

## REVISED AGENDA

(ADDED CONTINUED ITEM FROM JUNE 6, 2023  
AND REMOVED TELECONFERENCE LOCATION)

### BERKELEY CITY COUNCIL MEETING

**Tuesday, June 13, 2023**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

TELECONFERENCE LOCATION - SOFITEL WASHINGTON DC LAFAYETTE SQUARE  
806 15TH ST NW, WASHINGTON, DC 20005

TELECONFERENCE LOCATION – 1619 EDITH STREET, BERKELEY, CA 94703

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – MARK HUMBERT

*This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.*

*Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at [http://berkeley.granicus.com/MediaPlayer.php?publish\\_id=1244](http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244).*

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1613410530>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 341 0530**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*Please be mindful that the meeting will be recorded and all rules of procedure and decorum apply for in-person attendees and those participating by teleconference or videoconference.*

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

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

## Preliminary Matters

### Roll Call:

**Land Acknowledgement Statement:** *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

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

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

**Public Comment on Non-Agenda Matters:** *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons attending the meeting in-person and wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

## Consent Calendar

*The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".*

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

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

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

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

## Consent Calendar

- 1. Re-Vote to Adopt the Final Ordinance to Amend the Miscellaneous CalPERS Contract to Effectuate PEPRA Cost Sharing Agreements**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,863 N.S. – the final Ordinance amending the City’s contract with CalPERS to effectuate changes to the cost sharing agreement between the City and PEPRA members of Service Employees International Union, Local 1021 Maintenance and Clerical (SEIU MC), SEIU Local 1021 Community Services & Part-Time Recreation Leaders Association (CSU/PTRLA), Public Employees Union Local 1 (Local 1), and the Unrepresented Employees group – in compliance with Government Code Section 20471.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Harrison.  
**Financial Implications:** See report  
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
- 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 13, 2023**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager’s threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$650,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 3. Temporary Appropriations FY 2024**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2023, until the effective date of the FY 2024 Annual Appropriations Ordinance.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

**4. FY 2024 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0250%.

**Financial Implications:** See report

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

**5. FY 2024 Tax Rate: Fund Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF)**

**From: City Manager, City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF) in the City of Berkeley at the annual tax rate of \$0.1176 (11.76 cents) per square foot of improvements.

**Financial Implications:** See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300, David Sprague, Fire, (510) 981-3473

**6. FY 2024 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0050%.

**Financial Implications:** See report

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

**7. FY 2024 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0115%.

**Financial Implications:** See report

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



## Consent Calendar

- 8. FY 2024 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0140%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 9. FY 2024 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0065%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 10. FY 2024 Tax Rate: Business License Tax on Large Non-Profits**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for Business License Tax on large non-profits at \$0.7909 (79.09 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 11. FY 2024 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.2130 (21.30 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 12. FY 2024 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0451 (4.51 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 13. FY 2024 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the provision of emergency services for the disabled at \$0.02018 (2.018 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 14. Contract: Berkeley Unified School District for Mental Health and Wellbeing Coordinator at Berkeley High School**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with the Berkeley Unified School District (BUSD) for a Mental Health and Wellness Coordinator at Berkeley High School (BHS) for a total contract limit of \$350,000 for the period beginning June 26, 2023 and ending June 30, 2025.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 15. Contract No. 32200084 Amendment: Capoeira Arts Foundation, Inc. (CAF), COVID-19 Outreach & Education**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Contract No. 32200084 with Capoeira Arts Foundation, Inc. (CAF), to extend the contract end date through June 30, 2024 and increase the not-to-exceed amount (NTE) by \$65,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$ 206,025 to \$271,025.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 16. Contract No. 32200135 Amendment: Multicultural Institute, COVID-19 Outreach & Education**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Contract No. 32200135 with Multicultural Institute, to extend the contract end date through June 30, 2024 and increase the not to exceed amount (NTE) by \$65,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$121,000 to \$186,000.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

## Consent Calendar

### 17. **Ephesian Legacy Court and Woolsey Gardens Housing Trust Fund Reservations**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Reserving \$14,531,301 in Housing Trust Fund program funds for a development loan for Community Housing Development Corporation's Ephesian Legacy Court (1708 Harmon Street) affordable housing development. 2. Reserving \$1,000,000 in Housing Trust Fund program funds for a predevelopment loan for Northern California Land Trust's Woolsey Gardens (3120-3130 Shattuck) affordable housing development and waiving Sections I.A.1 and III.A.1 of the Housing Trust Fund Guidelines. 3. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate these actions.

**Financial Implications:** See report.

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

### 18. **Funding Recommendation for the Russell Street Project at 1741-1747 Russell** **From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Reserving up to \$4,500,000 in General Funds received pursuant to Measure P for the Russell Street supportive housing project at 1741, 1743, and 1747 Russell Street as proposed by Berkeley Food and Housing Project (BFHP), contingent on BFHP's timely submission of a complete application demonstrating they meet the City's funding criteria; and 2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate this action.

**Financial Implications:** See report.

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

### 19. **Contract: Chemical Procurement Services, LLC for King and West Campus Swim Centers**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Chemical Procurement Services, LLC for King and West Campus Swim Centers for a not-to-exceed total amount of \$120,000 over a two-year period, beginning July 1, 2023 and ending June 30, 2025, contingent upon annual budget appropriations.

**Financial Implications:** General Fund - \$120,000

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

## Consent Calendar

- 20. Contract No. 32100065 Amendment: BMI Imaging Systems, Incorporated for Data Conversion Services for the Berkeley Police Department**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32100065 and any necessary amendments with BMI Imaging Systems, Incorporated for continuing data conversion services and necessary hosting services for the Berkeley Police Department (BPD), increasing the amount by \$60,000 for a total contract not to exceed \$260,000 and extending the term to six years through August 31, 2026.  
**Financial Implications:** See report  
Contact: Jennifer Louis, Police, (510) 981-5900
- 21. Declaration of Intent – Fiscal Year 2024 Street Lighting Assessments**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions granting the City Manager the authority to approve the Engineer’s Reports; set a public hearing to be held before the Council of the City of Berkeley at its June 27, 2023 meeting; and authorize the City Clerk to publish Notice of the Public Hearing for Fiscal Year 2024 Levy of Assessments for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300

## Action Calendar

*The public may comment on each item listed on the agenda for action. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.*

*A member of the public may only speak at one of the two public comment periods for any single Action item.*

*The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

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

## Action Calendar – Scheduled Public Comment Period

*During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.*

## Action Calendar – Public Hearings

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

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

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

### **22. Amendments to Berkeley Election Reform Act; Amending Berkeley Municipal Code Chapter 2.12**

#### **From: Fair Campaign Practices Commission**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to modify the forms required to open a campaign committee, change the deadline to qualify for the public financing program and make associated amendments, clarify the rules for public financing candidates that do not qualify for the ballot, add an automatic inflator for the amount a public financing candidate can give to their own committee, clarify post-election processes for public financing candidates, modify the threshold to create a campaign committee, and clarify the rules for returning certain types of contributions.

**Financial Implications:** None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

### **23. FY 2024 Proposed Budget Update Public Hearing #2**

#### **From: City Manager**

**Recommendation:** Conduct Public Hearing #2 on the FY 2024 Proposed Budget Update and provide staff with comments and direction.

**Financial Implications:** See report

Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000

## Action Calendar – Old Business

### **24. Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS) (Continued from May 23, 2023) (Item contains Revised and Supplemental Material)**

#### **From: City Manager**

**Recommendation:** Adopt a Resolution approving the Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS).

**Financial Implications:** See report

Contact: Jennifer Louis, Police, (510) 981-5900

## Action Calendar – New Business

### 25. Provide Direction on Closing the Funding Gap to Complete Remaining Measure T1 Projects

**From:** City Manager

**Recommendation:** Identify up to \$9.062M to cover the Measure T1 funding gap in order to complete the current remaining T1 projects.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700, Sharon Friedrichsen, Budget Manager, (510) 981-7000, Liam Garland, Public Works, (510) 981-6300

## Action Calendar – Continued Business

### A. Amendments to the COVID-19 Emergency Response Ordinance *(Continued from June 6, 2023)*

**From:** Mayor Arreguin (Author), Councilmember Harrison (Author), Councilmember Hahn (Author), Councilmember Robinson (Author)

**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 13.110, the COVID-19 Emergency Response Ordinance to adjust the required timeline to provide documentation proving that non-payment of rent was for a Covered Reason for Delayed Payment if an Unlawful Detainer is served.

**Financial Implications:** None

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

## Public Comment – Items Not Listed on the Agenda

### Adjournment

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

Archived indexed video streams are available at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at: <https://berkeleyca.gov/your-government/city-council/city-council-agendas> and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor  
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

Libraries: Main – 2090 Kittredge Street,  
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,  
North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

