for that plan in 1998, as well as an EIR in 2004 for the amended Master Plan.

## Memorandum

TO: Albany TSG Taskforce (c/o Fern Tiger Associates)

From: Robert Zweben, City Attorney

Re: Measure C, initiatives, CEQA process questions and answers.

Dear Members of the Task Force:

This memo will attempt to address questions that have been asked about the inter relationship of Measure C, modifications to Measure C, the CEQA process, and the required voter approvals.

Background and Basics:

### **Measure C.**

Measure C language is attached to this memo. Measure C was a citizen initiative enacted in 1990. Section 4 in Measure C was added to the Albany Municipal Code. Essentially, Section 4 'froze' the zoning uses at the Waterfront District and in the General Plan. Measure C requires that any zoning amendments, general plan amendments, any specific plans, entry into a development agreement, and material amendments to a development agreement, would -- from Measure C's effective date -- require not just City Council approval but a vote of the electorate as the final step.

At the time Measure C was passed, the zoning regulations allowed for park and recreational facilities; major and minor utilities; bars; marinas and boat launching ramps; nonresidential parking facilities; restaurants; and waterfront and waterfront sports related commercial sales and services. Anyone who requested approval to construct any of these uses would not be required to have voter approval. Those permits could be granted without a vote of the electorate.

TSG wishes approval for several uses that are not allowed at the Waterfront District. Those uses are, for example, commercial offices and labs; general retail (unrelated to the waterfront), public facilities; a public research laboratory (LBNL); and a hotel. To be able to approve these 'new uses' the zoning regulations would have to be amended. Depending upon what TSG officially proposes, the General Plan may also need to be amended. Also, as best we know it, TSG will propose that the landowner and the City (and possibly LBNL) enter into a development agreement. The entry into a development agreement would require a Measure C vote.

### **Modifying Measure C.**

There are two ways to modify Measure C:

1. A landowner or citizens can sponsor an initiative or



2. The City Council can place a ballot measure before the voters

These two approaches are very different. Option 1: The initiative process requires the proponents of the initiative (in this case the landowner and whoever agrees to assist in the sponsorship of the initiative) to follow the Elections Code procedures for initiatives. The initiative proponents:

- prepare the substantive language,
- file a notice of intent with the City Clerk,
- obtain an initiative title and summary from the City Attorney,
- publish the proposed initiative,
- gather sufficient signatures, and
- submit the initiative petitions to the City.

If the proponents have sufficient qualified signatures, the City Council will have to place this initiative on the ballot. This will likely be on the June ballot.

The actual wording of the initiative is up to the proponents. The City Council has no authority to modify the initiative language. The initiative does not go through the City's land use procedures. The City cannot require a CEQA review. The City Council can, however, direct staff to prepare a report about the initiative. This report is authorized under Section 9212 of the Election Code. Otherwise, the initiative basically goes directly to the voters. It is up to the voters, and only the voters, to decide whether or not to approve of the initiative.

Option 2: The second way to modify the Measure C language is for the City Council to place a ballot measure before the voters. There are typically two reasons why a Council might wish to place a measure on the ballot to modify Measure C. One reason could be because the City decided it wished, on its own, to modify the zoning ordinance, the General Plan, or Measure C procedures. A second reason might be because the landowner or a developer came to the City and requested approvals from the City for a project that required zoning ordinance or general plan changes; enactment of a specific plan; or entry into a development agreement.

If the City Council places a ballot measure before voters, the City would develop the substantive language and proposed modifications after conducting hearings before the Planning and Zoning Commission and the City Council. The City would comply with CEQA and an EIR would be certified before the measure was submitted to the voters for final approval. Not only would the voters have the final say, but the voters would be able to attend public hearings and would be able to evaluate whatever information was contained in an Environmental Impact Report (EIR).

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

CEQA was enacted by the State Legislature in 1970. The provisions of the law are codified in the Public Resources Code, beginning at section 21000. Regulations pertaining to the implementation of the law can be found at 14 Cal. Code of Regs. (Guidelines), beginning at section 15000. CEQA contains comprehensive provisions that govern the complete environmental review process when a city processes an application for approval of a project.

For the purposes of this memo, there will not be an exhaustive explanation of the myriad of provisions of the law and the Guidelines that may apply to the discussion of CEQA as it relates to a Waterfront Project. It is assumed that a project application will require a CEQA review, including the preparation of an Environmental Impact Report (EIR).

An EIR is supposed to accurately describe the proposed project; identify and analyze each significant environmental impact expected to result from the proposed project; identify mitigation measures to reduce those impacts to the extent feasible; and evaluate a range of reasonable alternatives to the proposed project.

The purpose of an EIR is to inform the decision making body of environmental factors related to a project and to the environmental consequences that could result from the approval of a project. It is an important planning tool.

**Questions and Answers, as understood from the Task Force orientation session, 10/9/11.**

Q. Should/could a full CEQA process take place prior to a Measure C election?

A. If the vote about Measure C was brought before the voters through the initiative process, there is no CEQA process. It is neither required nor possible to undertake given the time frames. If the Council placed a measure on the ballot, the City would be required to comply with CEQA prior to the election.

Q. What is the relationship between the EIR and a voter initiative?

A. An EIR is not required for an initiative (but would in all likelihood be required if/when the project itself is presented to the City for approval???) .

Q. How might the information requested for an EIR differ from what is being asked by the Task Force?

A. An EIR must evaluate the potential environmental impacts of a proposed project in accordance with the requirements of CEQA and regulations promulgated thereunder. The document must do many things, including but not limited to, identifying potential significant adverse environmental impacts and mitigations measures. The document must identify alternatives to the proposed project. The Task Force is not being asked to undertake a comprehensive environmental study, as I understand it. It is, however, seeking information that might also be included in an EIR.

Q. What is the impact of a Measure C vote/decision prior to a complete EIR/Development Agreement process and certification? In other words will there be two elections for the same issue?

Given what I believe the initiative language will include, there will not be a second vote. Let me explain. Measure C, as originally enacted in 1990 said only proposed changes to the present zoning or entry into a development agreement, for example, would require a vote. This initiative, if approved, may include modifications to the present zoning regulations. The initiative can propose changes to procedures that would be exempt from a voter approval requirement. TSG may not, as yet, have made final decisions about how to craft the initiative. The initiative will likely have provisions stating that should an application be submitted which conforms to the regulations or procedures that the initiative is modifying, then there will be no requirement for another vote. In a sense this is exactly what the proponents of Measure C did. Measure C changed the procedures so that only changes to the zoning provisions or general plan; creation of a specific plan; or entry into a development agreement would require a vote. If the TSG initiative is approved by the voters, I believe it will then permit TSG to file an application and go through an approval process that will not require a vote of the electorate for final approval. The Planning and Zoning Commission and the City Council would review the application. A CEQA review, including the preparation of an EIR, as required by law, will be undertaken at that time. The initiative will likely contain wording that will authorize the City Council to approve or deny the application, without a second vote of Albany residents. The TSG initiative might also authorize the creation of a joint powers authority that includes Berkeley and UC to undertake a joint approval process.

Q. If a Measure C vote takes place before the EIR, how does that impact the EIR process?

A. If there is a Measure C vote because of an initiative, there will be no EIR before that vote. The electorate will be asked to decide to approve changes to the zoning without having the benefit of an EIR . Or, the electorate will be asked to approve changes to the approval process that would not include a final vote of the approval if an application is processed under the criteria set forth in the initiative. Later, if a development application is filed, then that application will be processed and a CEQA review, including an EIR, would be undertaken as required by law.

Keep in mind that Measure C was a procedural amendment to the City's land use processes adding a requirement of a final step of voter approval under specified circumstances. It appears that the initiative proponents will seek voter approval to change some of the City's zoning provisions so a project that is consistent with specified circumstances contained in the initiative can be approved without further voter approval.

Q. Who pays for the EIR?

A. If a landowner/developer requests the City to approve a project and make changes to the City's regulations, the applicant typically pays for the EIR. If the City proposes a project, the City would pay. If an initiative is submitted by a landowner/ developer/ or citizen group, there is no EIR.

Q. What, if any, control can the city or community retain if the scope of the project is approved through a Measure C vote, but then LBNL or the developer needs changes?

A. If the measure approved by the voters is well drafted, it should contain provisions that spell out what and how changes can be made. This is always a drafting challenge. Provisions, hopefully, would be unambiguous and clearly state how any changes can be approved.

Q. What are the mechanisms for the long term monitoring of development agreement mandates?

A. A development agreement is a contract. Development agreements vary in length and specificity. It is common that development agreements for big projects can be 100 plus pages. The mechanisms for long term monitoring need to be set out in the development agreement. The lawyers who draft these documents have the primary responsibility to include appropriate provisions. The preliminary drafts are usually reviewed by other staff and consultants involved in the process. At the approval stage, the Planning Commission and the City Council would review the agreement provisions at public hearings. One would hope all matters are adequately and appropriately addressed. That said, litigation attorneys, with the benefit of hindsight, often scratch their heads and wonder how the drafting attorneys missed something or included something in the agreement. The lesson: not everything can be predicted or identified. Development agreements can include various forms of "annual reporting" and can also stipulate conditions that must be met prior to particular aspects of the development or construction process.

