



Office of the City Manager

SUPPLEMENTAL or REVISED AGENDA MATERIAL

Meeting Date: October 15, 2013

Item Number: 24

Item Description: Section 106 Consultation: Berkeley Main Post Office, 2000 Allston Way

Supplemental/Revision Submitted By: Eric Angstadt, Director, Planning and Development

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

This revised letter contains the text changes suggested by the City Council and the comments from the City’s outside attorney, Tony Rossman as requested by Council at the October 1, 2013 meeting. The item is time urgent based on the short response time allowed under the Section 106 process, the City Council meeting schedule and the need for Council to consider an initial response prior to time for an inspection of the facility to be performed.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revision agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.

Carol Rolan-Nawi
State Historic Preservation Officer
Tristan Tozer, USPS Reviewer
Office of Historic Preservation
1416 9th Street
PO Box 942896
Sacramento, CA 94296-0001

RE: Section 106 Consultation for the Berkeley Main Post Office
2000 Allston Way, Berkeley, CA 94704

Dear Ms. Roland-Nawi and Mr. Tozer:

The Berkeley City Council initiated section 106 consideration of the proposed relocation of the Berkeley Main Post Office at its regular meetings on October 1 and 15, 2013. Recognizing that USPS has consented to extend the section 106 comment period through November 12, 2013, and conduct a tour of the entire property prior to that time, the City Council anticipates sending supplemental comments by that deadline. In the meantime, however, the Council is providing the following comments for your consideration, based on information known to us at this time:

1. The City Council appreciates the USPS extension of time and offer to conduct a tour of the premises. The City Council reiterates its outstanding request that USPS agree not to advance its proposed sale and relocation of the Berkeley Main Post Office for a one-year term, to enable the consulting parties to explore a negotiated outcome. For the immediate moment, now learning that USPS has listed the property for sale, the City Council requests that USPS commits that as long as the section 106 process remains open, USPS will not enter into a contract for sale or lease of the property, or purchase or lease of a replacement postal facility; and in any event without 30 days' notice to the City Council.

2. The section 106 process cannot lawfully or practically be completed without preparation and circulation of an environmental impact statement (EIS) as required by the National Environmental Policy Act (NEPA). USPS' proposed sale of the property represents a major federal action that affects the human environment on at least these fundamental grounds: potential loss of exterior and interior historical features in the property; potential loss of integrity to the public uses embraced in the National Register Civic Center Historic District; impacts on neighboring properties and uses. The EIS will enable a public process that identifies alternatives to sale, including sale with specific conditions to respect and continue the property's public and postal use.

3. The area of potential effects should be expanded to include all of the existing Civic Center Historic District, and all of the properties on blocks adjacent

to the one on which the Post Office sits. For example, USPS has not currently included properties to the east on the adjacent block, nor has it included the entire Berkeley High School, an intense and sensitive land use directly across Milvia Street.

4. USPS has asserted as one unassessed alternative that in the absence of a sale the building will be “shuttered.” There is no discussion or mitigation of the deterioration that is caused by vacancy of a building.

5. The City has numerous concerns about the terms and form of the draft covenant, were the property to be sold. The City would be happy to draft a revised covenant addressing these concerns, including, but not limited to:

- a. There are multiple resources: the building, the bas relief on the building and the murals. All should be addressed in the covenant; at a minimum the loan agreement should be part of the covenant, and the City as enforcing authority should have some meaningful role in protection of the resources subject to the loan (even if only as USPS’s agent), and some way of obtaining prompt action by the USPS to enforce it.
- b. Term: Perpetuity or life of building.
- c. Resources: City should have enough resources to enforce the covenant including an annual fee on a per hour basis from the new owner for annual inspection and verification of compliance. In addition, the covenant should provide that attorneys’ fees and costs and expert costs can be recovered from the buyer in the event the City has to take enforcement action.
- d. Use of building: The sale should include lease back of the lobby area for retail Post Office operations for a significant period (50 years). This eliminates many issues regarding access and protection of the murals.
- e. Access to Building: If a sale does not include a USPS lease back for retail operations, the new use should be open to the public for hours similar to the current Post Office operation (six days per week during regular business hours). Access should include all parts of the front building and the rear addition.
- f. Reservation of police power: The covenant should state explicitly that nothing in it limits the City’s police power or exempts the owner from complying with all local laws.

6. The list of consulting parties should be expanded to include the Post Office Collaborate, a nonprofit organization that is headquartered in Berkeley, with a post box in the Berkeley Main Post Office, and which is working nationwide to preserve the historic and community uses and resources in USPS properties.

In addition, at a special meeting on September 23, 2013, the Berkeley Landmarks Preservation Commission (LPC) took action authorizing the LPC Chair to submit the attached letter and comments to the United States Post Office as part of the Section 106 consultation process. As the City's Chief Elected Local Official I am also transmitting the LPC's letter and attachments, which includes their recommendation and comments.

Sincerely,

Tom Bates
Mayor

Enclosure: Letter and Attachments by Certified Local Government Historic Preservation Commission

cc: Ann M. Yarnell, USPS
Christina Morris, National Trust for Historic Preservation
Jacqueline McCormack, National Post Office Collaborate