**COMMUNICATION ACCESS INFORMATION:**

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

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

~~~~~  
***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on June 8, 2023.***

Mark Numainville, City Clerk

**Communications**

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

**Item #24: Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)**

- 1. John Parman

2. Christoverre Koher (2)
3. Carole Marasovic

**Crime in Berkeley is Unacceptable**

4. Tamara Birdsall
5. Dorothea Dorenz

**Appreciation of Sergeant Perkins Badge #57**

6. Anthony Johnson

**Ellis Street Reparations Now – Mural Restoration**

7. Catherin Huchting, et al

**People’s Park**

8. Wendy Stephens

**Artists Affordable Housing Certification Program**

9. Kathryn Reasoner

**Use Permit for 3000 Shattuck**

10. Lynn Cooper

**Traffic Calming Henry Street Area**

11. Simone Hoelck

**\$5.1M for the Waterfront**

12. Jack Kurzweil

**Dept. of Alcoholic Beverage Control for 1834 4<sup>th</sup> Street, Berkeley**

13. Anneata Williams, ABC

**UC’s EIR at People’s Park**

14. Joe Liesner

**Police Accountability Board**

15. Bill Williams

**Ashby BART Station RFP and Reparative Investments**

16. South Berkeley Now

**Lessons from a Renters’ Utopia (NY Times)**

17. Jack Kurzweil
18. Joe Berry

**Cal Sailing Club Volunteer**

19. Onaje Boone



**UA Theater**

20. Robert Cooper

**Rent Control**

21. Platon Yerofeyev

**Targeted Justice**

22. Special K

**“Youth Peace” Campaign in California**

23. Douglas Wain, on behalf of Youth Peace

**Jail Time Affecting Credit Scores**

24. Lavell Young

**Supplemental Communications and Reports**

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

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





Office of the Mayor

ACTION CALENDAR

June 13, 2023

*(Continued from June 6, 2023)*

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmembers Kate Harrison, Sophie Hahn, and Rigel Robinson

Subject: Amendments to the COVID-19 Emergency Response Ordinance

RECOMMENDATION

Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 13.110, the COVID-19 Emergency Response Ordinance to adjust the required timeline to provide documentation proving that non-payment of rent was for a Covered Reason for Delayed Payment if an Unlawful Detainer is served.

BACKGROUND

The City of Berkeley first declared a local emergency on March 3, 2020 in response to the COVID-19 pandemic. Shortly thereafter, Council passed BMC Chapter 13.110 - the COVID-19 Emergency Response Ordinance ("Chapter 13.110") - prohibiting most evictions in Berkeley, which has been subsequently updated over the past couple of years. Pursuant to Government Code section 8630(b) and Berkeley Municipal Code section 2.88.040.A.1, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69,312-N.S. That proclamation is set to expire on May 20, 2023.

Before May 1, 2023, the only residential evictions that could take place in the City of Berkeley were to stop an imminent threat to the health and safety of other occupants. On February 27, 2023, the City Council adopted changes to Chapter 13.110 to create a Transition Period for the Eviction Moratorium. During this Transition Period, which lasts from May 1, 2023 through August 31, 2023, two additional types of evictions are allowed: Owner move-in evictions where the owner only owns one rental property in the City of Berkeley; and evictions for non-payment of rent where the tenant has not provided documentation establishing a Covered Reason for Delayed Payment. Starting on September 1, 2023, the Eviction Moratorium will be fully lifted and all just cause evictions will be allowed.

As currently written, BMC 13.110.020.C(3) and BMC 13.110.040.C states that a tenant must provide documentation showing that they have a Covered Reason for Delayed Payment prior to the expiration of the notice to terminate tenancy. This refers to a three-day notice, meaning that the documentation must be submitted within that timeframe. In

many cases, three days does not provide enough time to compile and produce such documentation, especially in low-income households who may work multiple jobs to make ends meet. This issue was brought up at the May 2, 2023 meeting of the 4x4 Joint Committee of the City Council and Rent Board. To resolve this, references to timelines for responses are removed. Additionally, BMC 13.110.040.C is updated to encourage tenants to provide such documentation in advance. Doing so would prevent an Unlawful Detainer from being served in the first place, preventing undue stress on all parties involved. This language was modeled after the ordinance recently adopted in the City of Oakland.

Other minor amendments to Chapter 13.110 include updating the Findings and Purposes based on recent developments since Chapter 13.110 was last amended.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

FISCAL IMPACTS OF RECOMMENDATION

None.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Ordinance

ORDINANCE NO. -N.S.

ORDINANCE AMENDING CHAPTER 13.110 OF THE BERKELEY MUNICIPAL CODE,  
THE COVID-19 EMERGENCY RESPONSE ORDINANCE

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

Section 1. That Berkeley Municipal Code Chapter 13.110 is amended to read as follows:

**Chapter 13.110  
COVID-19 EMERGENCY RESPONSE ORDINANCE**

**Sections:**

- 13.110.010 Findings and Purpose**
- 13.110.020 Prohibited Conduct**
- 13.110.030 Definitions**
- 13.110.040 Collection of Back Rent and Late Fees**
- 13.110.050 Application**
- 13.-110.060 Implementing Regulations**
- 13.110.070 Waiver**
- 13.110.080 Remedies**
- 13.110.090 Severability**
- 13.110.100 Liberal Construction**

**13.110.010 Findings and Purposes**

International, national, state and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2." and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"). In response to this emergency, on March 3, 2020, the City Manager acting as the Director of Emergency Services declared a local State of Emergency based on COVID-19 (hereinafter referred to as "the Local Emergency"), which the City Council subsequently ratified on March 10, 2020. On April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, and July 26, 2022, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, July 26, 2022, September 20, 2022, November 3, 2022, December 13, 2022, ~~and~~ January 31, 2023, and March 21, 2023 the council ratified an extension of the local emergency. In addition, on March 4, 2020, the Governor declared a state of emergency in California and the President of the United States declared a national state of emergency on March 13, 2020 regarding the novel coronavirus and COVID-19.

On March 16, 2020, the City of Berkeley Public Health Officer, along with several other neighboring jurisdictions issued a Shelter in Place Order directing all individuals living in the City of Berkeley to shelter at their place of residence except that they may leave to provide or receive certain essential services or engage in certain essential activities, and prohibiting non-essential gatherings and ordering cessation of non-essential travel. On March 31, 2020 this Shelter in Place Order was extended to May 3, 2020, and restricted activities further.

Furthermore, on March 16, 2020, the Governor issued Executive Order N-28-20, specifically authorizing local governments to halt evictions for commercial tenants, residential tenants, and homeowners who have been affected by COVID-19, emphasizing that the economic impacts of COVID-19 have been significant and could threaten to undermine housing security as many people are experiencing material income loss as a result of business closures, the loss of hours or wages or layoffs related to COVID-19, hindering their ability to keep up with rents, mortgages and utility bills.

The Order also stated that because homelessness can exacerbate vulnerability to COVID-19, Californians must take measures to preserve and increase housing security for Californians to protect public health and specifically stated that local jurisdictions may take measures to promote housing security beyond what the state law would otherwise allow.

On April 21, 2020, Alameda County enacted an urgency ordinance prohibiting eviction for any reason other than withdrawal of rental property under the Ellis Act or court-ordered eviction for public safety. Although the Alameda County ordinance does not have effect within the incorporated area of Berkeley, it is desirable to ensure that Berkeley residents have at least the same level of protection as the residents of unincorporated Alameda County.

During this State of Emergency and during the transition period thereafter, and in the interests of protecting the public health and preventing transmission of the COVID-19, it is essential to avoid unnecessary displacement and homelessness. It is the intent of this Ordinance to fully implement the suspension of the statutory bases for eviction for nonpayment of rent and for default in the payment of a mortgage as authorized by Executive Order N-28-20.

While COVID-19 remains prevalent in the community, the City has made significant progress in addressing the impacts of COVID-19, including a reduction in the rates of hospitalization and death, as well as a citywide vaccination rate of at least ninety-four percent (94%).

Governor Gavin Newsom has ~~also announced that ended~~ the statewide COVID-19 State of Emergency ~~will end~~ on February 28, 2023. President Joe Biden has ~~announced that ended~~ the nationwide COVID-19 State of Emergency ~~will end~~ on May 11, 2023.

Based on the current conditions in the City of Berkeley related to COVID-19, and to stay consistent with state actions, the City Manager has recommended that the City Council terminate the local emergency.

The effect of this chapter suspending the statutory basis for eviction due to nonpayment of rent remains in effect throughout the Covered Period, which concludes on the expiration of the local emergency. BMC Section 13.110.030.A allows the City Council to extend the duration of the Covered Period by resolution.

This ordinance makes further amendments to Chapter 13.110 to permit lawful owner-move in evictions pursuant to BMC Section 13.76.130.A.9 and to establish a Transition Period until August 31, 2023, during which time specified evictions would be allowed to take place.

### **13.110.020 Prohibited Conduct**

A. During the Covered Period, no Landlord or Lender shall evict or attempt to evict a Resident of residential real property, or otherwise require a residential Tenant to vacate, unless necessary to stop an imminent threat to the health and safety of other occupants. For purposes of this Ordinance, the basis for an exception to this Ordinance cannot be the Resident's COVID-19 illness or exposure to COVID-19, whether actual or suspected.

B. Residential Eviction Moratorium. It shall be a complete defense to any action for unlawful detainer that the notice upon which the action is based was served or expired, or that the complaint was filed or served, during the Covered Period, except that a Landlord may serve a lawful notice pursuant to Section 13.76.130.A.9. after March 1, 2023, and such notice may form the basis of an unlawful detainer complaint beginning May 1, 2023.

C. During the Transition Period, no Landlord or Lender shall evict or attempt to evict a Resident of residential real property, or otherwise require a residential Tenant to vacate unless at least one of the following conditions is met:

1. Recovery of possession of real property is necessary to stop an imminent threat to the health and safety of other occupants; or

2. Owner Move-in Eviction. The Landlord seeks to recover possession of a residential unit for their own use and occupancy as their principal residence and the Landlord fully complies with all "Owner Move-in Eviction" requirements set forth in Berkeley Municipal Code section 13.76.130.A.9. However, a Landlord may not recover possession of any residential unit in this manner unless the Landlord owns only one residential property in the City of Berkeley. Notice for this exclusive reason may be served beginning March 1, 2023 and may be the basis for an unlawful detainer complaint beginning May 1, 2023.; or

3. The Landlord or Lender seeks to recover possession of real property following the tenant's default in payment of rent that came due after the expiration of the Covered Period and for which tenant did not provide to the Landlord or Lender documentation establishing a Covered Reason for Delayed Payment as set forth in Berkeley Municipal Code section 13.110.040.C. Any notice to terminate tenancy served pursuant to this

section must inform the tenant of their rights to submit documentation establishing a Covered Reason for Delayed Payment as set forth in Berkeley Municipal Code section 13.110.040.C. ~~Notwithstanding any other notice requirements identified in Berkeley Municipal Code section 13.110.040.C, a~~ A tenant who asserts a Covered Reason for Delayed Payment during the Transition Period shall provide landlord all required documentation ~~prior to the expiration of the notice to terminate tenancy as set forth in Berkeley Municipal Code section 13.110.040.C.~~

D. For the duration of the Covered Period, if a residential tenant has a Covered Reason for Delayed Payment, the tenant may terminate a lease or rental agreement with 30 day notice without penalty. A tenant may also exercise rights under this subsection if the tenants or roommates of the tenants are or were registered at an educational institution that cancelled or limited in-person classes due to the COVID-19 pandemic.

### **13.110.030 Definitions**

A. "Covered Period" means the period of time beginning with March 17, 2020 and concluding at the end of April 30, 2023.

B. "Transition Period" means the period of time beginning with May 1, 2023 and ending on August 31, 2023.

C. "Covered Reason for Delayed Payment" means:

(1) The basis for the eviction is nonpayment of rent, arising out of a material decrease in household, business, or other rental unit occupant(s)'s income (including, but not limited to, a material decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or to caregiving responsibilities, or a material decrease in business income caused by a reduction in opening hours or consumer demand), or material out-of-pocket medical expenses, or a reduction in the number of tenants living in the unit (including due to difficulty finding new tenants and/or subtenants willing and able to cover a sufficient share of rent) which reduces the ability of the remaining tenants to pay rent, or a rent increase that exceeds the Annual General Adjustment for the current year; and

(2) The decrease in household, business, or other rental unit occupant's income or the expenses or reduction in number of tenants described in subparagraph (1) was caused by the impacts of COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.

D. "Delayed Rent Payment Agreement" means a mutual agreement between a landlord and tenant regarding the timing and amount of payments for rent that is delayed by a Covered Reason for Delayed Payment.

E. "Homeowner" means the owner or owners of a Residential Unit subject to a mortgage or similar loan secured by the residential unit. "Homeowner" is limited to owners who reside in the unit and includes the individuals residing in the unit with the homeowner.



F. "Landlord" includes owners, lessors, or sublessors of either residential rental property, and the agent, representative, or successor of any of the foregoing.

G. "Lender" means the mortgagee of a purchase money or similar mortgage, or the holder or beneficiary of a loan secured by one or more units, which person has the right to mortgage or similar payments from the owner as mortgagor, including a loan servicer, and the agent, representative, or successor of any of the foregoing.

H. "Resident" means a Tenant, Homeowner, or their household.

I. "Tenant" includes a tenant, subtenant, lessee, sublessee, lodger or any other person entitled by written or oral rental agreement to use or occupancy of residential property. "Tenant" includes a former trustor or homeowner who has lost title the real property in which they reside after a Trustee's sale.

### **13.110.040 Collection of Back Rent and Late Fees**

A. Nothing in this Chapter shall relieve the tenant of liability for unpaid rent, which the landlord may seek after expiration of the Covered Period, or after the Transition Period if the tenant establishes a Covered Reason for Delayed Payment. ~~Notwithstanding any lease provision to the contrary, a landlord may not charge or collect a late fee, fine, or interest for rent that is delayed by a Covered Reason for Delayed Payment. Landlords are encouraged to work with local agencies that will be making rental assistance available for qualifying tenants.~~

B.

1. For rent accrued through January 31, 2021, Tenants shall have until March 31, 2022, or the date adopted by state law, as applicable, to pay rent that was delayed by a Covered Reason for Delayed Payment unless the landlord and tenant come to a mutual repayment agreement ("Delayed Rent Payment Agreement").

2. For rent accrued beginning February 1, 2021, Tenants shall have until July 31, 2023, to pay rent that was delayed by a Covered Reason for Delayed Payment, or the period of time adopted by state law, as applicable, unless the landlord and tenant come to a mutual repayment agreement ("Delayed Rent Payment Agreement").

3. Notwithstanding any lease provision to the contrary, a landlord may not charge or collect a late fee, fine, or interest for rent that is delayed by a Covered Reason for Delayed Payment.

C. ~~It is recommended, but~~A Tenant is not required ~~for a Tenant~~ to provide documentation to the Landlord in advance to qualify for the delayed repayment of rent. ~~However, upon the request of a Landlord, a Tenant shall provide such documentation to the Landlord within forty-five (45) days after the request or o~~action for possession of the subject rental unit. This provision shall not be construed to waive any obligation to respond to lawful discovery requests or to waive any right to seek additional time permitted by the California

[Code of Civil Procedure](#). A declaration sworn under penalty of perjury shall constitute documentation for the purpose of this requirement.

D. Any medical or financial information provided to the landlord shall be held in confidence, and shall not be disclosed to other entities unless such disclosure is permitted or required by the law, or unless the tenant explicitly authorizes the disclosure of the information in writing.

E. Any relief from the City of Berkeley either directly to a property owner on their own application or as a pass through for City relief payments to the tenant shall directly reduce the amount of any rent that was delayed by a Covered Reason for Delayed Payment. This requirement shall be applied into any Delayed Rent Payment Agreement, regardless of the terms of that agreement.

### **13.110.050 Application**

A. This Chapter applies to eviction notices and unlawful detainer actions based on notices served, filed, or which expire during the Covered Period and Transition Period. It does not apply to commercial leases where the term has expired and the City has issued a permit for the demolition or substantial alteration of the commercial unit, or to units ordered by the City to be vacated for the preservation of public health, including where the City deems necessary to control the spread of COVID-19.

B. Except where expressly required by state law (such as Assembly Bill 3088 or any subsequent statewide COVID-19 relief legislation), a landlord may seek rent accrued during the Covered Period as set forth in Section 13.110.040, but may not file an action pursuant to Code of Civil Procedure sections 1161(2) et seq. or otherwise seek to recover possession of a rental unit based on the failure to pay rent that accrued during the Covered Period. In any action to evict based on alleged nonpayment of rent, it shall be a complete defense to such action if any part of the rent in dispute accrued at any time during the Covered Period, or if the action otherwise demands any fees or amounts contrary to the provisions of this Chapter. A landlord shall not apply any rent payment towards rent that is delayed by a Covered Reason for Delayed Payment before applying it towards any other Rent owed without the explicit written permission of the Tenant.

C. A Landlord or Lender shall not retaliate against a Resident for exercising their rights under this Ordinance, including but not limited to shutting off any utilities reducing services or amenities, refusing to make or delaying repairs to which the Resident would otherwise be entitled, or taking actions which hurt the Resident's credit rating based on nonpayment of rent during the Covered Period as allowed under this ordinance.

D. In addition to the affirmative defenses set forth above, in any action to recover possession of a rental unit filed under Berkeley Municipal Code section 13.76.130(A)(1), it shall be a complete defense that the landlord impeded the tenant's effort to pay rent by refusing to accept rent paid on behalf of the tenant from a third party, or refusing to provide a W-9 form or other necessary documentation for the tenant to receive rental assistance from a government agency, non-profit organization, or other third party. Acceptance of

rental payments made on behalf of the tenant by a third party shall not create a tenancy between the landlord and the third party.

### **13.110.060 Implementing Regulations**

The City Manager may promulgate implementing regulations and develop forms to effectuate this Ordinance. This includes the option of requiring Landlords and Lenders to give a notice to Residents informing them of this Chapter and the right to seek the benefits of this Chapter.

### **13.110.070 Waiver.**

A. By entering into a Delayed Rent Payment Agreement, Tenants do not waive any rights under this Chapter.

B. Any agreement by a Tenant to waive any rights under this ordinance shall be void and contrary to public policy.

### **13.110.080 Remedies**

A. In the event of a violation of this Ordinance, any person or entity aggrieved by the violation may institute a civil proceeding for injunctive relief, and money actual damages as specified below, and whatever other relief the court deems appropriate.

1. An award of actual damages may include an award for mental and/or emotional distress and/or suffering. The amount of actual damages awarded to a prevailing plaintiff shall be trebled by the Court outside of the presence, and without the knowledge of, the jury, if any, if a defendant acted in knowing violation of, or in reckless disregard for, the provisions of this Chapter.

2. A defendant shall be liable for additional civil penalties of up to five thousand dollars for each violation of this Chapter committed against a person who is disabled within the meaning of California Government Code section 12926, et seq., or aged sixty-five or over.

3. In addition to the above awards of damages in a civil action under this Chapter, a prevailing plaintiff shall be entitled to an award of reasonable attorney's fees. A prevailing defendant in a civil action under this Chapter shall only be entitled to an award of attorney's fees if it is determined by the Court the action was wholly without merit or frivolous.

4. In addition, this Chapter grants a complete defense to eviction in the event that an eviction notice or unlawful detainer action is commenced, filed, or served in violation of this Chapter.

B. The protections provided by this ordinance shall be available to all Residents, regardless of any agreement wherein a Resident waives or purports to waive their rights under this Ordinance, with any such agreement deemed void as contrary to public policy.

C. A. Violations of Section 13.110.020(C) - (Commercial rent restrictions).

1. Violations of Section 13.110.020(C) may be enforced by an administrative fine of up to \$1,000 pursuant to Chapter 1.28. Each day a commercial property landlord demands rent in excess of the amount permitted pursuant to Section 13.110.020(C) is a separate violation. The City may also charge the costs of investigating and issuing any notices of violations, and any hearings or appeals of such notices.

2. The City Attorney may refer those violators of Section 13.110.020(C) to the Alameda County District Attorney for redress as a violation of Business and Professions Code section 17200, et seq. or, if granted permission by the District Attorney, may bring an action pursuant to Business and Professions Code section 17200, et seq.

D. Nonexclusive Remedies and Penalties. The remedies provided in this subdivision are not exclusive, and nothing in this Chapter shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

### **13.110.090 Severability.**

If any section, subsection, sentence, clause, phrase, or word of this Chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Chapter. The Council of the City of Berkeley hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

### **13.110.100 Liberal Construction**

The provisions of this Chapter shall be liberally construed so as to fully achieve its purpose and provide the greatest possible protections to tenants.

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



## AGENDA

### BERKELEY CITY COUNCIL MEETING

**Tuesday, June 13, 2023**

**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

TELECONFERENCE LOCATION - SOFITEL WASHINGTON DC LAFAYETTE SQUARE  
806 15TH ST NW, WASHINGTON, DC 20005

TELECONFERENCE LOCATION – 1619 EDITH STREET, BERKELEY, CA 94703

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – MARK HUMBERT

*This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.*

*Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at [http://berkeley.granicus.com/MediaPlayer.php?publish\\_id=1244](http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244).*

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1613410530>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 341 0530**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*Please be mindful that the meeting will be recorded and all rules of procedure and decorum apply for in-person attendees and those participating by teleconference or videoconference.*

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

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

## Preliminary Matters

### Roll Call:

**Land Acknowledgement Statement:** *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

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

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

**Public Comment on Non-Agenda Matters:** *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons attending the meeting in-person and wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

## Consent Calendar

*The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".*

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

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

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

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

## Consent Calendar

- 1. Re-Vote to Adopt the Final Ordinance to Amend the Miscellaneous CalPERS Contract to Effectuate PEPRA Cost Sharing Agreements**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,863 N.S. – the final Ordinance amending the City’s contract with CalPERS to effectuate changes to the cost sharing agreement between the City and PEPRA members of Service Employees International Union, Local 1021 Maintenance and Clerical (SEIU MC), SEIU Local 1021 Community Services & Part-Time Recreation Leaders Association (CSU/PTRLA), Public Employees Union Local 1 (Local 1), and the Unrepresented Employees group – in compliance with Government Code Section 20471.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Harrison.  
**Financial Implications:** See report  
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
- 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 13, 2023**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager’s threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$650,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 3. Temporary Appropriations FY 2024**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2023, until the effective date of the FY 2024 Annual Appropriations Ordinance.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 4. FY 2024 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0250%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 5. FY 2024 Tax Rate: Fund Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF)**  
**From: City Manager, City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF) in the City of Berkeley at the annual tax rate of \$0.1176 (11.76 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300, David Sprague, Fire, (510) 981-3473
- 6. FY 2024 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0050%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 7. FY 2024 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0115%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300



## Consent Calendar

- 8. FY 2024 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0140%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 9. FY 2024 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0065%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 10. FY 2024 Tax Rate: Business License Tax on Large Non-Profits**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for Business License Tax on large non-profits at \$0.7909 (79.09 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 11. FY 2024 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.2130 (21.30 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 12. FY 2024 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0451 (4.51 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 13. FY 2024 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the provision of emergency services for the disabled at \$0.02018 (2.018 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 14. Contract: Berkeley Unified School District for Mental Health and Wellbeing Coordinator at Berkeley High School**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with the Berkeley Unified School District (BUSD) for a Mental Health and Wellness Coordinator at Berkeley High School (BHS) for a total contract limit of \$350,000 for the period beginning June 26, 2023 and ending June 30, 2025.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 15. Contract No. 32200084 Amendment: Capoeira Arts Foundation, Inc. (CAF), COVID-19 Outreach & Education**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Contract No. 32200084 with Capoeira Arts Foundation, Inc. (CAF), to extend the contract end date through June 30, 2024 and increase the not-to-exceed amount (NTE) by \$65,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$ 206,025 to \$271,025.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 16. Contract No. 32200135 Amendment: Multicultural Institute, COVID-19 Outreach & Education**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Contract No. 32200135 with Multicultural Institute, to extend the contract end date through June 30, 2024 and increase the not to exceed amount (NTE) by \$65,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$121,000 to \$186,000.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

## Consent Calendar

### 17. **Ephesian Legacy Court and Woolsey Gardens Housing Trust Fund Reservations**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Reserving \$14,531,301 in Housing Trust Fund program funds for a development loan for Community Housing Development Corporation's Ephesian Legacy Court (1708 Harmon Street) affordable housing development. 2. Reserving \$1,000,000 in Housing Trust Fund program funds for a predevelopment loan for Northern California Land Trust's Woolsey Gardens (3120-3130 Shattuck) affordable housing development and waiving Sections I.A.1 and III.A.1 of the Housing Trust Fund Guidelines. 3. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate these actions.

**Financial Implications:** See report.

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

### 18. **Funding Recommendation for the Russell Street Project at 1741-1747 Russell** **From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Reserving up to \$4,500,000 in General Funds received pursuant to Measure P for the Russell Street supportive housing project at 1741, 1743, and 1747 Russell Street as proposed by Berkeley Food and Housing Project (BFHP), contingent on BFHP's timely submission of a complete application demonstrating they meet the City's funding criteria; and 2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate this action.

**Financial Implications:** See report.

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

### 19. **Contract: Chemical Procurement Services, LLC for King and West Campus Swim Centers**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Chemical Procurement Services, LLC for King and West Campus Swim Centers for a not-to-exceed total amount of \$120,000 over a two-year period, beginning July 1, 2023 and ending June 30, 2025, contingent upon annual budget appropriations.

**Financial Implications:** General Fund - \$120,000

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

## Consent Calendar

- 20. Contract No. 32100065 Amendment: BMI Imaging Systems, Incorporated for Data Conversion Services for the Berkeley Police Department**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32100065 and any necessary amendments with BMI Imaging Systems, Incorporated for continuing data conversion services and necessary hosting services for the Berkeley Police Department (BPD), increasing the amount by \$60,000 for a total contract not to exceed \$260,000 and extending the term to six years through August 31, 2026.  
**Financial Implications:** See report  
Contact: Jennifer Louis, Police, (510) 981-5900
- 21. Declaration of Intent – Fiscal Year 2024 Street Lighting Assessments**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions granting the City Manager the authority to approve the Engineer’s Reports; set a public hearing to be held before the Council of the City of Berkeley at its June 27, 2023 meeting; and authorize the City Clerk to publish Notice of the Public Hearing for Fiscal Year 2024 Levy of Assessments for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300

## Action Calendar

*The public may comment on each item listed on the agenda for action. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.*

*A member of the public may only speak at one of the two public comment periods for any single Action item.*

*The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

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

## Action Calendar – Scheduled Public Comment Period

*During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.*

## Action Calendar – Public Hearings

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

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

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

### **22. Amendments to Berkeley Election Reform Act; Amending Berkeley Municipal Code Chapter 2.12**

#### **From: Fair Campaign Practices Commission**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to modify the forms required to open a campaign committee, change the deadline to qualify for the public financing program and make associated amendments, clarify the rules for public financing candidates that do not qualify for the ballot, add an automatic inflator for the amount a public financing candidate can give to their own committee, clarify post-election processes for public financing candidates, modify the threshold to create a campaign committee, and clarify the rules for returning certain types of contributions.

**Financial Implications:** None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

### **23. FY 2024 Proposed Budget Update Public Hearing #2**

#### **From: City Manager**

**Recommendation:** Conduct Public Hearing #2 on the FY 2024 Proposed Budget Update and provide staff with comments and direction.

**Financial Implications:** See report

Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000

## Action Calendar – Old Business

### **24. Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS) (Continued from May 23, 2023) (Item contains Revised and Supplemental Material)**

#### **From: City Manager**

**Recommendation:** Adopt a Resolution approving the Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS).

**Financial Implications:** See report

Contact: Jennifer Louis, Police, (510) 981-5900

## Action Calendar – New Business

### 25. Provide Direction on Closing the Funding Gap to Complete Remaining Measure T1 Projects

**From: City Manager**

**Recommendation:** Identify up to \$9.062M to cover the Measure T1 funding gap in order to complete the current remaining T1 projects.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700, Sharon Friedrichsen, Budget Manager, (510) 981-7000, Liam Garland, Public Works, (510) 981-6300

## Public Comment – Items Not Listed on the Agenda

### Adjournment

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

Archived indexed video streams are available at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>

and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor  
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

Libraries: Main – 2090 Kittredge Street,  
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,  
North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

**COMMUNICATION ACCESS INFORMATION:**

This meeting is being held in a wheelchair accessible location.

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

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