Q. What benefits are being proposed for Albany schools. Could existing STEM programs be extended?

A. The answer to this question should come from the School District. Keep in mind that from the City's perspective at this time, a lot has been talked about but nothing, and I would stress nothing, has been definitively proposed.

Q. What is the benefit/detriment to the city/community of changing current zoning to allow new uses?

A. This is the million dollar question. This question goes to the heart of the purpose for this task force. Without seeing the precise proposal and without having the opportunity to evaluate the proposal, one can only conjecture. TSG is continually adjusting their thinking about how to configure this potential development proposal. The short time frame significantly increases the challenges for anyone who wishes to be well enough informed in order to weigh the benefits and detriments. The vision, as expressed by the community, includes creating a balance of open space, generation of revenues to the City and School District, and level of intensity of development. My belief is that historically the community has said that this waterfront area is a unique and special site. Community members thus have tried to determine, with respect for the fact that this is private property, what balance is a suitable resolution. It is no surprise that there can be conflicting perspectives, depending upon which stakeholder you talk to.

# FULL TEXT OF MEASURE C

## CITIZENS WATERFRONT APPROVAL INITIATIVE

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### SECTION 1. TITLE

This ordinance shall be known as and may be cited as the Citizens Waterfront Approval Initiative.

### SECTION 2. FINDINGS AND PURPOSE.

The people of the City of Albany find that:

- a. Major changes are proposed for the Albany Waterfront;
- b. Any potential change in the use of the Albany Waterfront is of great significance to the future revenues and financial obligations of the City, as well as to the enjoyment of the City by its citizens;
- c. The Waterfront lands comprise the largest and most significant remaining tract of land in the City suitable for development—approximately 15% of the total area of the City. Due to its large size, unique setting and environmental significance, any change in its use may irreversibly alter the character and composition of the City;
- d. The Waterfront is so important to the welfare of the City as a whole, that an additional step of voter approval should be added to the City's regular processes of Waterfront planning and approval.

### SECTION 3. BOUNDARY.

As used in this ordinance, the "Waterfront", "Waterfront Lands", "Waterfront District" or "Waterfront Area" is defined as all the land within the city limits of Albany, that is on the west side of Interstate Highway 580.

### SECTION 4. CITIZEN'S RIGHT TO VOTE.

A new Subsection 20-2.16(c) is hereby added to the Albany Municipal Code, Zoning Ordinance, and shall read as follows:

The following actions, if they authorize any use not authorized by the zoning ordinance for the Waterfront District as of the effective date of this ordinance, shall only be taken by passage of a ballot measure approved by a majority of voters voting.

1. Any amendment to the land use designations for the Waterfront Area in the City's General Plan;
2. The establishment of, or any material amendment to, the Waterfront Master Plan or other specific plan for the Waterfront area. The meaning of the phrase "material amendment" shall be defined in the Waterfront Master Plan itself or other specific plan for the Waterfront area itself;
3. Any amendment to the zoning ordinance for the Waterfront area including changes to the text and changes to the map of the Waterfront Area;
4. The entry into any development agreement and/or any material amendment to a development agreement for the Waterfront Area. The meaning of the phrase "material amendment to a development agreement" shall be defined in the development agreement itself. A development agreement or an amendment to a development agreement shall be deemed "entered into" on the date that the election results approving the agreement or amendment are certified in the manner provided by the Elections Code.

### SECTION 5. SEVERABILITY.

If any section, subsection, part, subpart, paragraph, subparagraph, clause or phrase of this ordinance, or any amendment or revision of this ordinance is for any reason held to be invalid, the remaining portions shall not be affected, but remain in full force and effect.

### SECTION 6. AMENDMENT.

No part of this ordinance shall be amended or repealed except by passage of a ballot measure approved by a majority of voters voting.

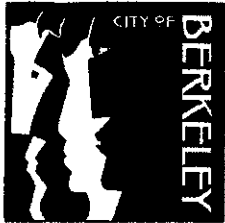
### SECTION 7. COSTS/COST SAVINGS.

When a development proposal or a developer requested amendment requires a ballot measure pursuant to this ordinance, then all costs related to that ballot measure shall be paid by the applicant developer.

When an action requires a ballot measure pursuant to this ordinance and the text of the related documents is longer than 2,000 words, then the City Attorney may draft a summary, and the city may mail that summary to the voters, in lieu of a full text.

### SECTION 8. EFFECTIVE DATE.

- If adopted, this ordinance shall be effective January 1, 1990.



Office of the City Manager

COUNCIL INFORMATION

January 22, 2002

CF 111-01

To: Honorable Mayor and  
Members of the City Council

From: Weldon ~~Rucker~~, City Manager

Subject: CLARIFICATION OF REMAINING "DEVELOPMENT RIGHTS" ON THE  
NORTH BASIN STRIP OF THE BERKELEY WATERFRONT

STATUS

On June 12, 2001 the Council directed the City Manager to clarify "the amount of development allowed by voter approved Berkeley Waterfront Measure Q on the remaining privately owned portion of the North Basin strip; and [to] return to Council for approval of a maximum square footage allowed after researching the issue."

Measure Q set both numerical and geographical limits on development of privately-owned land at the Berkeley Waterfront, as depicted in the attached diagram (Figure 1 - Berkeley Waterfront Plan). The State has since acquired most of the remaining privately-owned land at the Berkeley Waterfront, also as depicted on the attached diagram. Because the State did not purchase the entire North Basin Strip, it did not purchase all of the potentially developable land under Measure Q.

Under Measure Q the maximum potential development that could occur on the remaining privately-owned land is as follows:

<u>North Basin Strip, Phase 2</u>	<u>Stables (aka Horse Barns)</u>
50,000 square feet of retail/restaurant	165,000 square foot hotel 10,000 square foot freestanding restaurant
200 parking spaces	360 parking spaces

It should be stressed that these numbers are maximums, which would almost certainly be reduced based on project impacts on traffic, views and other land use factors, as required by Measure Q.

## BACKGROUND

### Measure Q and the Waterfront Specific Plan

In 1986, the voters adopted Measure Q (BMC chapter 11.56) to regulate development of the then privately-owned land at the Berkeley Waterfront. Measure Q limited most of the land to open space, but permitted development of the North Basin Strip and "Horse Barns".<sup>1</sup> In brief, Measure Q contemplated a maximum of 565,000 square feet of development in these areas, subject to specified height limits, and imposed various additional environmental performance standards on future development. Thus, the maximum amount of 565,000 square feet of development could be substantially reduced during the permit process. Measure Q referred to the then draft Waterfront Specific Plan to define the permissible uses in these areas. The Waterfront Specific Plan was finalized and adopted in October 1986 and has been considered since then as the document that implements Measure Q. A diagram depicting permissible land uses under Measure Q, excerpted from the Waterfront Specific Plan, is attached.

Measure Q's maximum development potential of 565,000 square feet was based on economic studies the City performed at that time, which concluded that this amount of development represented the minimum reasonable economic use to which the former owner was entitled under the U.S. Constitution, based on the private property ownership at that time. Measure Q's overall strategy was to concentrate the development potential in the North Basin Strip and Stables area in order to keep the remainder of the land in open space. As we discuss next however, relevant circumstances have changed significantly since Measure Q was formulated and adopted.

### The 1999 Purchase

In 1999, the State, through the East Bay Regional Park District, acquired most of the privately-owned land on the Berkeley Waterfront. The attached diagram from the Waterfront Specific plan indicates the approximate northern boundary of the land acquired by the State in 1999.

The State's appraisal reflected the development potential of the land it purchased. Thus, the price the State paid for the land designated as open space under Measure Q reflected its value as open space and the price it paid for the land it purchased in the North Basin Strip ("Phase 1") reflected the development potential in that location. Consequently, the price the State paid did not reflect the development potential of land it did not purchase: Phase 2 of the North Basin Strip and Horse Barns/Stables area.

In addition, Measure Q was based on the then-current understanding that the Golden Gate Fields race track would close in 1997 when its lease expired. In fact, however, the current owner appears interested in retaining and even expanding this use as part of an entertainment complex.

---

<sup>1</sup> Measure Q, refers to the area north of Gilman Street as the "Horse Barns". The Waterfront Specific Plan refers to the area as "Stables", although the attached diagram shows the area as the site of "Hotel No. 2".

The continuing existence of Golden Gate Fields is a significant change in circumstances that would provide a legal basis for the City to revisit both the maximum amount of development potential and types of uses contemplated by Measure Q, should the City decide to do so. The Council could amend Measure Q by placing a measure on the November 2002 ballot to make this right explicit.

#### The June 2001 Council Action

In June 2001, the Council directed staff to clarify the remaining "development rights" on the North Basin Strip. Staff has interpreted this directive to include any remaining development potential at the Horse Barn/Stable area as well.

#### Current Development Potential

The Council's June 2001 directive to staff was prompted by a letter from the San Francisco Bay Chapter of the Sierra Club ("Bay Chapter"). Since that time, staff from this office have discussed the issue on a number of occasions with representatives of the East Bay Regional Park District, the author of the May 1, 2001 letter from the Bay Chapter, a representative of Citizens for an Eastshore State Park, and the attorney that advised both the EBRPD in its negotiations to purchase the property and the City in developing Measure Q. Our analysis is based on information from all of these sources.

As a threshold matter, the Council should be aware, and should bear in mind, that Measure Q did not create development "rights". As discussed above, it defined the maximum potential development that could be permitted on designated private property. However, that maximum development potential is subject to various limitations that Measure Q contemplates will be refined through the environmental review and permitting process. Measure Q and the Waterfront Specific Plan do not grant any entitlements or create any development rights. It is therefore a misnomer to use that term in this connection. In this memorandum, we therefore use the term "development potential" or its equivalent.

In its letter, the Bay Chapter argued, in essence, that because the State had purchased approximately 80% of the acreage of the privately-owned property at the Berkeley Waterfront, approximately 80% of the development potential had been extinguished. The letter concluded that the remaining development potential amounted to approximately 110,000 square feet (about 20% of the 565,000 square feet maximum development potential defined by Measure Q).

The Bay Chapter's analysis is based on two incorrect assumptions. First, it assumes that under Measure Q development potential was spread equally throughout the formerly privately-owned property. This disregards the land use strategy employed by Measure Q. In a nutshell, Measure Q preserved the majority of the formerly privately-owned property in open space, in effect by moving development potential from the areas to be preserved to a more limited area: the North Basin Strip and Horse Barns. It did so by designating certain areas for open space and other areas for substantial development. The areas designated for open space-- plus Phase 1 of the North



Basin Strip-- have been acquired, leaving the remaining areas-- Phase 2 of the North Basin Strip and the Stables-- in private ownership.

Second, the Bay Chapter's analysis assumes that the amount the State paid for the property it acquired was based on a *pro rata* share of the total development potential of the entire parcel, allocated according to acreage. As described earlier in this report, this is not how the State calculated the value of the land it purchased.

Under the plain terms of Measure Q and the Waterfront Specific Plan, the remaining privately-owned areas have the development potential described earlier in this report and shown on the attached diagram. Moreover, the amount paid for the land acquired by the State does not support an economic argument that the former owner was compensated for a proportion of development potential proportional to the number of acres acquired.

Thus, the remaining maximum development potential on the privately-owned property at the Berkeley Waterfront amounts to a total of 225,000 square feet, consisting of 50,000 square feet of retail and restaurant uses in Phase 2 of the North Basin Strip, a 165,000 square foot hotel and 10,000 square foot freestanding restaurant in the Stables area, in each case with associated parking. Any development in these locations would be subject to the two-and three-story height limits in Measure Q (BMC §11.56.030.C.2), as well as mitigation of environmental impacts, as set forth in Measure Q (BMC §11.56.030.C.3). Thus, these numbers are maximums.

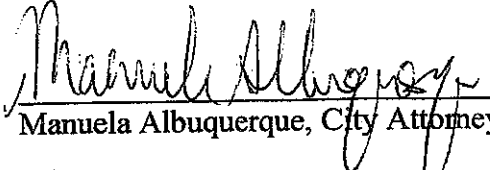
Conclusion

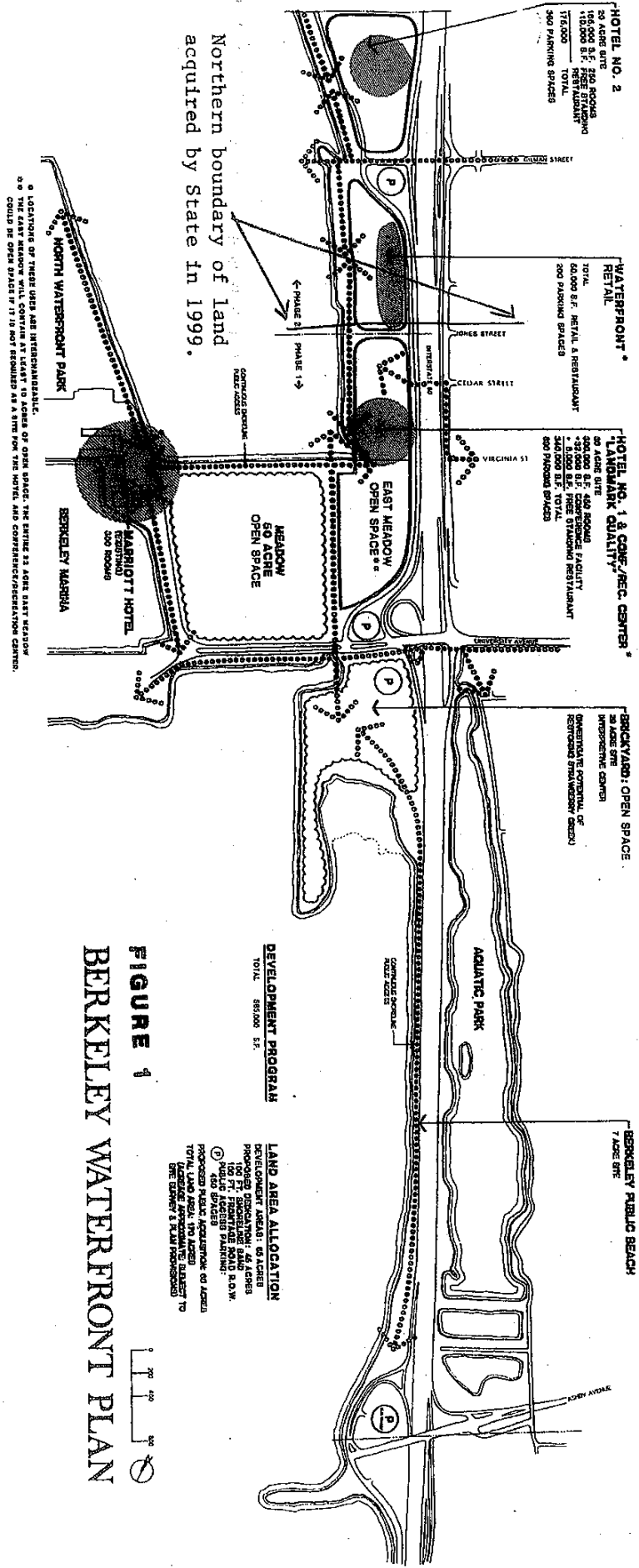
The circumstances relating to the ownership, use, economics and surrounding environment of the privately-owned land at the Berkeley Waterfront have changed significantly since Measure Q was adopted. Measure Q does not expressly state that the City Council may adopt new land use regulations to reduce development potential based on changed circumstances in general.

CONTACT PERSON:

Manuela Albuquerque, City Attorney 981-6950  
Carol Barrett, Director of Planning & Development 705-8104

Approved by:

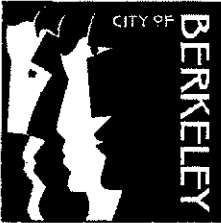
  
Manuela Albuquerque, City Attorney



Northern boundary of land acquired by State in 1999.

LOCATIONS OF THESE USES ARE INTERCHANGEABLE.  
 THE EAST MEADOW WILL CONTAIN AT LEAST 10 ACRES OF OPEN SPACE. THE NORTHERN BOUNDARY OF THE EAST MEADOW COULD BE OPEN SPACE IF IT IS NOT REQUIRED AS A VIEW FOR THE HOTEL AND CONFERENCE/RESTAURANT CENTER.

40



Office of the City Manager

COUNCIL ACTION  
November 13, 2001  
CF 111

To: Honorable Mayor and  
Members of the City Council

From: Weldon Rucker, ~~City~~ City Manager

Subject: CLARIFICATION OF REMAINING "DEVELOPMENT RIGHTS" ON THE  
NORTH BASIN STRIP OF THE BERKELEY WATERFRONT

RECOMMENDATION

Discuss the advice contained in this memo and direct staff as to whether to place a measure on the ballot that would explicitly give the City Council authority to adopt land use regulations that reduce the maximum development potential on the remaining privately owned land at the Berkeley Waterfront.

BACKGROUND

On June 12, 2001 the Council directed the City Manager to clarify "the amount of development allowed by voter approved Berkeley Waterfront Measure Q on the remaining privately owned portion of the North Basin strip; and [to] return to Council for approval of a maximum square footage allowed after researching the issue."

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Accordingly, under Measure Q the maximum potential development that could occur on the remaining privately-owned land is as follows:

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Conclusion

The circumstances relating to the ownership, use, economics and surrounding environment of the privately-owned land at the Berkeley Waterfront have changed significantly since Measure Q was adopted. While the City clearly has the ability under Measure Q to reduce the amount of development actually permitted at the Berkeley Waterfront based on project-specific considerations, Measure Q does not expressly state that the City Council may adopt new land use regulations to reduce development potential based on changed circumstances in general. Thus, the Council may wish to consider whether to place on the ballot an amendment to Measure Q that explicitly gives the Council that authority. Any such amendment could be carefully drafted so as to limit any additional authority to reductions in development potential, and not increases.