~~~~~  
*I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on June 1, 2023.*

Mark Numainville, City Clerk

## Communications

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

### **Item #24: Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)**

- 1. John Parman
- 2. Christoverre Koher (2)
- 3. Carole Marasovic

### **Crime in Berkeley is Unacceptable**

- 4. Tamara Birdsall
- 5. Dorothea Dorenz

### **Appreciation of Sergeant Perkins Badge #57**

- 6. Anthony Johnson

### **Ellis Street Reparations Now – Mural Restoration**

- 7. Catherin Huchting, et al

### **People's Park**

- 8. Wendy Stephens

**Artists Affordable Housing Certification Program**

9. Kathryn Reasoner

**Use Permit for 3000 Shattuck**

10. Lynn Cooper

**Traffic Calming Henry Street Area**

11. Simone Hoelck

**\$5.1M for the Waterfront**

12. Jack Kurzweil

**Dept. of Alcoholic Beverage Control for 1834 4<sup>th</sup> Street, Berkeley**

13. Anneata Williams, ABC

**UC's EIR at People's Park**

14. Joe Liesner

**Police Accountability Board**

15. Bill Williams

**Ashby BART Station RFP and Reparative Investments**

16. South Berkeley Now

**Lessons from a Renters' Utopia (NY Times)**

17. Jack Kurzweil

18. Joe Berry

**Cal Sailing Club Volunteer**

19. Onaje Boone

**UA Theater**

20. Robert Cooper

**Rent Control**

21. Platon Yerofeyev

**Targeted Justice**

22. Special K

**"Youth Peace" Campaign in California**

23. Douglas Wain, on behalf of Youth Peace

**Jail Time Affecting Credit Scores**

24. Lavell Young



## **Supplemental Communications and Reports**

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

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





Office of the City Manager

CONSENT CALENDAR

June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Aram Kouyoumdjian, Director of Human Resources

Subject: Re-Vote to Adopt the Final Ordinance to Amend the Miscellaneous CalPERS Contract to Effectuate PEPRA Cost Sharing Agreements

RECOMMENDATION:

Adopt second reading of Ordinance No. 7,863 N.S. – the final Ordinance amending the City’s contract with CalPERS to effectuate changes to the cost sharing agreement between the City and PEPRA members of Service Employees International Union, Local 1021 Maintenance and Clerical (SEIU MC), SEIU Local 1021 Community Services & Part-Time Recreation Leaders Association (CSU/PTRLA), Public Employees Union Local 1 (Local 1), and the Unrepresented Employees group – in compliance with Government Code Section 20471.

FISCAL IMPACTS OF RECOMMENDATION:

None.

CURRENT SITUATION AND ITS EFFECTS:

Pursuant to Government Code Section 20471, there must be a twenty (20) day period between the adoption of the Resolution of Intention and the adoption of the final Ordinance. In this instance, the Resolution of Intention was adopted on May 9, 2023, while the final Ordinance was initially voted upon on May 23, 2023 – a few days short of the 20-day waiting period required by law. As such, a re-vote is necessary to ensure that the adoption of the final Ordinance complies with Government Code Section 20471.

The re-vote will *not* delay ramp-down implementation timelines, which take effect in July.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS:

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION:

Compliance with the 20-day waiting period required by Government Code Section 20471 necessitates a re-vote to adopt Ordinance No. 7,863 N.S. authorizing an amendment to the City’s CalPERS Miscellaneous contract.

Adopt Final Ordinance for CalPERS Ramp Down

ALTERNATIVE ACTIONS CONSIDERED:

None.

CONTACT PERSON:

Aram Kouyoumdjian, Human Resources Director, (510) 981-6807.

Attachments:

- 1: Ordinance No. 7,863 N.S.
- 2: May 9, 2023 Staff Report: Resolution of Intention to Amend the Miscellaneous CalPERS Contract to Effectuate PEPRA Cost Sharing Agreement

ORDINANCE NO. 7,863-N.S.

AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF BERKELEY AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

Section 1.

That an amendment to the contract between the City Council of the City of Berkeley and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit A, and by such reference made a part hereof as though herein set out in full.

Section 2.

The Mayor of the City of Berkeley City Council is hereby authorized, empowered, and directed to execute said amendment for, and on behalf of, said Agency.

Section 3.

This Ordinance shall take effect thirty (30) days after the date of its adoption. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on May 9, 2023, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: Harrison.



**EXHIBIT**

California  
Public Employees' Retirement System

---

**AMENDMENT TO CONTRACT**

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Berkeley

---

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective March 1, 1942, and witnessed January 30, 1942, and as amended effective September 1, 1947, April 1, 1949, January 1, 1952, May 1, 1954, March 1, 1956, August 1, 1959, November 1, 1961, June 29, 1962, December 1, 1962, April 1, 1963, August 1, 1963, October 1, 1964, October 16, 1965, November 16, 1968, March 1, 1973, December 16, 1973, December 1, 1974, July 22, 1976, May 25, 1978, July 9, 1978, January 2, 1983, October 28, 1983, July 18, 1986, June 26, 1988, June 30, 1992, November 28, 1996, October 15, 1998, November 6, 1998, April 9, 1999, April 14, 2000, July 14, 2000, December 22, 2000, July 7, 2002, January 5, 2003, June 13, 2003, December 28, 2012, July 3, 2016, November 6, 2016, January 1, 2017, December 31, 2017, April 17, 2022, and July 24, 2022, which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 20 are hereby stricken from said contract as executed effective July 24, 2022, and hereby replaced by the following paragraphs numbered 1 through 20 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members, age 62 for new local miscellaneous members, age 50 for classic local fire members and for those classic local police members entering membership in the police classification on or prior to December 28, 2012, age 55 for classic local police members entering membership for the first time in the police classification after December 28, 2012, and age 57 for new local safety members.
2. Public Agency shall participate in the Public Employees' Retirement System from and after March 1, 1942, making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
  - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
  - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
  - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

- a. Local Fire Fighters (herein referred to as local safety members);
  - b. Local Police Officers (herein referred to as local safety members);
  - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

- a. **PERSONS EMPLOYED JUNE 1, 1962, OR THEREAFTER IN THE FOLLOWING CLASSES IN THE RECREATION AND PARKS LIBRARY, AND FINANCE DEPARTMENTS:**

**ASSISTANT CAMP UTILITY MAN  
CAMP CLERK  
CAMP COUNSELOR  
CAMP NURSE  
CAMP SUPERVISOR  
CAMP UTILITY MAN  
CAMP RECREATION LEADER**

**COOK'S AIDE  
CHIEF COOK  
FIRST ASSISTANT COOK  
KITCHEN HELPER  
SECOND ASSISTANT COOK**

**DINING ROOM HELPER  
DINING ROOM SUPERVISOR**

**FIELD APPRAISER**

**LIBRARY PAGE I  
LIBRARY PAGE II**

**LIFEGUARD**

**ASSISTANT PLAYGROUND LEADER  
PLAYGROUND LEADER  
PLAYGROUND LEADER TRAINEE  
SENIOR PLAYGROUND LEADER**

**SPECIAL ACTIVITY LEADER;**

- b. **PERSONS EMPLOYED APRIL 1, 1963, OR THEREAFTER AS POLICE TRAINEES;**



- c. **PHYSICIANS EMPLOYED AFTER AUGUST 1, 1963, CLASSIFIED AS "PHYSICIANS" IN THE CITY'S POSITION ORDINANCE AS THAT ORDINANCE EXISTED ON AUGUST 1, 1963;**
  - d. **PERSONS COMPENSATED ON AN HOURLY BASIS WHO ENTER EMPLOYMENT WITH PUBLIC AGENCY ON OCTOBER 16, 1965, OR THEREAFTER; AND**
  - e. **EMPLOYEES WHO FIRST ENTERED PUBLIC AGENCY SERVICE PRIOR TO JANUARY 26, 1973, IN AN EMPLOYMENT IN WHICH THEY WERE ELIGIBLE FOR MEMBERSHIP IN ANY ONE OF THE PUBLIC AGENCY'S RETIREMENT SYSTEMS FOR SAFETY MEMBERS, AND WHO HAVE NOT EXECUTED AND FILED WITH THE PUBLIC AGENCY A WAIVER OF RIGHTS UNDER THE LOCAL SYSTEM DURING THE PERIOD PRESCRIBED, SUCH EXCLUSION SHALL APPLY WHETHER OR NOT THE EMPLOYEE REENTERS SERVICE OF THE PUBLIC AGENCY THEREAFTER.**
6. Those safety members in the local retirement system employed by Public Agency and who did not waive their rights under said local system were provided another opportunity to execute and file a waiver on or before October 28, 1983.
7. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
8. Public Agency and the Berkeley Redevelopment Agency have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Berkeley Redevelopment Agency, pursuant to Section 20567.6 of the Government Code. Such merger is effective as of August 1, 1977. Public Agency, by this contract, assumes the assets and liabilities accumulated under the former contract of the Berkeley Redevelopment Agency. Legislation repealed said Section effective January 1, 1988.
9. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment before and not on or after January 5, 2003, shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 5, 1957, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

10. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment on or after January 5, 2003, shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service on and after January 5, 1957, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Full).
12. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local fire member and for those classic local police members entering membership in the police classification on or prior to December 28, 2012, shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
13. The percentage of final compensation to be provided for each year of credited current service as a classic local police member entering membership for the first time in the police classification after December 28, 2012, shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
14. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
15. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members only.
  - b. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
  - c. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
  - d. Section 21222.1 (One-Time 5% Increase - 1970) for local miscellaneous members only. Legislation repealed said Section effective January 1, 1980.

- e. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
- f. Section 20042 (One-Year Final Compensation) for classic local miscellaneous members, classic local fire members and for those classic local police members entering membership on or prior to December 28, 2012.
- g. Section 20965 (Credit for Unused Sick Leave).
- h. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local police members only.
- i. Section 21548 (Pre-Retirement Option 2W Death Benefit) for local police members only.
- j. Section 21024 (Military Service Credit as Public Service).
- k. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service).
- l. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local fire members only.
- m. Section 20475 (Different Level of Benefits): Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local police members entering membership for the first time with this agency in the police classification after December 28, 2012.
- n. Section 20516 (Employees Sharing Additional Cost):
  - From and after July 3, 2016, 1.25% for local miscellaneous members in the International Brotherhood of Electrical Workers Local 1245.
  - From and after November 6, 2016, 8% for classic local miscellaneous members in the Public Employees Union Local 1.
  - From and after November 6, 2016, and until April 17, 2022, 8% for new local miscellaneous members in the Public Employees Union Local 1.
  - From and after January 1, 2017, 8% for classic local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after January 1, 2017, and until April 17, 2022, 8% for new local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after December 31, 2017, 8% for classic local miscellaneous members in the Unrepresented Employees group.

From and after December 31, 2017, and until April 17, 2022, 8% for new local miscellaneous members in the Unrepresented Employees group.

From and after December 31, 2017, 8% for classic local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after December 31, 2017, and until April 17, 2022, 8% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after April 17, 2022, and until July 24, 2022, 5% for new local miscellaneous members in the Public Employees Union Local 1.

From and after April 17, 2022, and until July 24, 2022, 5% for new local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after April 17, 2022, and until July 24, 2022, 7% for new local miscellaneous members in the Unrepresented Employees group.

From and after April 17, 2022, and until July 24, 2022, 7% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after July 24, 2022, and until the effective date of this amendment to contract, 1% for new local miscellaneous members in the Public Employees Union Local 1.

From and after July 24, 2022, and until the effective date of this amendment to contract, 1% for new local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after July 24, 2022, and until the effective date of this amendment to contract, 6% for new local miscellaneous members in the Unrepresented Employees group.

From and after July 24, 2022, and until the effective date of this amendment to contract, 6% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after the effective date of this amendment to contract, 5% for new local miscellaneous members in the Unrepresented Employees group.