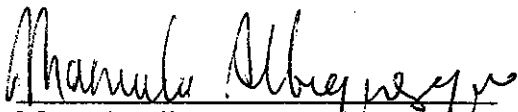
FINANCIAL IMPLICATIONS:

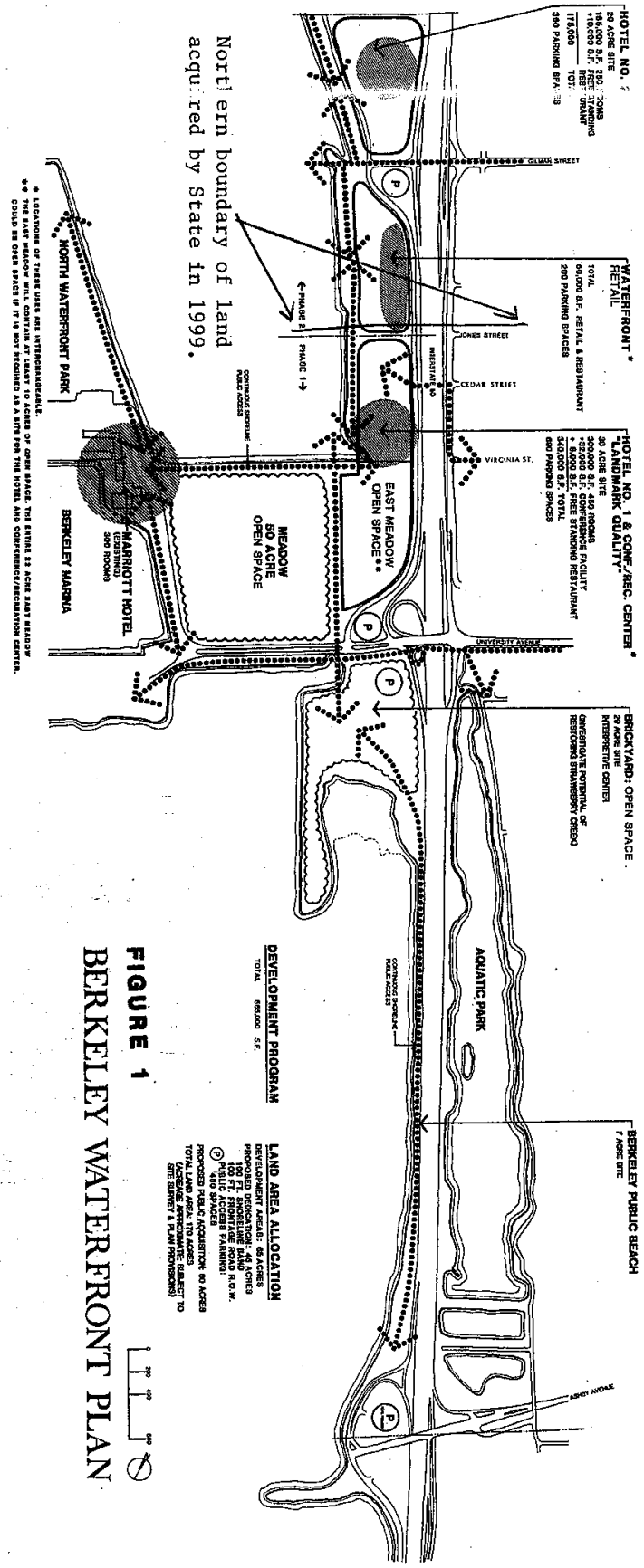
The cost of placing a measure on the ballot at a City election would be approximately \$5,000 to \$10,000, depending on the length of the measure and how many other measures are on the ballot.

CONTACT PERSON:

Manuela Albuquerque, City Attorney 981-6950  
Carol Barrett, Director of Planning & Development 705-8104

Approved by:

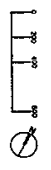
  
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Northern boundary of land acquired by State in 1999.

\* LOCATIONS OF THESE USES ARE INTERCHANGEABLE.  
 \*\* THE EAST MEADOW WILL CONTAIN AT LEAST 10 ACRES OF OPEN SPACE. THE REMAINING 40 ACRES MAY BE OPEN SPACE OF 1/4 AND 1/2 ACRES FOR THE HOTEL AND CONFERENCE/RECREATION CENTER.

**FIGURE 1**  
**BERKELEY WATERFRONT PLAN**



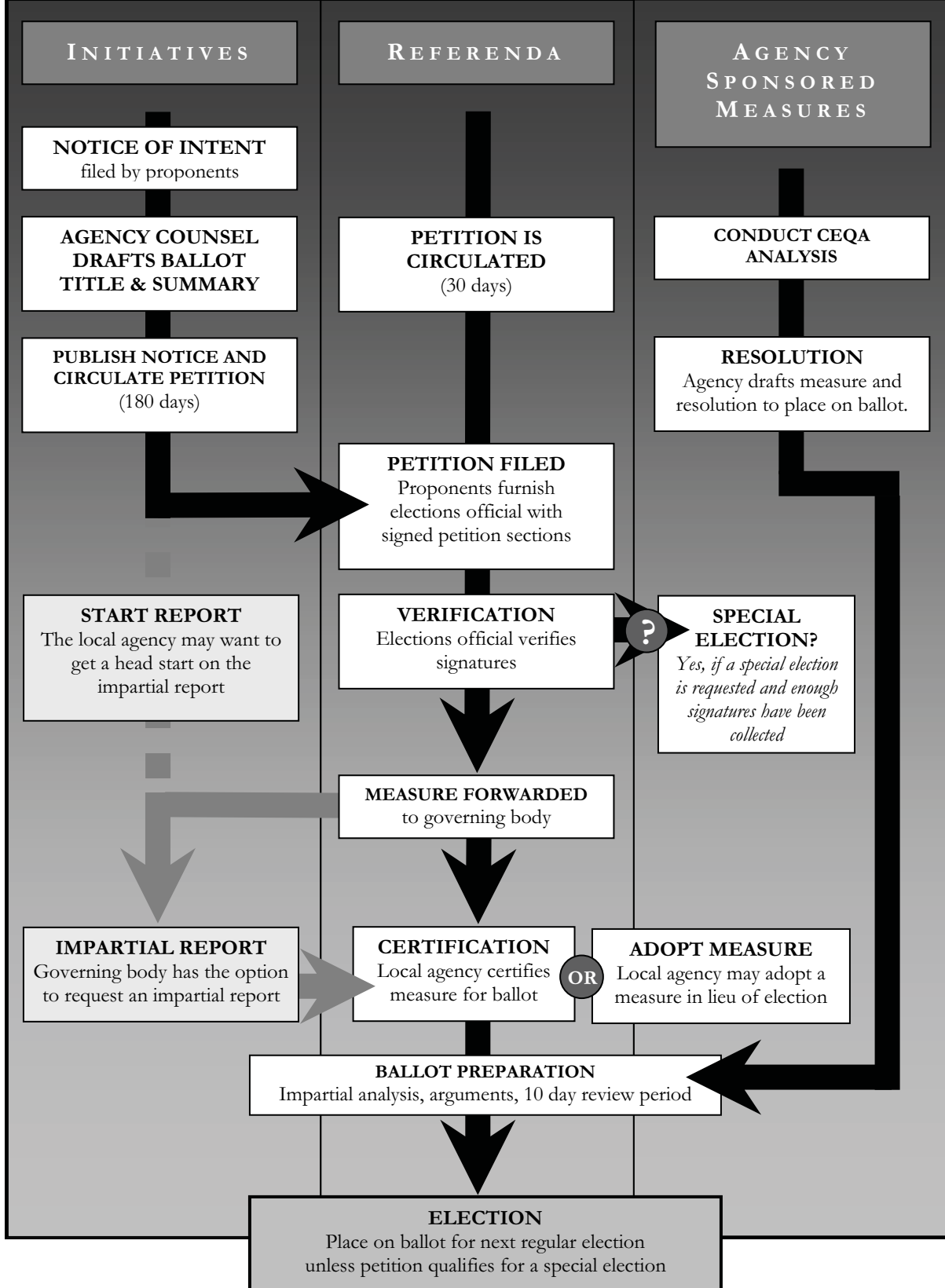


## Voter Initiative Process

Following is a flow chart from a *League of California Cities* document that illustrates the typical process for placing a measure on the ballot.

In Albany (with regard to changes to waterfront zoning), it appears that after the signatures for a ballot initiative have been verified, the Council must place it on the ballot. The Council may not have the option to adopt because Measure C requires final approval by Albany voters.

**PLACING A MEASURE ON THE BALLOT**



## Potential Initiative Calendar for a June 2012 Election<sup>1</sup>

Event	Date	Notes
Election	June 5, 2012	
Last day for city of Albany to call for an election to coincide with June Statewide Primary Election	March 9, 2012	88 days prior to election date
City Council receives 30-day study	March 5	
Registrar certifies signature verification results to the City Council at Council meeting; City Council requests 30-day study	February 6	Council can: - call election - adopt initiative (may not be possible given Measure C) - order a study due in 30 days
Certification of Signature Verification results posted on City Council Agenda	February 3	At least 72 hours prior to meeting
Signature verification complete	February 2	Election officials have 30 business days to do initial count
Signature Initiative Petitions filed for verification	December 19, 2011	
Petition Circulation Period (to collect 1,500+/- registered voter signatures - 15% of registered voters)	November / December	This assumes a short collection period (3 -4 weeks?); maximum circulation time allowed - 180 days
Publish Notice of Intent and Title and Summary	Late November	Posted in newspaper
Receive Title and Summary to include on initiative petitions	Late November	City Attorney has 15 days to prepare impartial title and summary. (Any elector can file suit to challenge the wording)
Notice of Intent (NOI) filed; request for title and summary filed	Early November	Filed with City Clerk

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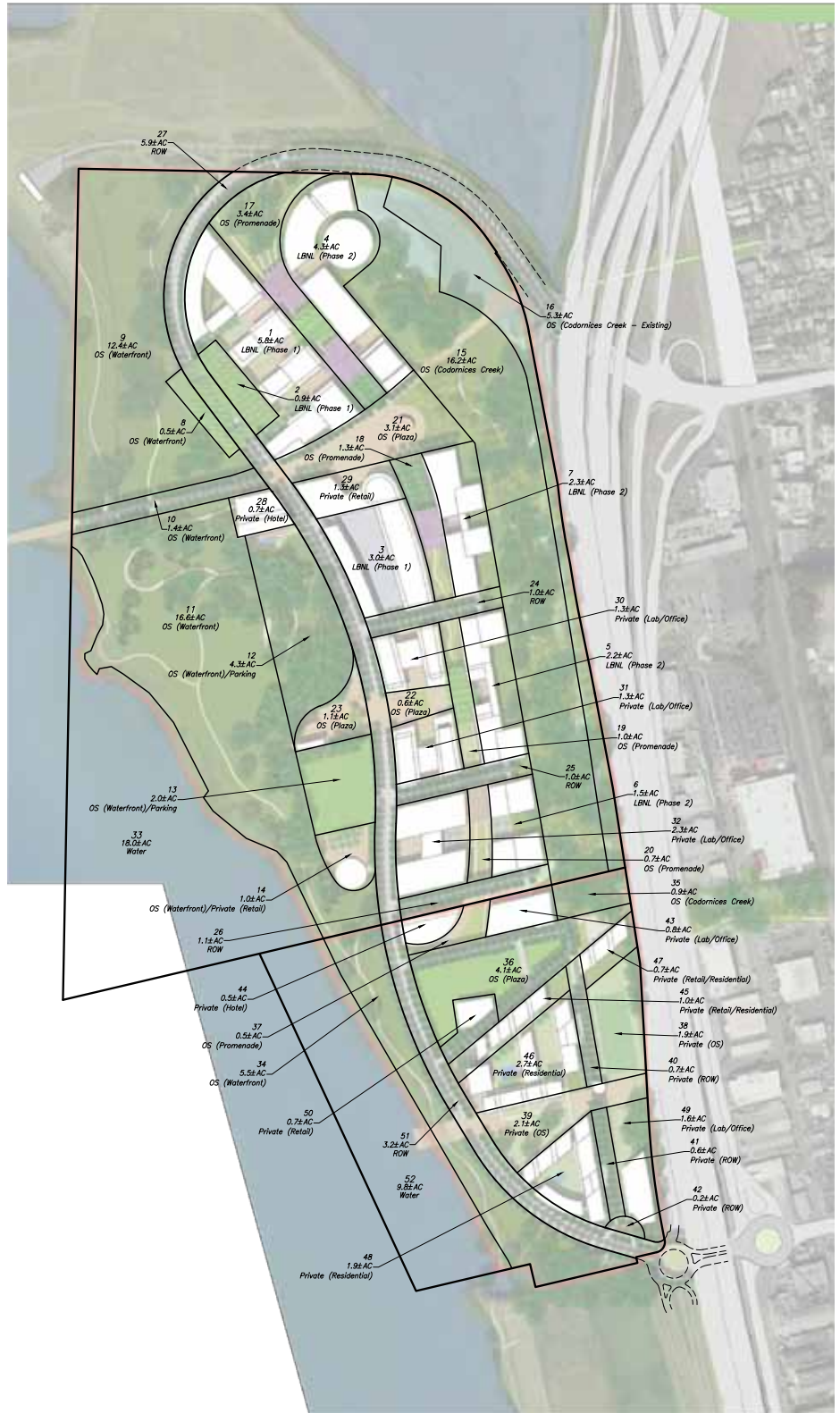
1

Assumes that Stronach Group files NOI on November 8, 2011; TSG had stated that they will be drafting initiative and will be collecting signatures November/December.

# LBNL at Golden Gate Fields Parcel Exhibit

DRAFT  
10.13.2011

Parcel Table		
Parcel #	Area	Land Use
1	5.8 ± AC.	LBNL (Phase 1)
2	0.9 ± AC.	LBNL (Phase 1)
3	3.0 ± AC.	LBNL (Phase 1)
4	4.3 ± AC.	LBNL (Phase 2)
5	2.2 ± AC.	LBNL (Phase 2)
6	1.5 ± AC.	LBNL (Phase 2)
7	2.3 ± AC.	LBNL (Phase 2)
8	0.5 ± AC.	OS (Waterfront)
9	12.4 ± AC.	OS (Waterfront)
10	1.4 ± AC.	OS (Waterfront)
11	16.6 ± AC.	OS (Waterfront)
12	4.3 ± AC.	OS (Waterfront)/Parking
13	2.0 ± AC.	OS (Waterfront)/Parking
14	1.0 ± AC.	OS (Waterfront)/Private (Retail)
15	16.2 ± AC.	OS (Codornices Creek)
16	5.3 ± AC.	OS (Codornices Creek - Existing)
17	3.4 ± AC.	OS (Promenade)
18	1.3 ± AC.	OS (Promenade)
19	1.0 ± AC.	OS (Promenade)
20	0.7 ± AC.	OS (Promenade)
21	3.1 ± AC.	OS (Plaza)
22	0.6 ± AC.	OS (Plaza)
23	1.1 ± AC.	OS (Plaza)
24	1.0 ± AC.	ROW
25	1.0 ± AC.	ROW
26	1.1 ± AC.	ROW
27	5.9 ± AC.	ROW
28	0.7 ± AC.	Private (Hotel)
29	1.3 ± AC.	Private (Retail)
30	1.3 ± AC.	Private (Lab/Office)
31	1.3 ± AC.	Private (Lab/Office)
32	2.3 ± AC.	Private (Lab/Office)
33	18.0 ± AC.	Water
34	5.5 ± AC.	OS (Waterfront)
35	0.9 ± AC.	OS (Codornices Creek)
36	4.1 ± AC.	OS (Plaza)
37	0.5 ± AC.	OS (Promenade)
38	1.9 ± AC.	Private (OS)
39	2.1 ± AC.	Private (OS)
40	0.7 ± AC.	Private (ROW)
41	0.6 ± AC.	Private (ROW)
42	0.2 ± AC.	Private (ROW)
43	0.8 ± AC.	Private (Lab/Office)
44	0.5 ± AC.	Private (Hotel)
45	1.0 ± AC.	Private (Retail/Residential)
46	2.7 ± AC.	Private (Residential)
47	0.7 ± AC.	Private (Retail/Residential)
48	1.9 ± AC.	Private (Residential)
49	1.6 ± AC.	Private (Lab/Office)
50	0.7 ± AC.	Private (Retail)
51	3.2 ± AC.	ROW
52	9.8 ± AC.	Water



**Subject:** FW: Response to Task Force Questions  
**From:** "J. Cleve Livingston" <clivingston@bclslaw.com>  
**Date:** 10/26/2011 3:37 PM  
**To:** "Fern Tiger" <fern@ferntiger.com>, "liz newman" <liz@ferntiger.com>  
**CC:** "Wei Chiu" <wchiu@newellrea.com>, "Proctor, Bill" <Bill.Proctor@parsons.com>, "Pamela Fanning" <pamelajfanning@gmail.com>, "Ari Huber" <arihuber@sympatico.ca>

Dear Fern:

I have provided below for distribution to the Task Force responses to the list of questions in your October 24th email.

Questions Needing Responses from TSG  
Related to Ownership

1. Any changes in direction, since the last presentation on October 16, re: ownership of public open space?

There have been no changes in direction with respect to ownership of public open space since the October 16th presentation.

2. Any changes in direction, since the last presentation on October 16, re: ownership of land on which LBNL buildings will be constructed?

There have been no changes in direction with respect to ownership of land on which LBNL buildings will be constructed since the October 16th presentation. We are in the process, however, of continuing to evaluate the issue of ownership of the Second Campus lands.

3. Any changes in direction since the last presentation on October 16, re: ownership of land on which private development will be constructed?

There have been no changes in direction with respect to ownership of land on which private development will be constructed since the October 16th presentation. We are in the process, however, of continuing to evaluate the issue of ownership of private lands.

4. Who will own the buildings being constructed for LBNL?

It is our understanding that the University of California will own the buildings being constructed for LBNL and will lease them to LBNL.

5. Who will own the private buildings?

Our current intention is to retain ownership of the private buildings and lease them to end-users.

Questions Needing Responses from TSG  
Related to Potential Benefits to Community (Development Agreement)

6. What benefits are being proposed for Albany schools and

for what time period?

We are in the process of discussing with the AUSD two subjects:

(a). Our commitment to make the District whole with respect to GGF's existing parcel tax obligations and

(b). The ways in which we can take advantage of the opportunity presented by the Second Campus project to expand the educational offerings of the School District.

7. What is the current status of these benefits?

Our conceptual site plan includes space for a community Forum and Learning Center. We are committed to working collaboratively with the School District to shape and define the educational features of the Second Campus project and to prepare an implementation strategy. We intend to begin these discussions in earnest with the District as soon as the Lab makes its decision regarding a preferred site (expected to occur in late November).

8. At what time in the process would any proposed programs be committed to in writing as a "contract?"

We anticipate the pace of our discussions with the District will accelerate after the Lab has made its selection of a preferred site and that "commitments" would be reflected in a development agreement with the District.