From and after the effective date of this amendment to contract, 5% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

16. Public Agency, in accordance with Government Code Section 20834, shall not be considered an "employer" for purposes of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Government Code Section 20834, and such contributions hereafter made shall be held by the Board as provided in Government Code Section 20834.
17. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
18. Public Agency shall also contribute to said Retirement System as follows:
  - a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
  - b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

- 19. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
- 20. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF BERKELEY

BY \_\_\_\_\_  
MELODY BENAVIDES, CHIEF  
PENSION CONTRACTS AND PREFUNDING  
PROGRAMS DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

PLEASE DO NOT SIGN "EXHIBIT ONLY"

PLEASE DO NOT SIGN "EXHIBIT ONLY"

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk



Office of the City Manager

ACTION CALENDAR  
May 9, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Aram Kouyoumdjian, Director of Human Resources

Subject: Resolution of Intention to Amend the Miscellaneous CalPERS Contract to Effectuate PEPRA Cost Sharing Agreements

RECOMMENDATION

1. Adopt the Resolution of Intention to amend the contract between the Board of Administration, California Public Employees' Retirement System and the City Council for the City of Berkeley pursuant to California Government Code Section 20516 to effectuate changes to the cost sharing agreement between the City and PEPRA members of Service Employees International Union, Local 1021 Maintenance and Clerical (SEIU MC), SEIU Local 1021 Community Services & Part-Time Recreation Leaders Association (CSU/PTRLA), Public Employees Union Local 1 (Local 1), and the Unrepresented Employees group.
2. Adopt first reading of an Ordinance amending the City's contract with CalPERS to effectuate changes to the cost sharing agreement between the City and PEPRA members of Service Employees International Union, Local 1021 Maintenance and Clerical (SEIU MC), SEIU Local 1021 Community Services & Part-Time Recreation Leaders Association (CSU/PTRLA), Public Employees Union Local 1 (Local 1), and the Unrepresented Employees group.

Council adopted Resolution #70,156 N.S. at its December 14, 2021 meeting authorizing the FY 2021-22 amendment to the City's CalPERS Miscellaneous contract. Council must now pass another Resolution of Intention to approve the FY 2023-24 contract amendment between the City and the Public Employees' Retirement System Board of Administration.

FISCAL IMPACTS OF RECOMMENDATION

The terms of the new MOU PEPRA ramp down are as follows:

SEIU MC and the Unrepresented Employees group:

- FY 2023-24: 1% reduction of cost share for a total of 5%, effective July 9, 2023
- FY 2024-25: 2% reduction of cost share for a total of 3%, effective July 7, 2024
- FY 2025-26: 2% reduction of cost share for a total of 1%, effective July 6, 2025
- FY 2026-27: 1% reduction of cost share for a total of 0%, effective July 5, 2026

There are approximately 237 PEPRA employees in SEIU MC affected by this resolution.

There are approximately 74 unrepresented PEPRA employees affected by this resolution.

Funding for the ramp down comes from the General Fund and other special revenue funds. The applicable cost was included in the fiscal year 2023 budget and will be included in the budgets for fiscal years through 2027.

SEIU CSU/PTRLA and Local 1:

- FY 2023-24: 1% reduction of cost share for a total of 0%, effective July 9, 2023

There are approximately 228 PEPRA employees in SEIU CSU/PTRLA affected by this resolution.

There are approximately 78 PEPRA employees in Local 1 affected by this resolution.

Funding for the ramp down comes from the General Fund and other special revenue funds. This applicable cost was included in the fiscal year 2022 budget and will be included in the budgets for fiscal years through 2024.

#### CURRENT SITUATION AND ITS EFFECTS

Council adopted Resolution #70,156 N.S. at its December 14, 2021 meeting authorizing the FY 2023-24 amendment to the City's CalPERS Miscellaneous contract. Council must now pass another Resolution of Intention to approve the FY 2023-24 contract amendment between the City and the Public Employees' Retirement System Board of Administration. (See Cal. Gov. Code § 20516.) The contract amendment process includes the following steps:

- The City shall provide CalPERS with the Resolution and a cover letter indicating the exact percentage of change, total cost-share percentage, and who it is applicable to – completed March 15, 2023;
- CalPERS will contact the City to establish the Anticipated Schedule of Agency Actions and send the required documents;
- Over a time period specified by CalPERS, the City will:
  - Conduct an employee election whereby a simple majority of the affected PEPRA members in the Unrepresented group must vote in favor of the proposed cost-share terms – completed in December 2021;
  - The City shall adopt a Resolution of Intention;
  - The City shall approve the final reading of an ordinance or final resolution and complete certification forms.
- Once the documents are received and approved, the contract amendment becomes effective and is updated with the effective date in MyCalPERS.
- CalPERS sends a fully executed contract to the City.



## ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

There are no identifiable environmental effects or opportunities associated with the subject of this report.

## RATIONALE FOR RECOMMENDATION

Council adopted Resolution #70,156 N.S. at its December 14, 2021 meeting authorizing an amendment to the City's CalPERS Miscellaneous contract. Council must now pass another Resolution of Intention to approve the FY 2023-24 contract amendment between the City and the Public Employees' Retirement System Board of Administration.

## ALTERNATIVE ACTIONS CONSIDERED

None. The City is obligated under the existing labor agreements to complete the ramp downs in accordance with the MOUs.

## CONTACT PERSON

Aram Kouyoumdjian, Director of Human Resources, (510) 981-6807.

### Attachments:

- 1: Resolution of Intention to Approve an Amendment to Contract Between the Board of Administration of California Public Employees' Retirement System and the City Council of the City of Berkeley  
**Exhibit A:** Amendment to Contract Between the Board of Administration of California Public Employees' Retirement System and the City Council of the City of Berkeley
- 2: Ordinance of the City Council of the City of Berkeley Authorizing an Amendment to the Contract Between the City Council of the City of Berkeley and the Board of Administration of the California Public Employees' Retirement System  
**Exhibit A:** Amendment to Contract Between the Board of Administration of the California Public Employees' Retirement System and the City Council of the City of Berkeley
- 3: CalPERS Resolution of Intention
- 4: CalPERS Certification of Governing Body's Action
- 5: CalPERS Certification of Compliance with Government Code Section 7507
- 6: CalPERS Certificate of Compliance with Government Code Section 20516

RESOLUTION NO. XX,XXX

RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE CITY COUNCIL OF THE CITY OF BERKELEY

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change: To provide, pursuant to Section 20516 (Employees Sharing Additional Cost), for a reduction of 1% for new local miscellaneous members in the Unrepresented Employees group; the Service Employees International Union Local 1021 Maintenance and Clerical chapters; the Service Employees International Union Local 1021 Community Services & Part-Time Recreation Leaders Association chapter; and the Public Employees Union Local 1.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an exhibit and by this reference made a part hereof.



**EXHIBIT**

California  
Public Employees' Retirement System



**AMENDMENT TO CONTRACT**

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Berkeley



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective March 1, 1942, and witnessed January 30, 1942, and as amended effective September 1, 1947, April 1, 1949, January 1, 1952, May 1, 1954, March 1, 1956, August 1, 1959, November 1, 1961, June 29, 1962, December 1, 1962, April 1, 1963, August 1, 1963, October 1, 1964, October 16, 1965, November 16, 1968, March 1, 1973, December 16, 1973, December 1, 1974, July 22, 1976, May 25, 1978, July 9, 1978, January 2, 1983, October 28, 1983, July 18, 1986, June 26, 1988, June 30, 1992, November 28, 1996, October 15, 1998, November 6, 1998, April 9, 1999, April 14, 2000, July 14, 2000, December 22, 2000, July 7, 2002, January 5, 2003, June 13, 2003, December 28, 2012, July 3, 2016, November 6, 2016, January 1, 2017, December 31, 2017, April 17, 2022, and July 24, 2022, which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 20 are hereby stricken from said contract as executed effective July 24, 2022, and hereby replaced by the following paragraphs numbered 1 through 20 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members, age 62 for new local miscellaneous members, age 50 for classic local fire members and for those classic local police members entering membership in the police classification on or prior to December 28, 2012, age 55 for classic local police members entering membership for the first time in the police classification after December 28, 2012, and age 57 for new local safety members.
2. Public Agency shall participate in the Public Employees' Retirement System from and after March 1, 1942, making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
  - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
  - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
  - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

- a. Local Fire Fighters (herein referred to as local safety members);
  - b. Local Police Officers (herein referred to as local safety members);
  - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

- a. **PERSONS EMPLOYED JUNE 1, 1962, OR THEREAFTER IN THE FOLLOWING CLASSES IN THE RECREATION AND PARKS LIBRARY, AND FINANCE DEPARTMENTS:**

**ASSISTANT CAMP UTILITY MAN  
CAMP CLERK  
CAMP COUNSELOR  
CAMP NURSE  
CAMP SUPERVISOR  
CAMP UTILITY MAN  
CAMP RECREATION LEADER**

**COOK'S AIDE  
CHIEF COOK  
FIRST ASSISTANT COOK  
KITCHEN HELPER  
SECOND ASSISTANT COOK**

**DINING ROOM HELPER  
DINING ROOM SUPERVISOR**

**FIELD APPRAISER**

**LIBRARY PAGE I  
LIBRARY PAGE II**

**LIFEGUARD**

**ASSISTANT PLAYGROUND LEADER  
PLAYGROUND LEADER  
PLAYGROUND LEADER TRAINEE  
SENIOR PLAYGROUND LEADER**

**SPECIAL ACTIVITY LEADER;**

- b. **PERSONS EMPLOYED APRIL 1, 1963, OR THEREAFTER AS POLICE TRAINEES;**

- c. **PHYSICIANS EMPLOYED AFTER AUGUST 1, 1963, CLASSIFIED AS "PHYSICIANS" IN THE CITY'S POSITION ORDINANCE AS THAT ORDINANCE EXISTED ON AUGUST 1, 1963;**
  - d. **PERSONS COMPENSATED ON AN HOURLY BASIS WHO ENTER EMPLOYMENT WITH PUBLIC AGENCY ON OCTOBER 16, 1965, OR THEREAFTER; AND**
  - e. **EMPLOYEES WHO FIRST ENTERED PUBLIC AGENCY SERVICE PRIOR TO JANUARY 26, 1973, IN AN EMPLOYMENT IN WHICH THEY WERE ELIGIBLE FOR MEMBERSHIP IN ANY ONE OF THE PUBLIC AGENCY'S RETIREMENT SYSTEMS FOR SAFETY MEMBERS, AND WHO HAVE NOT EXECUTED AND FILED WITH THE PUBLIC AGENCY A WAIVER OF RIGHTS UNDER THE LOCAL SYSTEM DURING THE PERIOD PRESCRIBED, SUCH EXCLUSION SHALL APPLY WHETHER OR NOT THE EMPLOYEE REENTERS SERVICE OF THE PUBLIC AGENCY THEREAFTER.**
6. Those safety members in the local retirement system employed by Public Agency and who did not waive their rights under said local system were provided another opportunity to execute and file a waiver on or before October 28, 1983.
7. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
8. Public Agency and the Berkeley Redevelopment Agency have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Berkeley Redevelopment Agency, pursuant to Section 20567.6 of the Government Code. Such merger is effective as of August 1, 1977. Public Agency, by this contract, assumes the assets and liabilities accumulated under the former contract of the Berkeley Redevelopment Agency. Legislation repealed said Section effective January 1, 1988.
9. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment before and not on or after January 5, 2003, shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 5, 1957, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

10. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment on or after January 5, 2003, shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service on and after January 5, 1957, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Full).
12. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local fire member and for those classic local police members entering membership in the police classification on or prior to December 28, 2012, shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
13. The percentage of final compensation to be provided for each year of credited current service as a classic local police member entering membership for the first time in the police classification after December 28, 2012, shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
14. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
15. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members only.
  - b. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
  - c. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
  - d. Section 21222.1 (One-Time 5% Increase - 1970) for local miscellaneous members only. Legislation repealed said Section effective January 1, 1980.

- e. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
- f. Section 20042 (One-Year Final Compensation) for classic local miscellaneous members, classic local fire members and for those classic local police members entering membership on or prior to December 28, 2012.
- g. Section 20965 (Credit for Unused Sick Leave).
- h. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local police members only.
- i. Section 21548 (Pre-Retirement Option 2W Death Benefit) for local police members only.
- j. Section 21024 (Military Service Credit as Public Service).
- k. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service).
- l. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local fire members only.
- m. Section 20475 (Different Level of Benefits): Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local police members entering membership for the first time with this agency in the police classification after December 28, 2012.
- n. Section 20516 (Employees Sharing Additional Cost):
  - From and after July 3, 2016, 1.25% for local miscellaneous members in the International Brotherhood of Electrical Workers Local 1245.
  - From and after November 6, 2016, 8% for classic local miscellaneous members in the Public Employees Union Local 1.
  - From and after November 6, 2016, and until April 17, 2022, 8% for new local miscellaneous members in the Public Employees Union Local 1.
  - From and after January 1, 2017, 8% for classic local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.



From and after January 1, 2017, and until April 17, 2022, 8% for new local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after December 31, 2017, 8% for classic local miscellaneous members in the Unrepresented Employees group.

From and after December 31, 2017, and until April 17, 2022, 8% for new local miscellaneous members in the Unrepresented Employees group.

From and after December 31, 2017, 8% for classic local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after December 31, 2017, and until April 17, 2022, 8% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after April 17, 2022, and until July 24, 2022, 5% for new local miscellaneous members in the Public Employees Union Local 1.

From and after April 17, 2022, and until July 24, 2022, 5% for new local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after April 17, 2022, and until July 24, 2022, 7% for new local miscellaneous members in the Unrepresented Employees group.

From and after April 17, 2022, and until July 24, 2022, 7% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after July 24, 2022, and until the effective date of this amendment to contract, 1% for new local miscellaneous members in the Public Employees Union Local 1.

From and after July 24, 2022, and until the effective date of this amendment to contract, 1% for new local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after July 24, 2022, and until the effective date of this amendment to contract, 6% for new local miscellaneous members in the Unrepresented Employees group.

From and after July 24, 2022, and until the effective date of this amendment to contract, 6% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after the effective date of this amendment to contract, 5% for new local miscellaneous members in the Unrepresented Employees group.

From and after the effective date of this amendment to contract, 5% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

16. Public Agency, in accordance with Government Code Section 20834, shall not be considered an "employer" for purposes of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Government Code Section 20834, and such contributions hereafter made shall be held by the Board as provided in Government Code Section 20834.
17. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
18. Public Agency shall also contribute to said Retirement System as follows:
  - a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
  - b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

- 19. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
- 20. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF BERKELEY

BY \_\_\_\_\_  
MELODY BENAVIDES, CHIEF  
PENSION CONTRACTS AND PREFUNDING  
PROGRAMS DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

PLEASE DO NOT SIGN "EXHIBIT ONLY"

PLEASE DO NOT SIGN "EXHIBIT ONLY"

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk

ORDINANCE NO. #, ### N.S.

AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF BERKELEY AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

Section 1.

That an amendment to the contract between the City Council of the City of Berkeley and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit A, and by such reference made a part hereof as though herein set out in full.

Section 2.

The Mayor of the City of Berkeley City Council is hereby authorized, empowered, and directed to execute said amendment for, and on behalf of, said Agency.

Section 3.