9. Who will be negotiating any proposed benefits for the Albany schools?

Cleve Livingston and Wei Chiu will be representing The Stronach Group in our collaborative discussions with the District.

Questions Needing Responses from TSG  
Related to Open Space

10. Proposed acreage and location of public open space (if different from site plan shown on October 16th.

There have been no changes in the conceptual site plan since October 16th.

11. Proposed ownership of open space on the site.

Please see response to the first question on the first page.

12. Will the open space become part of Eastshore State Park?

It has not yet been determined whether all or any part of the open space will become part of the Eastshore State Park. We anticipate that the status of the project open space in terms of management will be addressed in the master planning process.

13. What is the anticipated timing of open space development? Of the waterfront open space? Of the Codornices Creek open space?

Our objective is to develop a substantial portion of the open space as part of Phase I of the project. We anticipate the timing of the open space development will be addressed in the master planning process.

14. Will open space be part of the Phase I project?

Our objective is to commit all of the open space to public use as part of Phase I, subject to restrictions related to construction of Phase II. We anticipate the question of the extent of open space to be included in Phase I of the project will be addressed in the master planning process.

15. Who will determine the "nature" of the open space?

While we have taken the lead in preparing a conceptual landscape plan for the open space, we anticipate the "nature" of the open space will be addressed during the master planning process.

16. How will the open space integrate the Albany waterfront with the Eastshore State Park?

We anticipate that one of the principle considerations in designing a conceptual landscape plan for the open space will be the integration of such space with the Eastshore State Park.

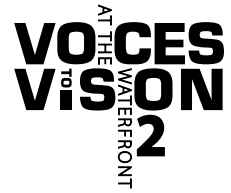
Sincerely,

Cleve

JCL/dal

J. Cleve Livingston  
Boyden, Cooluris, Livingston & Saxe PC  
400 Capitol Mall, Suite 2555  
Sacramento, CA 95814  
Telephone: (916) 930-9748  
Cell: (916) 947-6972  
Facsimile: (916) 930-9745

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## Other Information and Communications

- Views provided by TSG
- Email to LBNL
- Email to City of Berkeley
- Email to TSG
- Memo from City Manager
- Letter from Ed Moore
- Index of Information



Pierce Street and Farthest North part of Calhoun looking North



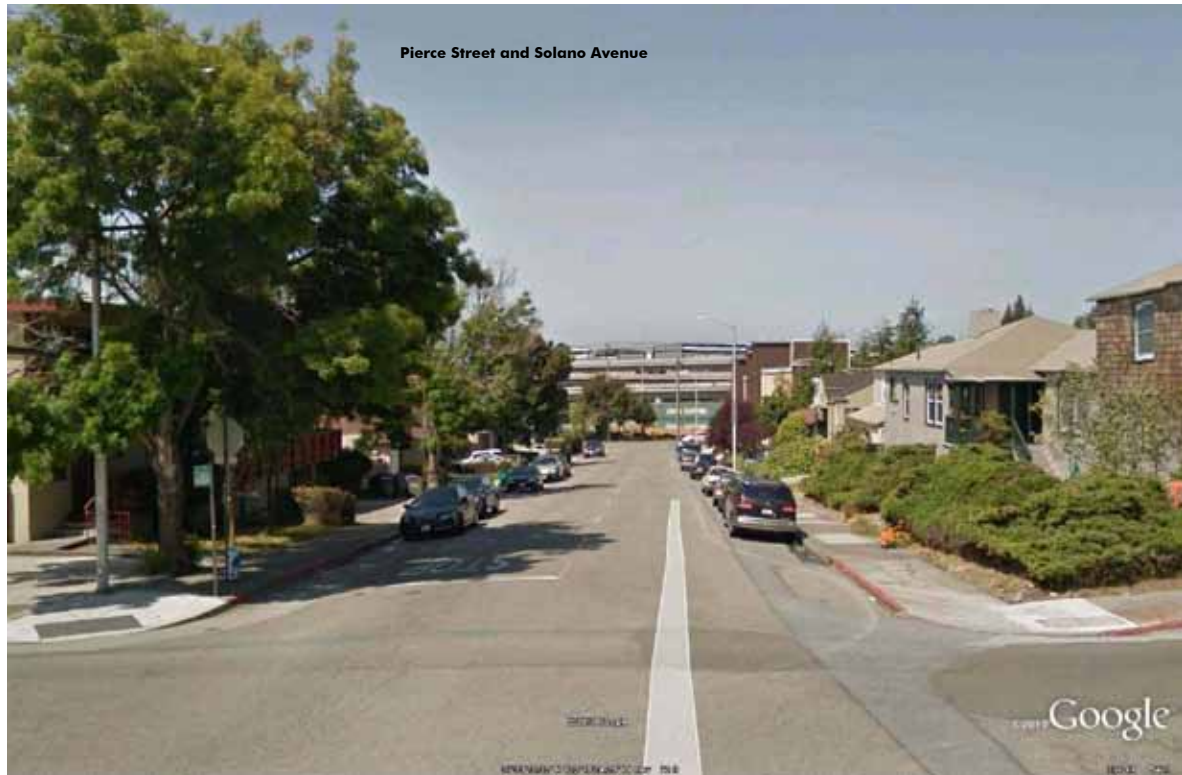
Pierce and Calhoun Streets



Pierce Street and Johnson Street



Pierce Street and Solano Avenue



Pierce Street and Washington Avenue



**Subject:** Invitation to Meet with Albany Waterfront Task Force  
**From:** Fern Tiger <fern@ferntiger.com>  
**Date:** 10/24/2011 11:20 PM  
**To:** Robert Hatheway <hatheway@berkeley.edu>, Sam Chapman <stchapman@lbl.gov>  
**CC:** Beth Pollard <bpollard@albanyca.org>, liz newman <liz@ferntiger.com>  
**BCC:** Fidel Contreras <fidel@ferntiger.com>

Hi Bob and Sam -

As I believe you know, the Albany City Council and Albany School Board have jointly appointed a 22-member Task Force which is looking quite comprehensively at the proposed project for the Albany Waterfront, including the LBNL project. We (Fern Tiger Associates) are facilitating this process as the next step necessary for the Albany community to be informed and engaged in understanding all aspects of this potential project -- physical issues, economic impacts, legal and entitlement options, environmental and traffic impacts, Measure C, CEQA, etc.

The Task Force has met twice and will convene for the third session this coming Sunday. For detailed information related to the handout packets for each session, minutes, and follow up data visit [www.voicestovision.com](http://www.voicestovision.com). Minutes for the October 16th session will be posted on Wednesday, along with handouts for the October 30th session.

Additionally, the City Council has requested we facilitate two Council workshops to enable them to become familiar with the information that the Task Force is reviewing. These dates have not yet been set.

The Task Force has asked me to invite you to attend one of the meetings. I would be happy to provide you with the list of questions that we think can only be answered by LBNL, in advance of the meeting. The Task Force meetings operate under Brown Act rules, so there are comments from the public after each agenda item. The Task Force has been diligent in its efforts to understand the complexities of the project, and would welcome your participation.

We meet on Sunday evenings 7 - 9 pm, for a series of seven sessions. The upcoming meetings are set for October 30 (that agenda is already set to look at ownership, CEQA, entitlement processes, and open space), November 6, November 13, November 20. Please let me know if we can set a date, so that we can work around your schedule.

Thanks in advance for considering this proposal. If you have questions, please call me directly.  
Fern Tiger

510-208-7700

**Subject:** Question(s)

**From:** Fern Tiger <fern@ferntiger.com>

**Date:** 10/25/2011 7:40 PM

**To:** cdaniel@ci.berkeley.ca.us, "Sinai, Julie" <JSinai@ci.berkeley.ca.us>, "Cosin, Wendy" <WCosin@ci.berkeley.ca.us>, Phil Kamlarz <PHK1@ci.berkeley.ca.us>

Hi -

As you may know, the city of Albany (and the School District) have formed a 22-member Task Force to gather, review, and analyze information related to the development proposal at Golden Gate Fields. The group is meeting regularly and is working diligently to understand numerous aspects of the proposal and the potential impacts on the city of Albany. Our firm is facilitating this series of meetings and working with diverse consultants to ensure that the full range of information desired by the community is available for review.

Over the course of the last two Task Force meetings, a few questions came up related to Berkeley which I hope you can answer:

- Has the Stronach Group proposal for the GGF site been discussed in any Berkeley public forum, Council meeting, or commission meeting (other than the August 3rd LBNL-hosted session held in Albany)?
- Can you provide any insight into the city of Berkeley's or the Berkeley community's interest in this project?
- Have the Council or individual Council members expressed any opinions as to this proposal?
- Can you provide any information about the history of relevant disputes, legal actions, Council recommendations, etc. regarding the City of Berkeley and LBNL and/or the City of Berkeley and/or UC?

Thanks in advance for your prompt response to these questions.  
If you want to discuss this, feel free to contact me directly.

Fern

**Subject:** October 30th Task Force Meeting  
**From:** Fern Tiger <fern@ferntiger.com>  
**Date:** 10/24/2011 3:42 PM  
**To:** Ari Huber <ari.huber@stronachgroup.com>, Cleve Livingston <clivingston@bclslaw.com>, Wei Chiu <wchiu@newellrea.com>  
**CC:** Beth Pollard <bpollard@albanyca.org>, liz newman <liz@ferntiger.com>  
**BCC:** Fidel Contreras <fidel@ferntiger.com>

Hi-

We're confirming that the topic(s) for this Sunday's session will include:

- Ownership
- CEQA, Measure C, Entitlement Processes
- Public Open Space

These topics had previously been listed as Topics Number 7, 3, and 4 in the October 9 minutes/notes and the questions were included in those notes. Cleve had mentioned that he's like to meet to discuss the full list, but no meeting was scheduled.