This Ordinance shall take effect thirty (30) days after the date of its adoption. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



**EXHIBIT**

California  
Public Employees' Retirement System

---

**AMENDMENT TO CONTRACT**

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Berkeley

---

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective March 1, 1942, and witnessed January 30, 1942, and as amended effective September 1, 1947, April 1, 1949, January 1, 1952, May 1, 1954, March 1, 1956, August 1, 1959, November 1, 1961, June 29, 1962, December 1, 1962, April 1, 1963, August 1, 1963, October 1, 1964, October 16, 1965, November 16, 1968, March 1, 1973, December 16, 1973, December 1, 1974, July 22, 1976, May 25, 1978, July 9, 1978, January 2, 1983, October 28, 1983, July 18, 1986, June 26, 1988, June 30, 1992, November 28, 1996, October 15, 1998, November 6, 1998, April 9, 1999, April 14, 2000, July 14, 2000, December 22, 2000, July 7, 2002, January 5, 2003, June 13, 2003, December 28, 2012, July 3, 2016, November 6, 2016, January 1, 2017, December 31, 2017, April 17, 2022, and July 24, 2022, which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 20 are hereby stricken from said contract as executed effective July 24, 2022, and hereby replaced by the following paragraphs numbered 1 through 20 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members, age 62 for new local miscellaneous members, age 50 for classic local fire members and for those classic local police members entering membership in the police classification on or prior to December 28, 2012, age 55 for classic local police members entering membership for the first time in the police classification after December 28, 2012, and age 57 for new local safety members.
2. Public Agency shall participate in the Public Employees' Retirement System from and after March 1, 1942, making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
  - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
  - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
  - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

- a. Local Fire Fighters (herein referred to as local safety members);
  - b. Local Police Officers (herein referred to as local safety members);
  - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

- a. **PERSONS EMPLOYED JUNE 1, 1962, OR THEREAFTER IN THE FOLLOWING CLASSES IN THE RECREATION AND PARKS LIBRARY, AND FINANCE DEPARTMENTS:**

**ASSISTANT CAMP UTILITY MAN  
CAMP CLERK  
CAMP COUNSELOR  
CAMP NURSE  
CAMP SUPERVISOR  
CAMP UTILITY MAN  
CAMP RECREATION LEADER**

**COOK'S AIDE  
CHIEF COOK  
FIRST ASSISTANT COOK  
KITCHEN HELPER  
SECOND ASSISTANT COOK**

**DINING ROOM HELPER  
DINING ROOM SUPERVISOR**

**FIELD APPRAISER**

**LIBRARY PAGE I  
LIBRARY PAGE II**

**LIFEGUARD**

**ASSISTANT PLAYGROUND LEADER  
PLAYGROUND LEADER  
PLAYGROUND LEADER TRAINEE  
SENIOR PLAYGROUND LEADER**

**SPECIAL ACTIVITY LEADER;**

- b. **PERSONS EMPLOYED APRIL 1, 1963, OR THEREAFTER AS POLICE TRAINEES;**

- c. **PHYSICIANS EMPLOYED AFTER AUGUST 1, 1963, CLASSIFIED AS "PHYSICIANS" IN THE CITY'S POSITION ORDINANCE AS THAT ORDINANCE EXISTED ON AUGUST 1, 1963;**
  - d. **PERSONS COMPENSATED ON AN HOURLY BASIS WHO ENTER EMPLOYMENT WITH PUBLIC AGENCY ON OCTOBER 16, 1965, OR THEREAFTER; AND**
  - e. **EMPLOYEES WHO FIRST ENTERED PUBLIC AGENCY SERVICE PRIOR TO JANUARY 26, 1973, IN AN EMPLOYMENT IN WHICH THEY WERE ELIGIBLE FOR MEMBERSHIP IN ANY ONE OF THE PUBLIC AGENCY'S RETIREMENT SYSTEMS FOR SAFETY MEMBERS, AND WHO HAVE NOT EXECUTED AND FILED WITH THE PUBLIC AGENCY A WAIVER OF RIGHTS UNDER THE LOCAL SYSTEM DURING THE PERIOD PRESCRIBED, SUCH EXCLUSION SHALL APPLY WHETHER OR NOT THE EMPLOYEE REENTERS SERVICE OF THE PUBLIC AGENCY THEREAFTER.**
6. Those safety members in the local retirement system employed by Public Agency and who did not waive their rights under said local system were provided another opportunity to execute and file a waiver on or before October 28, 1983.
7. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
8. Public Agency and the Berkeley Redevelopment Agency have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Berkeley Redevelopment Agency, pursuant to Section 20567.6 of the Government Code. Such merger is effective as of August 1, 1977. Public Agency, by this contract, assumes the assets and liabilities accumulated under the former contract of the Berkeley Redevelopment Agency. Legislation repealed said Section effective January 1, 1988.
9. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment before and not on or after January 5, 2003, shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 5, 1957, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).



10. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment on or after January 5, 2003, shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service on and after January 5, 1957, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Full).
12. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local fire member and for those classic local police members entering membership in the police classification on or prior to December 28, 2012, shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
13. The percentage of final compensation to be provided for each year of credited current service as a classic local police member entering membership for the first time in the police classification after December 28, 2012, shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
14. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
15. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members only.
  - b. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
  - c. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
  - d. Section 21222.1 (One-Time 5% Increase - 1970) for local miscellaneous members only. Legislation repealed said Section effective January 1, 1980.

- e. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
- f. Section 20042 (One-Year Final Compensation) for classic local miscellaneous members, classic local fire members and for those classic local police members entering membership on or prior to December 28, 2012.
- g. Section 20965 (Credit for Unused Sick Leave).
- h. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local police members only.
- i. Section 21548 (Pre-Retirement Option 2W Death Benefit) for local police members only.
- j. Section 21024 (Military Service Credit as Public Service).
- k. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service).
- l. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local fire members only.
- m. Section 20475 (Different Level of Benefits): Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local police members entering membership for the first time with this agency in the police classification after December 28, 2012.
- n. Section 20516 (Employees Sharing Additional Cost):
  - From and after July 3, 2016, 1.25% for local miscellaneous members in the International Brotherhood of Electrical Workers Local 1245.
  - From and after November 6, 2016, 8% for classic local miscellaneous members in the Public Employees Union Local 1.
  - From and after November 6, 2016, and until April 17, 2022, 8% for new local miscellaneous members in the Public Employees Union Local 1.
  - From and after January 1, 2017, 8% for classic local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after January 1, 2017, and until April 17, 2022, 8% for new local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after December 31, 2017, 8% for classic local miscellaneous members in the Unrepresented Employees group.

From and after December 31, 2017, and until April 17, 2022, 8% for new local miscellaneous members in the Unrepresented Employees group.

From and after December 31, 2017, 8% for classic local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after December 31, 2017, and until April 17, 2022, 8% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after April 17, 2022, and until July 24, 2022, 5% for new local miscellaneous members in the Public Employees Union Local 1.

From and after April 17, 2022, and until July 24, 2022, 5% for new local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after April 17, 2022, and until July 24, 2022, 7% for new local miscellaneous members in the Unrepresented Employees group.

From and after April 17, 2022, and until July 24, 2022, 7% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after July 24, 2022, and until the effective date of this amendment to contract, 1% for new local miscellaneous members in the Public Employees Union Local 1.

From and after July 24, 2022, and until the effective date of this amendment to contract, 1% for new local miscellaneous members in the Service Employees International Union Local 1021 - Community Services & Part-Time Recreation Leaders Association.

From and after July 24, 2022, and until the effective date of this amendment to contract, 6% for new local miscellaneous members in the Unrepresented Employees group.

From and after July 24, 2022, and until the effective date of this amendment to contract, 6% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

From and after the effective date of this amendment to contract, 5% for new local miscellaneous members in the Unrepresented Employees group.

From and after the effective date of this amendment to contract, 5% for new local miscellaneous members in the Service Employees International Union Local 1021 - Maintenance and Clerical Chapters.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

16. Public Agency, in accordance with Government Code Section 20834, shall not be considered an "employer" for purposes of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Government Code Section 20834, and such contributions hereafter made shall be held by the Board as provided in Government Code Section 20834.
17. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
18. Public Agency shall also contribute to said Retirement System as follows:
  - a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
  - b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

- 19. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
- 20. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF BERKELEY

BY \_\_\_\_\_  
MELODY BENAVIDES, CHIEF  
PENSION CONTRACTS AND PREFUNDING  
PROGRAMS DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

PLEASE DO NOT SIGN "EXHIBIT ONLY"

PLEASE DO NOT SIGN "EXHIBIT ONLY"

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk

**RESOLUTION OF INTENTION  
TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
AND THE  
CITY COUNCIL  
CITY OF BERKELEY**

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20516 (Employees Sharing Additional Cost) of a reduction of 1% for new local miscellaneous members in the Public Employees Union Local 1, Service Employees International Union Local 1021 - Community Service & Part-Time Recreation Leaders Association, Service Employees International Union Local 1021 - Maintenance and Clerical Chapters, and the Unrepresented Employees group.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: \_\_\_\_\_  
Presiding Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date adopted and approved  
(Amendment)  
CON-302 (Rev. 3/9/2016 rc)



California Public Employees' Retirement System  
Financial Office | Pension Contracts and Prefunding Programs Division  
P.O. Box 942703, Sacramento, CA 94229-2703  
888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442 | www.calpers.ca.gov

**Certification of Governing Body's Action**

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the

**City Council**

\_\_\_\_\_ of the

(governing body)

**City of Berkeley**

\_\_\_\_\_ (public agency)

on \_\_\_\_\_.

(date)

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title



California Public Employees' Retirement System  
Financial Office | Pension Contracts and Prefunding Programs Division  
P.O. Box 942703, Sacramento, CA 94229-2703  
888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442 | www.calpers.ca.gov

**Certification of Compliance with  
Government Code Section 7507**

I hereby certify that in accordance with Government Code section 7507, the future annual costs as determined by the California Public Employees' Retirement System for the increase or change in retirement benefit(s) have been made public at a public meeting of the \_\_\_\_\_ of the \_\_\_\_\_

(governing body)

(public agency)

on \_\_\_\_\_ which is at least two weeks prior to the adoption of the Resolution /  
(date)

Ordinance. Adoption of the retirement benefit increase or change will not be placed on the consent calendar.

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title

Date \_\_\_\_\_





California Public Employees' Retirement System  
Financial Office | Pension Contracts and Prefunding Programs Division  
P.O. Box 942703, Sacramento, CA 94229-2703  
888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442 | www.calpers.ca.gov

**Certification of Compliance with  
Government Code Section 20516**

I hereby certify that in accordance with Government Code section 20516 the City of Berkeley  
and its new local miscellaneous employees have agreed in writing to the following:

Section 20516 (Employees Sharing Additional Cost) of a reduction of 1%  
for new local miscellaneous members in the Public Employees Union  
Local 1, Service Employees International Union Local 1021 - Community  
Service & Part-Time Recreation Leaders Association, Service Employees  
International Union Local 1021 - Maintenance and Clerical Chapters, and  
the Unrepresented Employees group.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date





Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 13, 2023

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$650,000.

| <u>PROJECT</u>  | <u>Fund</u> | <u>Source</u>      | <u>Amount</u>    |
|---|-------------|--------------------|------------------|
| Community Relationship Management System (CRM)  | 680         | IT Cost Allocation | \$450,000        |
| Underground Diesel Storage Tank and Piping Removal and Installation of Aboveground Tank | 601         | Zero Waste         | \$200,000        |
| <b>Total:</b>   |             |                    | <b>\$650,000</b> |

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager’s purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on June 13, 2023

CONSENT CALENDAR  
June 13, 2023

upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Darryl Sweet, General Services Manager, Finance, 510-981-7329

Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 25, 2023
  - a. Community Relationship Management System (CRM)
  - b. Underground Diesel Storage Tank and Piping Removal and Installation of Aboveground Tank

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

DATE SUBMITTED: June 13, 2023

| SPECIFICATION NO.  | DESCRIPTION OF GOODS / SERVICES BEING   | APPROX. RELEASE DATE | APPROX. BID OPENING DATE | INTENDED USE  | ESTIMATED COST   | BUDGET CODE TO BE CHARGED  | DEPT. / DIVISION                              | CONTACT NAME & PHONE   |
|--------------------|---|----------------------|--------------------------|---|------------------|--|---|--|
| 23-11606-C         | Community Relationship Management System (CRM)  | 6/1/2023             | 7/15/2023                | Software for an updated CRM system  | \$ 450,000.00    | 350k: 680-35-364-000-0000-000-472-613130<br>100k: 680-35-364-000-0000-000-472-612990 | Information Technology / Customer Service 311 | Kathy Cassidy 510.981.6543<br>Barry Jennings 510.981.6532                          |
| <b>DEPT. TOTAL</b> |   |                      |                          |   | <b>\$450,000</b> |  |   |  |
| 23-11607-C         | Underground Diesel Storage Tank and Piping Removal and Installation of Aboveground Tank | 6/1/23               | 7/1/2023                 | Permitting, Site Mobilization/Demobilization, Remove 2 underground storage tanks, associated piping, and two pump stations, Excavate Impacted Soil, Site Restoration, Perform environmental soil, sidewall(s) and bottom of tank sampling and analytical testing and perform groundwater sampling if encountered and analytical testing to laboratory, installation of new aboveground fuel tank and corresponding dispenser, Draft and Final UST Removal Report and obtain City of Berkeley closure approval | \$ 200,000.00    | 601-54-627-734-3023-000-472-612990-  | Public Works / Operations / Zero Waste        | Robert Hernandez 510-981-6644<br>Uriel Gonzalez 510-981-<br>Joy Brown 510-981-6629 |
| <b>DEPT. TOTAL</b> |   |                      |                          |   | <b>\$200,000</b> |  |   |  |
| <b>TOTAL</b>       |   |                      |                          |   | <b>\$650,000</b> |  |   |  |





Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 Subject: Temporary Appropriations FY 2024

#### RECOMMENDATION

Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2023, until the effective date of the FY 2024 Annual Appropriations Ordinance.

#### FISCAL IMPACTS OF RECOMMENDATION

The financial implications are already stated in the Annual Appropriations Ordinance.

#### CURRENT SITUATION AND ITS EFFECTS

A temporary appropriation of funds is required to permit expenditures until the effective date of the Annual Appropriation Ordinance, which occurs 30 days after the second reading. Section 54, Article X of the Charter of the City of Berkeley authorizes such temporary appropriations.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

#### BACKGROUND

The budget is scheduled for adoption on June 27, 2023, and the Annual Appropriations Ordinance is to be passed on the same day with a required second reading on July 11 2023. A temporary appropriation of funds is required to permit expenditures until the effective date of the Annual Appropriations Ordinance, which occurs approximately 30 days after the second reading (i.e., August 12). The sum appropriated, when expended, shall be chargeable to the Annual Appropriations Ordinance for FY 2024 when the budget has been adopted, and said Ordinance has been passed.

#### CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7326

Attachments:  
1: Resolution

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

AUTHORIZING A TEMPORARY APPROPRIATION FOR PAYROLL AND OTHER EXPENSES FROM JULY 1, 2023 UNTIL THE EFFECTIVE DATE OF THE FISCAL YEAR 2023 ANNUAL APPROPRIATIONS ORDINANCE

WHEREAS, the City Charter of the City of Berkeley grants authority to the City Council to annually adopt an appropriations ordinance, to pay the expenses of conducting the business of City government for the next ensuing fiscal year; and

WHEREAS, the Annual Appropriations Ordinance to be passed on June 27, 2023 will not be effective earlier than August 12, 2023.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that \$50,000,000 be appropriated from available funds for payroll and other expenses from July 1, 2023 until the effective date of the FY 2024 Annual Appropriations Ordinance, chargeable to the appropriations for FY 2024.

BE IT FURTHER RESOLVED that it is the purpose and intent of this Resolution to make available funds as provided by Section 54, Article X, of the Charter of the City of Berkeley pending final adoption of the Annual Appropriations Ordinance for FY 2024.

BE IT FURTHER RESOLVED that the sum hereby appropriated shall, when expended, be chargeable to the appropriations of said fiscal year, when said Ordinance has been finally passed and adopted.

BE IT FURTHER RESOLVED that temporary inter-fund transfers be made as necessary to make funds available to carry out said purposes and intent of this resolution pending final adoption of said Ordinance.





Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Henry Oyekanmi, Director, Finance Department  
Subject: FY 2024 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0250%.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended 0.0250% will result in estimated collections of \$4,600,000. This amount will be sufficient to make the debt service payments on the 2020 Series A and 2022 Series B Bonds with debt service due March 1, 2024 and September 1, 2024.

CURRENT SITUATION AND ITS EFFECTS

The 0.0250% tax rate for FY 2024 being set by the City Council is based on the debt service of the Series A and Series B Bonds, the estimated FY 2024 assessed values for all rolls (secured, unsecured and utility), a delinquency reserve of 5%, and the surplus remaining in the fund. Since Alameda County does not release final assessed value figures until early August, the City is using preliminary values. Staff is confident that the preliminary values will not be materially different from the County's final figure. The City must establish a tax rate that will be sufficient to make debt service payments even if there are unusual levels of delinquency.

Because all taxes collected from the general obligation levy will be deposited in a special fund, and collections not used to pay debt service for the FY 2024 bond year will be retained in the fund to pay future obligations, the tax impact of any over-collection will be credited against future debt service payments and the required levy.

It is recommended that the City Council authorize a FY 2024 tax rate of 0.0250% which will result in the following cost to the average homeowner during FY 2024:

| Annual Tax     |             |             |
|----------------|-------------|-------------|
| Assessed Value | FY 2023 Tax | FY 2024 Tax |
| \$150,000      | \$30.00     | \$37.50     |
| 250,000        | 50.00       | 62.50       |
| 300,000        | 60.00       | 75.00       |
| 400,000        | 80.00       | 100.00      |
| 500,000        | 100.00      | 125.00      |
| 600,000        | 120.00      | 150.00      |
| 700,000        | 140.00      | 175.00      |
| 800,000        | 160.00      | 200.00      |
| 900,000        | 180.00      | 225.00      |
| 1,000,000      | 200.00      | 250.00      |

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

BACKGROUND

In November 2018, the residents of Berkeley voted for and approved Ballot Measure O, for the sum of \$135,000,000 of General Obligation Bonds to create and preserve affordable housing for low-income households, working families, and individuals including teachers, seniors, veterans, the homeless, and persons with disabilities.

The first series of bonds was issued in April 2020. The second series was issued in May 2022.

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 510-981-7326

Attachments:

- 1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2024 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE AFFORDABLE HOUSING GENERAL OBLIGATION BONDS (MEASURE O, NOVEMBER 2018 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2024 tax rate for debt service on the General Obligation Bonds is set at 0.0250%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2024 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$4,600,000 needed to make the March 1, 2024 and September 1, 2024 debt service payments on the proposed General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.





Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 David Sprague, Interim Fire Chief, Fire Department  
 Subject: FY 2024 Tax Rate: Fund Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF) in the City of Berkeley at the annual tax rate of \$0.1176 (11.76 cents) per square foot of improvements.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy rate of the recommended \$0.1176 per square foot of improvements is projected to yield approximately \$9,770,233 in revenues.

CURRENT SITUATION AND ITS EFFECTS

The FY 2023 tax rate of \$0.1126 is being adjusted by the Personal Income Growth of 4.440% based on Berkeley Municipal Code 7.83.020 as adopted by the City Council under Ordinance No. 7,745-N.S. on June 16, 2020. Measure FF is a special parcel tax for firefighting, emergency medical response and wildfire prevention that limits the annual tax rate based on the greater of the increase in the cost of living in the immediate San Francisco Bay Area or per capita personal income growth in California. It is estimated that the tax will cost taxpayers the following amounts for FY 2024, as compared with FY 2023:

| Square Feet | FY 2023   | FY 2024   |
|-------------|-----------|-----------|
| 1,200       | \$ 135.12 | \$ 141.12 |
| 1,500       | 168.90    | 176.40    |
| 1,900       | 213.94    | 223.44    |
| 3,000       | 337.80    | 352.80    |
| 3,900       | 439.14    | 458.64    |
| 10,000      | 1,126.00  | 1,176.00  |

BACKGROUND

Measure FF authorized a special parcel tax for the purpose of funding firefighter and emergency medical response, upgrades to the 9-1-1 dispatch system, hazard mitigation, and wildfire prevention and preparedness activities.

In 2008, voters passed Measure GG to stop fire stations from being closed and services from being reduced, in the context of a major economic downturn. Measure GG designated the Disaster and Fire Safety Commission a formal oversight role, the duties of which are replicated, with respect to Measure FF, through the passage of this Council item.

Now, with rising challenges from climate change and fires, bigger demands on our emergency services, and the worst economic downturn since the Great Depression, Measure FF was placed on the November 2020 ballot by a unanimous vote of the City Council and it was approved by voters, to provide funds to modernize the City's 9-1-1 dispatch system, upgrade equipment, hire additional paramedics, improve emergency alert systems and continue to clear fire fuels, among other things.

The effective date for this tax was January 1, 2021. The City will raise approximately \$9,770,233 for FY 2024.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, (510) 981-7326  
David Sprague, Interim Fire Chief, (510) 981-5500

Attachments:  
1: Ordinance

ORDINANCE NO. #,###-N.S.

SETTING THE FISCAL YEAR 2024 SPECIAL TAX RATE TO FUND FIREFIGHTING, EMERGENCY MEDICAL RESPONSE AND WILDFIRE PREVENTION (MEASURE FF) IN THE CITY OF BERKELEY

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

Section 1. The FY 2024 tax rate to provide for the costs incurred for the firefighting, emergency medical response and wildfire prevention (Measure FF) is set at 0.1176 per square foot of improvements.

Section 2. The cost to taxpayers during FY 2024 will be \$141.12 for a 1,200 square foot dwelling and \$352.80 for a 3,000 square foot dwelling.

Section 3. This tax rate will result in estimated total collections of \$9,770,233.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.







Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2024 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0050%.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended 0.0050% will result in estimated collections of \$1,350,000. This amount (along with existing funds on hand) is sufficient to make the debt service payments on March 1, 2024 and September 1, 2024.

CURRENT SITUATION AND ITS EFFECTS

The 0.0050% tax rate for FY 2024 being set by the City Council is based on the debt service, the estimated FY 2024 assessed values for all rolls (secured, unsecured and utility), a delinquency reserve of 5%, and the surplus remaining in the fund. Since Alameda County does not release final assessed value figures until early August, the City is using preliminary values. Staff is confident that the preliminary values will not be materially different from the County's final figure. The City must establish a tax rate that will be sufficient to make debt service payments even if there are unusual levels of delinquency. The tax rate in FY 2024 is a decrease in the rate charged in FY 2023.

Because all taxes collected from the general obligation levy will be deposited in a special fund, and collections not used to pay debt service for the FY 2024 bond year will be retained in the fund to pay future obligations, the tax impact of any over-collection will be credited against future debt service payments and the required levy.

It is recommended that the City Council authorize a FY 2024 tax rate of 0.0050% which will result in the following cost to the average homeowner during FY 2023:

2024 Tax Rate: Fund Debt Service on Neighborhood  
Branch Library Improvements Project General Obligation  
Bonds (Measure FF, November 2008 Election)

CONSENT CALENDAR  
June 13, 2023

| Annual Tax     |             |             |
|----------------|-------------|-------------|
| Assessed Value | FY 2023 Tax | FY 2024 Tax |
| \$150,000      | \$8.70      | \$7.50      |
| 250,000        | 14.50       | 12.50       |
| 300,000        | 17.40       | 15.00       |
| 400,000        | 23.20       | 20.00       |
| 500,000        | 29.00       | 25.00       |
| 600,000        | 34.80       | 30.00       |
| 700,000        | 40.60       | 35.00       |
| 800,000        | 46.40       | 40.00       |
| 900,000        | 52.20       | 45.00       |
| 1,000,000      | 58.00       | 50.00       |

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

BACKGROUND

In November 2008, the residents of Berkeley voted for and approved Ballot Measure FF, in the sum of \$26,000,000 of General Obligation Bonds to renovate, expand, and make seismic and access improvements at the four neighborhood branch libraries (excluding the Central Library).

The indebtedness on the total bonds issued of \$26,000,000 is payable solely from the levy of an ad valorem tax against taxable property in the City. The proceeds of the bonds were used to renovate, expand, and make seismic and access improvements at the four neighborhood branch libraries (excluding the Central Library).

\$10,000,000 of the \$26,000,000 in authorized bonds were issued in 2009, and the remaining \$16,000,000 of bonds were issued in 2010. The tax rate above reflects the debt service payments for the fiscal year.

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 510-981-7326

Attachments:

- 1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FY 2024 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE NEIGHBORHOOD BRANCH LIBRARY IMPROVEMENTS PROJECT GENERAL OBLIGATION BONDS (MEASURE FF, NOVEMBER 2008 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2024 tax rate for the debt service on the General Obligation Bonds is set at 0.0050%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2024 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$1,350,000 needed to make the March 1, 2024 and September 1, 2024 debt service payments on the outstanding General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.





Office of the City Manager

CONSENT CALENDAR

June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 Subject: FY 2024 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0115%.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended 0.0115% will result in estimated collections of \$3,100,000. This amount (along with existing funds on hand) is sufficient to make the debt service payments on March 1, 2024 and September 1, 2024.

CURRENT SITUATION AND ITS EFFECTS

The 0.0115% tax rate for FY 2024 being set by the City Council is based on the current debt service, the estimated FY 2024 assessed values for all rolls (secured, unsecured, and utility), a delinquency reserve of 5%, and the surplus remaining in the fund. Since Alameda County does not release final assessed value figures until early August, the City is using preliminary values. Staff is confident that the preliminary values will not be materially different from the County's final figure. The City must establish a tax rate that will be sufficient to make debt service payments even if there are unusual levels of delinquency. The tax rate in FY 2024 is a decrease in the rate charged in FY 2023.

Because all taxes collected from the general obligation levy will be deposited in a special fund, and collections not used to pay debt service for the FY 2024 bond year will be retained in the fund to pay future obligations, the tax impact of any over-collection will be credited against future debt service payments and the required levy.

It is recommended that the City Council authorize a FY 2024 tax rate of 0.0115% which will result in the following cost to the average homeowner during FY 2024:

| Annual Tax     |             |             |
|----------------|-------------|-------------|
| Assessed Value | FY 2023 Tax | FY 2024 Tax |
| \$150,000      | \$19.50     | \$17.25     |
| 250,000        | 32.50       | 28.75       |
| 300,000        | 39.00       | 34.50       |
| 400,000        | 52.00       | 46.00       |
| 500,000        | 65.00       | 57.50       |
| 600,000        | 78.00       | 69.00       |
| 700,000        | 91.00       | 80.50       |
| 800,000        | 104.00      | 92.00       |
| 900,000        | 117.00      | 103.50      |
| 1,000,000      | 130.00      | 115.00      |

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

There are no identifiable environmental effects or opportunities associated with the subject of this report.

**BACKGROUND**

**Measure G**

On November 3, 1992, the voters of the City of Berkeley approved the incurring of bonded indebtedness for fire safety and seismic improvements to emergency facilities (Measure G). This indebtedness was not to exceed an aggregate principal amount of \$55,000,000. The Series A Bonds in the amount of \$8,000,000 were issued on June 1, 1993; Series B Bonds in the amount of \$14,000,000 were issued on July 25, 1995; and Series C bonds in the amount of \$10,500,000 were issued on July 1, 1997.

The indebtedness on the total bonds issued of \$32,500,000 is payable solely from the levy of an ad valorem tax against taxable property in the City. The proceeds of the bonds were used to pay for, among other things, “repairing and seismic retrofitting of existing fire stations, the Public Safety Building, which contains the City communication center, and the Emergency Operations Center (EOC).”

On November 1, 2002, the City issued \$17,865,000 in General Obligation refunding bonds to refund the 1993 Measure G (Series A) and 1995 Measure G (Series B) General Obligation bonds. In May 2007, the City issued \$4,340,000 in refunding bonds to refund the 1997 Measure G, (Series C) General Obligation bonds.

### Measure S

On November 5, 1996, the voters of the City of Berkeley approved incurring a total of \$49,000,000 bonded indebtedness to ensure the safety of its public and employees and to revitalize downtown.

The indebtedness is payable solely from the levy of an *ad valorem* tax against taxable property in the City. The proceeds were used to restore, expand and make the Main Library earthquake-safe and improve disabled access to it; to internally retrofit and increase disabled accessibility to Martin Luther King Jr., Civic Center Building; and to install landscaping, street improvements, street lighting, and other related capital improvements within the downtown area of Berkeley.

On June 4, 1997 Series A Bonds in the amount of \$10,000,000 were issued; on December 1, 1998 Series B Bonds in the amount of \$25,000,000 were issued; and on August 1, 1999 Series C Bonds in the amount of \$14,000,000 were issued. In May 2007, the City issued \$41,245,000 in refunding bonds to refund the 1997, 1998, and 1999 Measure S (Series A, B, and C) General Obligation bonds.

### Measure I

In November 2002, the residents of Berkeley voted for and approved Ballot Measure I, in the sum of \$7,200,000 of General Obligation Bonds to acquire property, if necessary, and to construct or rehabilitate a building for an animal shelter that meets the requirements of state law.

The indebtedness on the total bonds issued of \$7,200,000 is payable solely from the levy of an *ad valorem* tax against taxable property in the City. The proceeds of the bonds were used to acquire property, and to construct a building for an animal shelter that meets the requirements of state law.

The General Obligation Bonds in the amount of \$7,200,000 were issued on January 9, 2008.

All bonds were consolidated in a refinancing completed on July 15, 2015, including the issuance of \$36,680,000 in general obligation refunding bonds.

The tax rate above reflects the debt service payments for the fiscal year.

### CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 510-981-7326

Attachments:  
1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FY 2024 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE  
2015 REFUNDING GENERAL OBLIGATION BONDS

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

Section 1. The FY 2024 Tax Rate for the debt service on the 2015 Refunding General Obligation Bonds - Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0115%.

Section 2. The Tax Rate will be based on estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2024 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$3,100,000 needed to make the March 1, 2024 and September 1, 2024 debt service payments on Refunding General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.





Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 Subject: FY 2024 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0140%.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended 0.0140% will result in estimated collections of \$3,800,000. This amount will be sufficient to make the debt service payments on the 2017 Series A and 2021 Series B Bonds with debt service on March 1, 2024 and September 1, 2024.

CURRENT SITUATION AND ITS EFFECTS

The 0.0140% tax rate for FY 2024 being set by the City Council is based on the current debt service of the Series A and Series B Bonds, the estimated FY 2024 assessed values for all rolls (secured, unsecured and utility), a delinquency reserve of 5%, and the surplus remaining in the fund. Since Alameda County does not release final assessed value figures until early August, the City is using preliminary values. Staff is confident that the preliminary values will not be materially different from the County's final figure. The City must establish a tax rate that will be sufficient to make debt service payments even if there are unusual levels of delinquency. The tax rate in FY 2024 is a decrease in the rate charged in FY 2023.

Because all taxes collected from the general obligation levy will be deposited in a special fund, and collections not used to pay debt service for the FY 2024 bond year will be retained in the fund to pay future obligations, the tax impact of any over-collection will be credited against future debt service payments and the required levy.

It is recommended that the City Council authorize a FY 2024 tax rate of 0.0140% which will result in the following cost to the average homeowner during FY 2024:

| Annual Tax     |             |             |
|----------------|-------------|-------------|
| Assessed Value | FY 2023 Tax | FY 2024 Tax |
| \$150,000      | \$24.00     | \$21.00     |
| 250,000        | 40.00       | 35.00       |
| 300,000        | 48.00       | 42.00       |
| 400,000        | 64.00       | 56.00       |
| 500,000        | 80.00       | 70.00       |
| 600,000        | 96.00       | 84.00       |
| 700,000        | 112.00      | 98.00       |
| 800,000        | 128.00      | 112.00      |
| 900,000        | 144.00      | 126.00      |
| 1,000,000      | 160.00      | 140.00      |

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

BACKGROUND

In November 2016, the residents of Berkeley voted for and approved Ballot Measure T1, for the sum of \$100,000,000 of General Obligation Bonds to make infrastructure and facility improvements. The pace of financing and tax rate will be determined based on the overall growth of the City’s assessed value and the total outstanding general obligation bond debt service such that the total combined tax rate (for general obligation bond repayment will not exceed 0.0492% which represents the 10-year historical tax rate as of June 2016).

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 510-981-7326

Attachments:

- 1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2024 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE INFRASTRUCTURE AND FACILITIES IMPROVEMENTS GENERAL OBLIGATION BONDS (MEASURE T1, NOVEMBER 2016 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2024 tax rate for debt service on the General Obligation Bonds is set at 0.0140%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2024 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$3,800,000 needed to make the March 1, 2024 and September 1, 2024 debt service payments on the proposed General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.





Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2024 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0065%.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended 0.0065% will result in estimated collections of \$1,800,000. This amount (along with existing funds on hand) is sufficient to make the debt service payments on March 1, 2024 and September 1, 2024.

CURRENT SITUATION AND ITS EFFECTS

The 0.0065% tax rate for FY 2024 being set by the City Council is based on the current debt service, the estimated FY 2024 assessed values for all rolls (secured, unsecured and utility), a delinquency reserve of 5%, and the surplus remaining in the fund. Since Alameda County does not release final assessed value figures until early August, the City is using preliminary values. Staff is confident that the preliminary values will not be materially different from the County's final figure. The City must establish a tax rate that will be sufficient to make debt service payments even if there are unusual levels of delinquency. The tax rate in FY 2024 is a decrease in the rate charged in FY 2023.

Because all taxes collected from the general obligation levy will be deposited in a special fund, and collections not used to pay debt service for the FY 2024 bond year will be retained in the fund to pay future obligations, the tax impact of any over-collection will be credited against future debt service payments and the required levy.

It is recommended that the City Council authorize a FY 2024 tax rate of 0.0065% which will result in the following cost to the average homeowner during FY 2024:

| Annual Tax     |             |             |
|----------------|-------------|-------------|
| Assessed Value | FY 2023 Tax | FY 2024 Tax |
| \$150,000      | \$11.25     | \$9.75      |
| 250,000        | 18.75       | 16.25       |
| 300,000        | 22.50       | 19.50       |
| 400,000        | 30.00       | 26.00       |
| 500,000        | 37.50       | 32.50       |
| 600,000        | 45.00       | 39.00       |
| 700,000        | 52.50       | 45.50       |
| 800,000        | 60.00       | 52.00       |
| 900,000        | 67.50       | 58.50       |
| 1,000,000      | 75.00       | 65.00       |

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

There are no identifiable environmental effects or opportunities associated with the subject of this report.