We hope -- that if sufficient information is provided in advance, as is the legal requirement -- we may be able to make the session work, although I suspect there will be follow up questions.

The City Attorney is preparing a memo that addresses numerous (most) aspects related to these topics (and to the list of questions under these topics), but I hope you will be able to get the following to me in writing by end of day tomorrow (Tuesday), so that we can merge the information and package for posting by end of day Wednesday. None of these questions or requests are new; they were all included in the minutes of the October 9th Task Force session which was sent to you, and posted on the Voices to Vision website on October 12th. Additionally, I'm hoping that the missing information from the October 16th meeting will also be coming by tomorrow. The minutes of that meeting which lists the pending information will be ready tomorrow night and I will send it off to you.

I am assuming that the Stronach Group will have a representative at the meeting, but all information needs to come to us for the Task Force in writing in advance of the meeting.

Questions needing responses from Stronach Group related to Ownership:

- Any changes in direction, since the last presentation on October 16 re: ownership of public open space?
- Any changes in direction, since the last presentation on October 16 re: ownership of land on which LBNL buildings will be constructed?
- Any changes in direction, since the last presentation on October 16 re: ownership of land on which private development will be constructed?
- Who will own the buildings being constructed for LBNL?
- Who will own the private buildings?

Questions needing responses from Stronach Group related to potential benefits to community (Development Agreement):

- What benefits are being proposed for Albany schools and for what time period? What is the current status of these benefits? At what time in the process would any proposed programs be committed to in writing as a "contract?"
- Who will be negotiating any proposed benefits for Albany schools?

Questions needing responses from Stronach Group related to Open Space:

- Proposed acreage and location of public open space (if different from site plan shown on October 16)
- Proposed ownership of open space on the site

- Will the open space become part of Eastshore State Park
- What is the anticipated timing of open space development? of the waterfront open space? of the Codornices Creek open space?
- Will all open space be part of Phase One project?
- Who will determine the "nature" of the open space?
- How will the open space integrate the Albany waterfront with the Eastshore State Park?

Questions needing responses from Stronach Group related to CEQA/ Measure C/ entitlements:

- The City Attorney will be preparing a memo related to CEQA, Measure C, and entitlement processed.

Thanks.

I look forward to your written responses.

There will not be a "presentation" for these topics on Sunday night.

Please let me know if there are any changes to the site plan that you want to include in the packet to be certain that the Task Force, community, and Council are current with the plans.

Fern

City of Albany  
Inter-Office Memorandum  
October 26, 2011

To: Golden Gate Fields Task Force  
From: Beth Pollard, City Manager  
Subject: Cost Reimbursements from The Stronach Group

At the last meeting of the Task Force, members inquired as to the costs incurred by the City for the Voices to Vision 2 process, and associated costs to review and analyze the proposals from The Stronach Group (TSG) for the Lawrence Berkeley National Laboratory second campus and associated development.

Attached is a matrix summarizing the costs to date, the amounts invoiced to TSG, amounts paid, and the costs being invoiced in October. The FTA costs are further explained in the memo from Fern Tiger. The legal costs are primarily for the City Attorney's time; the engineering costs are primarily for the City Engineer's time; both of these are billed to the City on an hourly basis.

The economic consultants include Strategic Economics, who are subcontractors to FTA to study the fiscal impacts to the City and Albany Unified School District, and other economic impacts. It also includes, to a lesser degree, Management Partners, hired by the City to provide services for revenue protection and potential revenue sharing; it is anticipated that their services will be more applicable later in the process.

The final item is reimbursement for City staff time on any aspect of the proposed project, per the reimbursement agreement between the City and TSG and the City's Master Fee Schedule.

For more information on the reimbursement agreement, it is posted on the City website, [www.albanyca.org](http://www.albanyca.org), under Documents, City Manager.



Total Costs and Reimbursements for GGF/LBNL Project

Category	Charges	Billed to Date	Reimbursed	Current Billing
<b>Fern Tiger</b>				
Retainer	\$35,000.00	\$35,000.00	\$35,000.00	\$0.00
Direct Expenses	\$44,603.00	\$44,603.00	\$40,006.00	\$4,597.00
Professional Svs	\$330,950.00	\$330,950.00	\$227,500.00	\$103,450.00
<b>Legal Services</b>	\$9,027.85	\$9,027.85	\$9,027.85	\$0.00
<b>Economic Consultants</b>	\$23,786.62	\$23,786.62	\$13,303.75	\$10,482.87
<b>Engineering</b>	\$6,806.90	\$6,806.90	\$3,161.00	\$3,645.90
Staff	\$31,700.78	\$31,700.78	\$25,334.90	\$6,365.88
<b>Totals</b>	<b>\$481,875.15</b>	<b>\$481,875.15</b>	<b>\$353,333.50</b>	<b>\$128,541.65</b>

10/21/11

TO: Beth Pollard  
FROM: Fern Tiger  
DATE: October 25, 2011  
RE: Summary of Time and Tasks related to Voices to Vision 2 (Albany Waterfront Development)

Per your request to summarize the tasks and time spent on Voices to Vision 2 (from June through mid-October), I trust the following information, consistent with the invoices through the date of this letter, will be helpful in your analysis.

During this period, our firm put in 1,889 hours (equivalent to 236 days). Our billing rates ranged from \$75 to \$250 per hour depending on professional level and particular skills being accessed. It should be noted that a very large percent of our time on this project has involved very long weekend days and evenings in order to accommodate the engagement of the community and the quick and intense timing. (Despite this schedule, and the fact that two of our staff cut family vacations short, we did *not* bill for any overtime rates.)

During the first two months (June and July), our time was heavily focused on getting initial information from the developers, their many consultants (economists, architects, landscape architects, engineers, etc.), LBNL, and the city – in order to understand the parameters of the project and to develop an outreach and engagement process that could move quickly and provide the community with meaningful information and opportunities to inform the early stages of the project. We had hoped that during this phase, the developers (and LBNL) could better understand the desires of the community. Within three weeks of start up, we produced and disseminated a mailing to every Albany address to alert them to this potential project and to provide data and information to help residents consider the benefits and challenges of both LBNL at the Waterfront and additional development being contemplated for the site.

Simultaneous with this information gathering (and presenting the concepts of the 2008-10 Voices to Vision process and results to the development team, numerous times), we prepared for a citywide engagement series (5 sessions in one weekend) where about 370 residents participated in small groups to weigh in on site development issues, economic concerns, and questions believed important to ask of the developers and LBNL. (This included a complex process for community RSVPs to ensure that Albany residents participated just once and that non-Albany residents who did participate were tracked separately.) We also attended all of LBNL's community meetings to better understand both LBNL's desires and issues of concern to other communities. We met with the city of Berkeley, LBNL, and the city's consultants numerous times.

By early July, the Voices to Vision website was launched and quickly attracted questions

from across the community. More than 120 questions and responses are now posted.

In addition to ongoing gathering of information, analysis of the July participatory V2V2 sessions, and responding to questions, in August, (based on V2V2 participant surveys indicating an interest in having a Q&A with the Developer), we prepared for and facilitated the citywide Q&A session held the evening of August 29. This included preparing materials for the community at large and summarizing responses to questions.

In early September, we hosted a small meeting of renowned architects and planners who have deep experience with large scale projects and knowledge of the East Bay. This discussion was intended to support the community's desires to ensure the best possible site plan and to consider options for development strategies for the site.

In mid September, it became clear to us that the community was disappointed that questions to the developer were not being addressed adequately, and timing was becoming more critical – as the developers began to state their intention to move to a ballot measure more quickly than ever anticipated. We reported to the Council that we saw three alternatives for the next steps in keeping the community apprised of the project.

Since mid September, our work has been focused primarily on the establishment and facilitation of the series of public Task Force meetings, and the gathering, analysis, and dissemination of materials provided by the developer and others, as well as on determining exactly what data and in what form would be best for the broad community – well beyond the Task Force – to understand important information related to this complex proposed project.

We have already held the first two sessions, and are prepared for the third session at the end of this week. We have accumulated the list of data and information the committee thinks is necessary to have presented and to review, such that Albany residents can understand the issues and make informed decisions – if and when a ballot measure is presented. We have attempted to take requests for information into account when preparing packets for the Task Force, and have analyzed and reviewed reams of information to be prepared for the various aspects of the project and the needs of the Task Force. The Task Force has been diligent, attentive, curious, and articulate about the issues. They have agreed to an extremely fast-moving schedule which we are working intensely to meet. Our firm has prepared detailed packets for each session and extensive, comprehensive notes following each Task Force meeting.

Over the course of these 4.5 months, we have made presentations to commissions and the city council as requested. We have also responded to all questions, queries, and comments sent our way via email, phone, and the website.

It is our assumption that the Task Force and the bulk of our work will be completed in

January, unless the city determines it needs additional guidance and support beyond that time. Additionally, per the City Council request at its October 17<sup>th</sup> meeting, we are working to prepare for two City Council workshops related to Task Force findings.