**BACKGROUND**

In November 2012, the residents of Berkeley voted for and approved Ballot Measure M, for the sum of \$30,000,000 of General Obligation Bonds to accelerate street repaving and rehabilitation consistent with the 5-Year Street Rehabilitation Plan, integrating green infrastructure to the extent feasible. Green infrastructure includes but is not limited to: (a) surface level bio-retention measures (rain gardens, swales, bio-retention cells, permeable paving, etc.) within the parking strip, planter area of sidewalks, red zone curb-extensions, and in street medians as feasible; and (b) large underground storage pipes, which would fill during storm events and then discharge metered flows into the existing storm drain pipelines.

\$15,000,000 of the \$30,000,000 in authorized bonds were issued in 2014, and the remaining \$15,000,000 of bonds were issued in 2016. The tax rate above reflects the debt service payments for the fiscal year.

**CONTACT PERSON**

Henry Oyekanmi, Director, Finance Department, 510-981-7326

Attachments:

- 1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2024 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE STREET AND WATERSHED IMPROVEMENTS GENERAL OBLIGATION BONDS (MEASURE M, NOVEMBER 2012 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2024 tax rate for debt service on the General Obligation Bonds is set at 0.0065%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2024 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$1,800,000 needed to make the March 1, 2024 and September 1, 2024 debt service payments on the outstanding General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.







Office of the City Manager

CONSENT CALENDAR

June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2024 Tax Rate: Business License Tax on Large Non-Profits

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2024 tax rate for Business License Tax on large non-profits at \$0.7909 (79.09 cents) per square foot of improvements.

FISCAL IMPACTS OF RECOMMENDATION

The increase in the tax rate from \$0.7573 (75.73 cents) per square foot of improvements in FY 2023 to \$0.7909 (79.09 cents) per square foot of improvements in FY 2024, based on the Personal Income Growth (PIG) of 4.440% will result in estimated total collections of approximately \$570,648 from \$548,766 in FY 2023.

CURRENT SITUATION AND ITS EFFECTS

The non-profit organizations with over 120,000 square feet of business improvements were taxed at a rate of \$0.7573 (75.73 cents) in FY 2023, as approved by the voters with Measure S on November 2, 2010. That measure also approved the indexing of tax for inflation, based on the higher of Personal Income Growth or the Consumer Price Index in May. The PIG reported on May 2, 2023 was 4.440% while the CPI reported on May 10, 2023 by the U.S. Department of Labor's Bureau of Labor Statistics was 4.192%.

BACKGROUND

In 1994, the voters of California adopted Article XIII, Section 26 of the California Constitution, which prohibits local governments from taxing non-profit organizations based on their gross receipts. Prior to this date, the City's business license tax ordinance had imposed a gross receipts tax on non-profit organizations, which raised approximately \$250,000 per year. Article XIII, Section 26 does not prohibit local agencies from taxing non-profit organizations on bases other than gross receipts. On November 3, 1998, the voters approved Measure G with over 61% of the votes cast. Measure G amended the City's business license tax ordinance to impose a charge of \$0.51 (51 cents) on the square footage of business improvements over the first 120,000 square feet, and would be indexed for inflation annually for the following year in May, by the greater of the increase in the cost of living in the immediate San Francisco Bay Area or per capita personal income growth in the state, as verified by official United States Bureau of Labor Statistics.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7326

Attachments:

1: Ordinance

ORDINANCE NO. - N.S.

SETTING THE FY 2024 MUNICIPAL TAX RATE FOR THE CITY OF BERKELEY FOR  
BUSINESS LICENSE TAX ON LARGE NON-PROFITS

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

Section 1. The rate of tax for the FY 2024 business license tax on large non-profits is as follows:

\$0.7909 per square foot of improvements over 120,000 square feet

Section 2. This tax rate will result in estimated total collections of \$570,648.

Section 3. This Ordinance shall take effect and be in full force from and after its final passage.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.





Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Henry Oyekanmi, Director, Finance Department  
Subject: FY 2024 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.2130 (21.30 cents) per square foot of improvements.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended \$0.2130 per square footage will result in estimated collections of \$17,664,146 for the Park Tax Fund. The increase in the tax rate of \$0.0091 per square foot will result in a \$17.29 annual increase for the citywide average 1900 square foot home.

CURRENT SITUATION AND ITS EFFECTS

The FY 2023 tax of \$0.2039 is being adjusted by the Personal Income Growth of 4.440% as authorized on November 3, 2020, by voter approved Measure LL as the voters approved the greater of the Consumer Price Index in the immediate San Francisco Bay Area of 4.192% or Personal Income Growth increase in California of 4.440%.

It is recommended that City Council authorize the levy of a special tax of \$0.2130 per square foot of all improvements in the City of Berkeley. The tax will result in a cost to taxpayers in the following average amounts during FY 2024, as compared with the amounts for FY 2023:

| Square Feet | Annual Tax |          |
|-------------|------------|----------|
|             | FY 2023    | FY 2024  |
| 1,200       | \$244.68   | \$255.60 |
| 1,500       | 305.85     | 319.50   |
| 1,900       | 387.41     | 404.70   |
| 3,000       | 611.70     | 639.00   |
| 3,900       | 795.21     | 830.70   |
| 10,000      | 2,039.00   | 2,130.00 |

BACKGROUND

On May 6, 1997, the voters of the City of Berkeley approved a special tax solely to provide funding for the direct cost of acquisition and maintenance of improvements related to parks and landscaping in the City of Berkeley. As a result of the requirements of State Proposition 218, this special tax replaced the annual revenue previously generated by the Citywide Landscape Assessment District.

The tax may be increased or decreased annually in May, according to the greater of the increase or decrease in the cost of living in the immediate San Francisco Bay Area or personal income growth in the state of California, as verified by official United States economic reports.

On November 3, 2020, over 81% of Berkeley voters approved Measure LL to re-authorize the City, for a period of four (4) years through FY 2024, to spend the Parks Maintenance tax as approved by the voters.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7326

Attachments:

1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2024 SPECIAL TAX RATE TO FUND MAINTENANCE  
OF PARKS, CITY TREES AND LANDSCAPING IN THE CITY OF BERKELEY

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

Section 1. The FY 2024 Tax Rate for the maintenance of parks, City trees and landscaping is set at \$0.2130 per square foot of taxable improvements.

Section 2. The cost to the taxpayer during FY 2024 will be \$255.60 for a 1,200 square foot home and \$639.00 for a 3,000 square foot home.

Section 3. This Tax Rate will result in estimated total collections of \$17,664,146.

Section 4. The tax imposed by this ordinance does not apply to any property owner whose total personal income, from all sources for the previous calendar year, does not exceed that level which shall constitute a very low income, as established by resolution of City Council.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.







Office of the City Manager

CONSENT CALENDAR

June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2024 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0451 (4.51 cents) per square foot of improvements.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended \$0.0451 per square footage will result in estimated total collections of \$3,742,618 for the Emergency Medical Services fund. The increase in the tax rate of \$0.0018 per square foot will result in a \$3.42 annual increase for the citywide average 1900 square foot home.

CURRENT SITUATION AND ITS EFFECTS

The FY 2023 tax of \$.0433 is being adjusted by the increase in the Consumer Price Index in the immediate San Francisco Bay Area of 4.192%, as authorized by the voters on May 6, 1997.

It is recommended that the City Council authorize the levy of a special tax of \$0.0451 per square foot of all improvements in the City of Berkeley. The tax will result in a cost to taxpayers in the following average amounts during Fiscal Year 2024, as compared with amounts for FY 2023:

| Square Feet | Annual Tax |         |
|-------------|------------|---------|
|             | FY 2023    | FY 2024 |
| 1,200       | \$51.96    | \$54.12 |
| 1,500       | 64.95      | 67.65   |
| 1,900       | 82.27      | 85.69   |
| 3,000       | 129.90     | 135.30  |
| 3,900       | 168.87     | 175.89  |
| 10,000      | 433.00     | 451.00  |

BACKGROUND

On May 6, 1997, the voters authorized the City to replace the Emergency Medical Services Assessment District, with an Emergency Medical Services Tax. On November 3, 2020, over 81% of Berkeley voters approved Measure LL to re-authorize the City, for a period of four (4) years through FY 2024, to spend the Emergency Medical Services tax.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7326

Attachments:

1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2024 SPECIAL TAX RATE TO FUND THE PROVISION  
OF EMERGENCY MEDICAL SERVICES FOR THE CITY OF BERKELEY

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

Section 1. The FY 2024 Tax Rate for Emergency Medical Services is set at \$0.0451 per square foot of taxable improvements.

Section 2. The cost to taxpayers during FY 2024 will be \$54.12 for a 1,200 square foot home and \$135.30 for a 3,000 square foot home.

Section 3. This tax rate will result in estimated total collections of \$3,742,618.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.





Office of the City Manager

CONSENT CALENDAR

June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 Subject: FY 2024 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the provision of emergency services for the disabled at \$0.02018 (2.018 cents) per square foot of improvements.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended \$0.02018 will result in estimated collections of \$1,673,845 for the fund. The increase in the tax rate of \$0.00086 per square foot will result in a \$1.634 annual increase for the citywide average 1900 square foot home.

CURRENT SITUATION AND ITS EFFECTS

The FY 2023 tax of \$0.01932 is being adjusted by the Personal Income Growth of 4.440% (or \$0.00086) as the voters approved the greater of the Consumer Price Index in the immediate San Francisco Bay Area of 4.192% or Personal Income Growth increase in California of 4.440%.

It is recommended that the City Council authorize the levy of a special tax of \$0.02018 per square foot of all improvements in the City of Berkeley. The tax will result in a cost to taxpayers in the following average amounts during Fiscal Year 2024, as compared with amounts for FY 2023:

| Square Feet | Annual Tax |         |
|-------------|------------|---------|
|             | FY 2023    | FY 2024 |
| 1,200       | \$23.18    | \$24.22 |
| 1,500       | 28.98      | 30.27   |
| 1,900       | 36.71      | 38.34   |
| 3,000       | 57.96      | 60.54   |
| 3,900       | 75.35      | 78.70   |
| 10,000      | 193.20     | 201.80  |

BACKGROUND

The Emergency Services for the Severely Disabled Tax (Measure E) was passed by the voters in November 1998. The tax is used to provide emergency services and incidental case management for severely physically disabled persons. The City Council is authorized to increase the tax rate by the greater of the Consumer Price Index in the immediate San Francisco Bay Area or Personal Income Growth in California.

On November 3, 2020, over 81% of Berkeley voters approved Measure LL to re-authorize the City, for a period of four (4) years through FY 2024, to spend the emergency services for the severely disabled tax.

ALTERNATIVE ACTIONS CONSIDERED

The City Council may consider maintaining the current tax rate of \$0.01932 with projected revenue of \$1,630,403 and no increase to property owners. Or, the City Council may consider increasing the tax rate by the Consumer Price Index in the immediate San Francisco Bay Area of 4.192% in California. This would result in projected revenue of \$1,669,871, and an increase of \$0.63 for the citywide average 1900 square foot home.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7326

Attachments:

1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2024 SPECIAL TAX RATE TO FUND EMERGENCY SERVICES FOR THE SEVERELY DISABLED IN THE CITY OF BERKELEY

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

Section 1. The FY 2024 Tax Rate to fund emergency services for severely disabled persons is set at \$0.02018 per square feet of improvements.

Section 2. The cost to taxpayers during FY 2024 will be \$24.22 for a 1,200 square foot home and \$60.54 for a 3,000 square foot home.

Section 3. This tax rate will result in estimated total collections of \$1,673,845.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.







Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services  
 Subject: Contract: Berkeley Unified School District for Mental Health and Wellbeing Coordinator at Berkeley High School

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with the Berkeley Unified School District (BUSD) for a Mental Health and Wellness Coordinator at Berkeley High School (BHS) for a total contract limit of \$350,000 for the period beginning June 26, 2023 and ending June 30, 2025.

FISCAL IMPACTS OF RECOMMENDATION

The total not-to-exceed amount of this contract will be \$350,000. Funds for the scope of work in the amount of \$350,000 will be provided by General Fund (Fund 011). This funding was included in a budget referral approved by City Council on May 31, 2022. Funding is available in the Fiscal Year (FY) 2023 and FY 2024 approved budgets.

CURRENT SITUATION AND ITS EFFECTS

The mental health crisis among youth nationwide has increased dramatically in recent years. In May 2022, the suicide of a BHS student who had been struggling with mental health issues revealed the extent of Berkeley's local mental health crisis. This tragic event also shed light on the ongoing insufficient mental health services and training available at BHS.

On May 31, 2022, Berkeley City Council, in consultation with the Berkeley Department of Health, Housing and Community Services (HHCS), approved funding for an additional position to enhance the mental health and wellbeing of students at BHS.

BACKGROUND

Over the past several months, HHCS has worked closely with BHS's Vice Principal (VP) of Culture and Climate to root this project in strong BUSD-HHCS collaboration. The Mental Health and Wellbeing Coordinator will be hired by BUSD under the supervision of the BHS VP of Culture and Climate, who will work in partnership with the BHS Health Center's Mental Health Program Supervisor.

The VP of Culture and Climate is leading efforts to establish a new Wellness Center at BHS, scheduled to open at the start of the 2023-24 school year. The Center will provide a safe, welcoming space where BHS students can access a host of behavioral health and resilience-building activities and services. The Mental Health and Wellbeing Coordinator will have a lead role in launching and developing the Wellness Center and in establishing and coordinating the continuum of services and activities needed to support students, ranging from prevention to early intervention to crisis management.

With the opening of the Wellness Center, the partnership of the City's BHS Health Center, and the leadership of the VP of Culture and Climate, the City-funded Mental Health and Wellbeing Coordinator will be in a strong position to expand and coordinate resources and services for BHS students.

RATIONALE FOR RECOMMENDATION

Funding for this project was approved by City Council on May 31, 2022. The scope of this contract reflects a shared City of Berkeley-BUSD vision for strengthening the mental health and wellbeing of BHS students. BUSD is investing significantly in this project through the establishment of a new BHS Wellness Center and a new Mental Health Counselor for BHS. The Mental Health and Wellbeing Coordinator position will complement BHS's plans and advance Berkeley City Council's intention to improve and expand mental health services for BHS students.

ALTERNATIVE ACTIONS CONSIDERED

Staff explored the possibility of making the position an HHCS employee, but ultimately determined that the most effective approach would be to establish a new City-funded Mental Health and Wellbeing Coordinator position within BUSD. As a BUSD employee, the position will have better access to and be better able to build trusting working relationships with students, families, and staff.

CONTACT PERSON

Nina Goldman, Senior Management Analyst, HHCS, 510.981.5420

Attachments:

1: Resolution

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

CONTRACT: BERKELEY UNIFIED SCHOOL DISTRICT FOR  
MENTAL HEALTH AND WELLBEING COORDINATOR

WHEREAS, on May 31, 2022, City Council approved a Budget Referral: Fund Mental Health Wellness Support and Services Coordinator at the Berkeley High School Health Center; and

WHEREAS, the approved Budget Referral allocated funding not to exceed \$350,000 for FY 2023 and FY 2024 to support this position; and

WHEREAS, working in partnership with HHCS, Berkeley Unified School District has established a new position, Mental Health and Wellbeing Coordinator, at Berkeley High School, to strengthen, expand, and coordinate services and resources that promote student mental health and wellbeing; and

WHEREAS, the Berkeley Unified School District has been a trusted partner in the implementation of a variety of programs in collaboration with the City; and

WHEREAS, funds in the amount of \$350,000 are available for this contract in the amount of \$175,000 in FY 2023 and \$175,000 FY 2024 in General Fund (Fund 011).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract with the Berkeley Unified School District for a Mental Health and Wellbeing Coordinator position at Berkeley High School through June 30, 2025 in an amount not to exceed \$350,000. A record signature copy of said contract and any amendments shall be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services

Subject: Contract No. 32200084 Amendment: Capoeira Arts Foundation, Inc. (CAF), COVID-19 Outreach & Education.

RECOMMENDATION

Adopt a Resolution amending Contract No. 32200084 with Capoeira Arts Foundation, Inc. (CAF), to extend the contract end date through June 30, 2024 and increase the not-to-exceed amount (NTE) by \$65,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$206,025 to \$271,025.

FISCAL IMPACTS OF RECOMMENDATION

The amendment will add \$65,000 with a total not-to-exceed amount of \$271,025. The funding for this amendment is subject to appropriation in the FY2024 Budget in the One-Time Fund (Fund 336).

CURRENT SITUATION AND ITS EFFECTS

Amending contract number 32200084 with Capoeira Arts Foundation, Inc. (CAF) will allow CAF to continue providing culturally responsive COVID-19 education and outreach services to the Berkeley community through the end of the Enhancing Laboratories Capacity (ELC) grant period. These services will aid in slowing the spread of COVID-19 and ensure all Berkeley residents have equitable access to COVID-19 vaccines, testing, treatment, and other infection control and healthcare measures.