An estimate for work related to the Task Force (6 meetings) and two City Council workshops, as well as ongoing support to City staff, meetings with City consultants and others, maintaining the website, and preparing a comprehensive publication focused on Task Force findings (to be mailed citywide) will take approximately 80-95 days. Direct Expenses will include printing and mailing of the publication and a postcard notifying the community of the final presentation of Task Force results.

As best as we can discern, preparing for the six Task Force meetings (October 30 - January 15), developing materials, facilitating, and handling follow up notes, and requests for additional information, etc. will consume approximately 50-60 of the total days noted in the previous paragraph.

EDWARD C. MOORE  
ATTORNEY AT LAW<sup>1</sup>

2436 Ninth Street  
Berkeley, California 94710

Tele: (510) 531-7272  
E-mail: [ecmoorelaw@gmail.com](mailto:ecmoorelaw@gmail.com)

October 20, 2011

Albany LBNL Task Force  
C/o Fern Tiger, Fern Tiger & Associates  
City of Albany, California

**PDF TRANSMITTAL**  
a.m. **10/20/11**

Dear Task Force:

I want to renew a suggestion made at your first meeting by Professor Norman La Force. I will put his suggestion into a context easy to understand.

The suggestion is that the current fair market value of Golden Gate Fields real property (not the horseracing business) be appraised. An appraisal would presuppose existing land-use regulations in Albany and Berkeley, racetrack operations continuing or not as effecting market value, and all the unique strengths and weaknesses inherent in the real property at this site. A prudent and fair appraisal will provide a critical piece of *basic* information.

*Why is this important?* Only one stakeholder group is privy to drafting the Stronach ballot initiative. Rumors are this initiative will propose a *binding procedure* by which our city councils will adopt a new Waterfront Master Plan that includes LBNL after subjecting the Stronach proposal to complete environmental and historic-preservation reviews under state and federal laws. *Consequently henceforth the public-planning processes will be very analogous to high-stakes poker:* the game will have rules; cards are still being dealt; stakeholders are playing for keeps; and the best project wins. Because The Stronach Group chooses to up the ante by betting on a *decision-making process* of their own devising, *this Task Force needs to ensure stakeholders including the public know* - among other things - the fair market value of what The Stronach Group is putting into the pot *for keeps*. How else can you know what makes business sense when the time comes to evaluate project alternatives?

Very truly yours,  
ECM  
EDWARD C. MOORE

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<sup>1</sup>Voluntarily inactive as of March 1, 2010

## Golden Gate Fields Task Force – Index of Information

(Where to find information related to Voter Initiative / CEQA / Measure C / Ownership / Public Open Space)

Information requested/ Question	Where to find information	Status
<b>OWNERSHIP</b>		
<ul style="list-style-type: none"> <li>Legal opinion on implications of ownership vs. leasing arrangements (including taxes and future decisionmaking about subsequent zoning/planning changes at the waterfront)</li> </ul>	Background Information / Questions from Task Force and others; <i>page A2 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>Legal opinions about the role(s) of LBNL vs. UC vs. DOE (re: ownership of land/buildings, and related issues) vs. developer</li> </ul>	Background Information / Questions from Task Force and others; <i>page A2 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>Legal opinions about the role of the city of Albany (and city of Berkeley?) in determining/ approving/ monitoring specific uses at the site (i.e. type of science, materials, development, etc. in private and in public labs)</li> </ul>	Background Information / Questions from Task Force and others; <i>page A2 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>How can Albany be assured guarantee that promises/mandates/contracts made by the developer and/or LBNL are adhered to (especially given cost of taking legal action if Development Agreement mandates are not fulfilled)?</li> </ul>	Memo from City Attorney <i>page A8 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>What is the history of disputes (legal actions, Council recommendations, etc.) between LBNL and the city of Berkeley (and between UC and the city of Berkeley? [request that consultants and/or city of Albany ask for information from city of Berkeley]</li> </ul>		requested from city of Berkeley
<ul style="list-style-type: none"> <li>Who will control site changes and any future zoning changes after modification to current zoning at GGF (what, if anything, can be done if changes are made over time)?</li> </ul>	Memo from City Attorney <i>page A8 of Oct. 30 Packet</i>	
<b>PUBLIC OPEN SPACE</b>		
<ul style="list-style-type: none"> <li>What is the proposed acreage/ location of new public open space at the site?</li> </ul>	TSG Site Plan included in Task Force Packet for 10/16/11 Meeting and TSG Parcel Exhibit <i>page A24 of Oct. 30 Packet</i>	

<b>Information requested/ Question</b>	<b>Where to find information</b>	<b>Status</b>
<ul style="list-style-type: none"> <li>What is the proposed ownership plan for open space?</li> </ul>	Task Force Meeting Notes from 10/16/11 <i>page 10 of Oct. 30 Packet</i> Email from TSG <i>page A25 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>Would the new open space become part of the Eastshore State Park?</li> </ul>	Email from TSG <i>page A26 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>Who bears long term responsibility for maintenance of open space at the site?</li> </ul>	Background Information / Questions from Task Force and others; <i>page A2 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>What is the anticipated timing of open space development? Will all public open space be developed in conjunction with Phase One?</li> </ul>	Email from TSG <i>page A27 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>Who will decide what type of open space will be developed?</li> </ul>	Email from TSG <i>page A27 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>How would the proposed open space integrate the Albany waterfront with the Eastshore State Park?</li> </ul>	Email from TSG <i>page A27 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>What would it cost to buy, develop, and maintain the amount of open space being proposed by the developer?</li> </ul>		Unknown
<ul style="list-style-type: none"> <li>What is the status of the acquisition of land by EBRPD to create the Bay Trail at GGF site?</li> </ul>	Background Information / Questions from Task Force and others; <i>page A2 of Oct. 30 Packet</i>	
<b>CEQA / DEVELOPMENT AGREEMENT / MEASURE C</b>		
<ul style="list-style-type: none"> <li>Berkeley Waterfront Zoning Ordinance</li> </ul>	Memos from Berkeley City Manager to Berkeley Mayor and City Council <i>page A10 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>Election timing requirements</li> </ul>	Voter Initiative Process Overview <i>page A21 of Oct. 30 Packet</i> Albany Voter Initiative: TSG Potential Initiative Calendar <i>page A23 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>Measure C initiative language</li> </ul>	<i>page A9 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>Could/should a full EIR/CEQA process take place prior to a Measure C election?</li> </ul>	Memo from City Attorney <i>page A6 of Oct. 30 Packet</i>	

Information requested/ Question	Where to find information	Status
<ul style="list-style-type: none"> <li>What is the impact of a Measure C vote/decision prior to a complete EIR/Development Agreement process and certification? Will Albany residents vote on the Development Agreement later in the process? (In other words will there be two elections for the same issue?)</li> </ul>	Memo from City Attorney <i>page A7 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>How might the information requested for an EIR differ from what is being asked by the Task Force?</li> </ul>	Memo from City Attorney <i>page A6 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>What is the relationship between the EIR and a Voter Initiative?</li> </ul>	Memo from City Attorney <i>page A6 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>If Measure C votes takes place before the EIR, how does that impact the EIR?</li> </ul>	Memo from City Attorney <i>page A7 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>Who pays for the EIR? (Is it always the developer? Would the city ever pay for an EIR?)</li> </ul>	Memo from City Attorney <i>page A7 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>What, if any, controls can the city or community retain if the scope of the project is approved through a Measure C vote, but then LBNL or the developer needs changes?</li> </ul>	Memo from City Attorney <i>page A8 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>What are the mechanisms for long term monitoring of development agreement mandates?</li> </ul>	Memo from City Attorney <i>page A8 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>What benefits are being proposed for Albany schools? Could existing STEM programs be expanded?</li> </ul>	Email from TSG <i>page A26 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>What other benefits/ mitigations are being proposed?</li> </ul>	Email from TSG <i>page A26 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>What is the benefit/detriment to the city/community of changing current zoning to allow new uses?</li> </ul>	Task Force to consider Memo from City Attorney <i>page A8 of Oct. 30 Packet</i>	
<b>Additional questions</b>		
<ul style="list-style-type: none"> <li>Could the property be subdivided and re-zoned so that there were different land uses allowed in distinct parts of the property (or would the entire waterfront district have the same new zoning restrictions, if approved by the voters)?</li> </ul>	Background Information / Questions from Task Force and others; <i>page A3 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>If LBNL does not locate at the site, would the property owners be allowed to build out the entire proposed development (4.5 million square feet)?</li> </ul>	Background Information / Questions from Task Force and others; <i>page A3 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>What is LBNL's commitment to Albany's process?</li> </ul>	Background Information / Questions from Task Force and others; <i>page A3 of Oct. 30 Packet</i>	



Information requested/ Question	Where to find information	Status
<ul style="list-style-type: none"> <li>• What public agency would serve as the “lead agency” for the EIR??</li> </ul>	Background Information / Questions from Task Force and others; <i>page A3 of Oct. 30 Packet</i>	
<ul style="list-style-type: none"> <li>• If LBNL were to carry out the projectat GGF “for its portion of the site,” who would be the lead agency for CEQA purposes (EIR)?</li> </ul>	Background Information / Questions from Task Force and others; <i>page A3 of Oct. 30 Packet</i>	