BACKGROUND

In response to the COVID-19 Pandemic, the City of Berkeley partnered with CAF to ensure all Berkeley residents have equitable access to COVID-19 vaccines, testing, treatment, and other infection control and healthcare measures. These efforts have included organizing and facilitating COVID-19 education and outreach events, hosting vaccine clinics, supporting community and school-based vaccine events, engaging in door-knocking campaigns and community canvassing events, hosting Health Justice Interns, and distributing COVID-19 test kits prioritizing Berkeley residents who are uninsured, under insured, undocumented, or face other barriers to accessing test kits.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The additional funding identified will aid in slowing the spread of COVID-19 throughout the Berkeley community and will ensure all Berkeley residents have equitable access to COVID-19 vaccines, testing, treatment, and other infection control and healthcare measures.

ALTERNATIVE ACTIONS CONSIDERED

Staff did not identify other alternatives that are consistent with both the grant purpose, City priorities, and CDC's COVID-19 guidance.

CONTACT PERSON

Katharine Sullivan, Community Services Specialist III, HHCS, 510-981-5286

Attachment:

1. Resolution

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

CONTRACT NO. 32200084 AMENDMENT: CAPOEIRA ARTS FOUNDATION, INC  
(CAF) FOR COVID-19 OUTREACH & EDUCATION

WHEREAS, the City of Berkeley issued Request for Proposal #21-11450-C on May 12, 2021 to engage with community partners to engage Berkeley residents and workers by providing education and outreach on COVID-19, targeting vaccination efforts to reach those most vulnerable to and at risk of COVID-19, and supporting infected individuals required to isolate; and

WHEREAS, a panel of experts reviewed applications and recommended agencies to provide services to reach Berkeley residents and workers who are vulnerable to and at risk of COVID-19 infection, and these services are a critical part of the City's efforts to prevent the spread of COVID-19; and

WHEREAS, on October 1, 2021, under the State of Emergency Order the City Manager authorized Health, Housing, and Community Services' Public Health Officer Unit to enter into a contract with Capoeira Arts Foundation, Inc (CAF) (Contract #32200084) to provide culturally responsive COVID-19 education and outreach services to the Berkeley community; and

WHEREAS, additional funds from the Enhancing Laboratories Capacity (ELC) grant in the amount of \$65,000.00 are available to increase the contract amount which will allow CAF to continue providing culturally responsive COVID-19 education and outreach services to the Berkeley community through the end of the grant period.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to amend Contract No. 32200084 with Capoeira Arts Foundation, Inc. (CAF), to extend the contract end date through June 30, 2024 and increase the not-to-exceed amount (NTE) by \$65,000 to a total of \$271,025 utilizing one-time grant funds.







Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services

Subject: Contract No. 32200135 Amendment: Multicultural Institute, COVID-19 Outreach & Education

RECOMMENDATION

Adopt a Resolution amending Contract No. 32200135 with Multicultural Institute, to extend the contract end date through June 30, 2024 and increase the not to exceed amount (NTE) by \$65,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$121,000 to \$186,000.

FISCAL IMPACTS OF RECOMMENDATION

The amendment will add \$65,000 with a total not-to-exceed amount of \$186,000. The funding for this amendment is available in the FY2024 Adopted Budget in One-Time Fund (Fund 336).

CURRENT SITUATION AND ITS EFFECTS

Amending contract number 32200135 with Multicultural Institute will allow Multicultural Institute to continue providing culturally responsive COVID-19 education and outreach services to the Berkeley community, specifically to residents who are day laborers, domestic workers, monolingual Spanish speakers, and recent immigrants, through the end of the Enhancing Laboratories Capacity (ELC) grant period. These services will aid in slowing the spread of COVID-19 and ensure all Berkeley residents have equitable access to COVID-19 vaccines, testing, treatment, and other infection control and healthcare measures.

BACKGROUND

In response to the COVID-19 Pandemic, the City of Berkeley partnered with Multicultural Institute to ensure all Berkeley residents have equitable access to COVID-19 vaccines, testing, treatment, and other infection control and health care measures. These efforts have included organizing and facilitating COVID-19 education and outreach events, hosting vaccine and testing clinics, engaging in door-knocking campaigns and community canvassing events, hosting Health Justice Interns, and distributing COVID-19 test kits prioritizing Berkeley residents who are uninsured, underinsured, undocumented, or face other barriers to accessing test kits.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The additional funding identified will aid in slowing the spread of COVID-19 throughout the Berkeley community and will ensure all Berkeley residents have equitable access to COVID-19 vaccines, testing, treatment, and other infection control and healthcare measures.

ALTERNATIVE ACTIONS CONSIDERED

Staff did not identify other alternatives that are consistent with both the grant purpose, City priorities, and CDC's COVID-19 guidance.

CONTACT PERSON

Katharine Sullivan, Community Services Specialist III, HHCS, 510-981-5286

Attachment:

1. Resolution

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

CONTRACT NO. 32200135 AMENDMENT: MULTICULTURAL INSTITUTE, FOR  
COVID-19 OUTREACH & EDUCATION

WHEREAS, the City of Berkeley issued Request for Proposal #21-11450-C on May 12, 2021 to engage with Community Partners to engage Berkeley residents and workers by providing education and outreach on COVID-19, targeting vaccination efforts to reach those most vulnerable to and at risk of COVID-19, and supporting infected individuals required to isolate; and

WHEREAS, a panel of experts reviewed applications and recommended agencies to provide services to reach Berkeley residents and workers who are vulnerable to and at risk of COVID-19 infection, and these services are a critical part of the City's efforts to prevent the spread of COVID-19; and

WHEREAS, on January 4, 2022, under the State of Emergency Order the City Manager authorized Health Housing and Community Services' Public Health Officer Unit to enter into a contract with Multicultural Institute (Contract #32200135) to provide culturally responsive COVID-19 education and outreach services to the Berkeley community; and

WHEREAS, an additional \$65,000.00 in grant funding is available to increase the contract amount which will allow Multicultural Institute to continue providing culturally responsive COVID-19 education and outreach services to the Berkeley community through the end of the Enhancing Laboratories Capacity (ELC) grant period.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 32200135 with Multicultural Institute, to extend the contract end date through June 30, 2024 and increase the not to exceed amount (NTE) by \$65,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$121,000 to \$186,000.





Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services  
 Subject: Ephesian Legacy Court and Woolsey Gardens Housing Trust Fund Reservations

RECOMMENDATION

Adopt a Resolution:

1. Reserving \$14,531,301 in Housing Trust Fund program funds for a development loan for Community Housing Development Corporation's Ephesian Legacy Court (1708 Harmon Street) affordable housing development.
2. Reserving \$1,000,000 in Housing Trust Fund program funds for a predevelopment loan for Northern California Land Trust's Woolsey Gardens (3120-3130 Shattuck) affordable housing development and waiving Sections I.A.1 and III.A.1 of the Housing Trust Fund Guidelines.
3. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate these actions.

SUMMARY

In March 2023, the Department of Health, Housing, and Community Services' Housing and Community Services Division (HHCS/HCS) received funding requests for two new affordable housing projects. CHDC submitted a development loan application for Ephesian Legacy Court (1708 Harmon Street) and NCLT submitted a predevelopment loan application for Woolsey Gardens (3120-3130 Shattuck).

The funding recommendations balance the City's goals of ensuring local affordable housing development projects are competitive for state funding and leveraging the City's limited housing resources to maximize the public benefit.

The Housing Advisory Commission recommended Council fund each request at its May 4, 2023 special meeting.

FISCAL IMPACTS OF RECOMMENDATION

The attached resolution would reserve a combined total of \$15,531,301 for the Ephesian Legacy Court and the Woolsey Gardens affordable housing developments. There are currently sufficient funds in the Housing Trust Fund program (HTF) to support both requests. Staff will determine the exact mix of funds from the HTF program for both loans closer to the loan closing, which could include Affordable Housing Mitigation Fee (Fund# 120), Measure O (Fund# 512), or Permanent Local Housing Allocation (Fund# 302). Funding is subject to appropriation in the FY 2024 budget in the HTF.

CURRENT SITUATION AND ITS EFFECTS

In March 2023, the City of Berkeley received two funding requests for new affordable housing projects. CHDC submitted a development loan application for Ephesian Legacy Court (1708 Harmon Street) and NCLT submitted a predevelopment loan application for Woolsey Gardens (3120-3130 Shattuck). HHCS/HCS has been working with CHDC since the first Ephesian Legacy Court application in 2021, and was able to accept the Woolsey Gardens application since predevelopment funds can be requested at any time under the HTF Guidelines.

Ephesian Legacy Court is an 80-unit senior Transit Oriented Development project being developed as a joint venture between the Community Housing Development Corporation (CHDC) and Ephesian Church of God in Christ (ECOGIC). CHDC's request for \$14,531,301 in development funding is in addition to predevelopment funding previously awarded to the project, for a total proposed City subsidy of \$18,087,701. Ephesian Legacy Court will not be competitive for financing available through the upcoming State of California Super Notice of Funding Availability (Super NOFA) without these additional City funds.

The Northern California Land Trust (NCLT) requested \$1,000,000 in predevelopment funding to redevelop the site of its current headquarters at 3120-3130 Shattuck Avenue into a multifamily homeownership project. The Woolsey Gardens site is owned by NCLT, who will continue to own the land after development for permanent stewardship. The project will involve demolition of the current structure and temporary relocation of existing commercial tenants for whom new space will be built in the development.

NCLT will need local matching funds for both a predevelopment grant awarded from the State of California Energy Commission (CEC) as well as a CEC construction grant to which NCLT will apply in Fall 2023. Staff will work with NCLT to establish milestones for funding disbursement in the loan agreement.

Funding Ephesian Legacy Court and Woolsey Gardens is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

## BACKGROUND

CHDC initially applied for development funding for Ephesian Legacy Court and another project, St. Paul Terrace (2024 Ashby Ave), through the 2021 HTF Request for Proposals (HTF RFP) process. On December 14, 2021, with Resolution No. 70,135, City Council approved the HTF RFP funding recommendations. There were not sufficient funds available through the HTF RFP to fund both CHDC requests in their entirety. Instead, in that same resolution, City Council directed CHDC to submit a revised proposal for whichever project they deemed most ready to move forward to be funded under the HTF-RFP, and then further resolved to prioritize the next available HTF funds for whichever CHDC project did not receive the remaining HTF RFP funds.

In 2022, CHDC submitted their revised proposal for St. Paul Terrace, which was further along in predevelopment, and City Council approved an additional \$8,551,040 for a total of \$12,250,000 in City funding. Earlier this year, housing staff determined that the HTF had a sufficient balance and invited CHDC to submit an updated request for Ephesian Legacy Court. Seventy-five percent (75%) of the units will be affordable to residents earning less than or equal to 50% of the Area Median Income (AMI) and the remaining units will be targeted to seniors and/or homeless individuals at or below 30% AMI. Ephesian Legacy Court secured entitlements under SB35, which should position the project to compete for state funds in the June 2023 Super NOFA. While CHDC has applied for project-based vouchers and supportive services funding, the project does not currently have any funding commitments other than the City.

Woolsey Gardens would be NCLT's first new construction project and is larger than other properties in its portfolio. NCLT proposes to develop a mixed-use green building with 65 units of limited equity housing at a range of affordability levels for households earning between 30% and 120% AMI. Woolsey Gardens will consist of studio, 1-bedroom, and 2-bedroom apartments. In addition to ground floor commercial space for nonprofits and emerging entrepreneurs, the building will have 41 residential condominiums as well as 24 units of shared cooperative housing.

As a project aiming to repair historic and current harms of displacement, Woolsey Gardens is partnering with community organizations to provide opportunities for displaced households to return to South Berkeley as well as housing stability for low-income households that still remain.

NCLT's recent development experience with its scattered site rehabilitation program, which consists of three projects with a total of 31 units, falls short of the HTF threshold criteria and will require City Council to waive Section I.A.1 of the HTF Guidelines. Given the presence of highly experienced consultants on the development team, Staff recommends waiving this requirement.

The minimum affordability requirements in the HTF guidelines are written for rental projects, and require 20% of all project units to be affordable for extremely low-income

households and 40% of all project units to be affordable for households earning 60% AMI or less. NCLT proposes to create 13 extremely low-income units and 11 60% AMI units at Woolsey Gardens, which is 37% of the project. Given the project's ownership structure and the fact that all units will be restricted for incomes less than 120% AMI, staff does not recommend increasing the proposed number of units for very-low and extremely-low income households. Staff recommends City Council waive both minimum affordability requirements in Section III.A.1 of the HTF guidelines to ensure project feasibility.

On May 4, 2023, the Housing Advisory Commission took the following actions:

Action: M/S/C (Johnson/Ortiz-Cedeño) to recommend that City Council reserve an additional \$14,531,301 for Community Housing Development Corporation's (CHDC) Ephesian Legacy Court (1708 Harmon Street).

Vote: Ayes: Fain, Johnson, Mendonca, Ortiz-Cedeño, Potter, and Simon-Weisberg.  
Noes: None. Abstain: None. Absent: Calavita and Rodriguez.

Action: M/S/C (Simon-Weisberg/Johnson) to recommend that City Council reserve \$1,000,000 for Northern California Land Trust's (NCLT) Woolsey Gardens (3120-3130 Shattuck) and waive Sections I.A.1 and III.A.1 of the Housing Trust Fund Guidelines.

Vote: Ayes: Fain, Johnson, Mendonca, Ortiz-Cedeño, Potter, and Simon-Weisberg.  
Noes: None. Abstain: None. Absent: Calavita and Rodriguez.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Both projects address environmental sustainability in their project design and scope. CHDC plans to build Ephesian Legacy Court to a third-party green building standard (either LEED Gold or GreenPoint Gold). NCLT is aiming to make Woolsey Gardens a zero net energy building with LEED Platinum certification and extended grid outage resilience utilizing mass timber and cross laminated timber technology.

#### RATIONALE FOR RECOMMENDATION

The funding recommendations are based on balancing the City's goals of supporting these projects so they are competitive for state funding, and leveraging the City's limited housing resources to maximize the public benefit.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff did not identify alternative actions that are consistent with City priorities and past actions.

#### CONTACT PERSONS

Amanda Montez, Community Development Project Coordinator, HHCS, 510-981-5426  
Grace Streltzov, Community Development Project Coordinator, HHCS, 510-981-5423



Attachments:  
1: Resolution

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

APPROVAL OF A \$14,531,301 FUNDING RESERVATION FROM THE HOUSING TRUST FUND FOR A DEVELOPMENT LOAN FOR THE EPHESIAN LEGACY COURT PROJECT AND A \$1,000,000 FUNDING RESERVATION FROM THE HOUSING TRUST FUND FOR A PREDEVELOPMENT LOAN FOR THE WOOLSEY GARDENS PROJECT

WHEREAS, City Council established a Housing Trust Fund Program (HTF) to assist in the development and expansion of housing affordable to low and moderate income persons who either work or reside within the City of Berkeley, and authorized the City Manager to implement the Program; and

WHEREAS, the City's HTF guidelines, adopted by Berkeley City Council Resolution No. 69,683-N.S. on January 19, 2021, allow predevelopment loans applications to be submitted at any time; and

WHEREAS, the City issued an HTF Request for Proposals (RFP) on August 3, 2021 and subsequently received six responses, including two from Community Housing Development Corporation (CHDC); and

WHEREAS, at its December 14, 2021 meeting, Council approved Resolution No. 70,135-N.S. reserving the balance of funds available through the RFP for a CHDC project to be determined based on the project's readiness and feasibility, and prioritizing future housing funds (including, but not limited to, HTF and Measure O funds) for the CHDC project (Ephesians Legacy Court or St. Paul Terrace) not funded through the RFP; and

WHEREAS, CHDC submitted a Development Loan Application request of \$14,531,301 for its proposed development 1708 Harmon Street in March 2023; and

WHEREAS, on February 28, 2023, Northern California Loan Trust (NCLT) submitted a Predevelopment Loan Application request of \$1,000,000 for its proposed development of Woolsey Gardens (3120-3130 Shattuck Avenue); and

WHEREAS, on May 4, 2023, the Housing Advisory Commission recommended Council approve the CHDC Development Loan Application request of \$14,531,301 for 1708 Harmon Street and the NCLT Predevelopment Loan Application request of \$1,000,000 for 3120-3130 Shattuck Avenue.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council approves the \$14,531,301 development funding reservation from HTF funds for CHDC's Ephesian Legacy Court (1708 Harmon Street).

June 13, 2023

BE IT FURTHER RESOLVED that \$1,000,000 shall be reserved from HTF program funds for a predevelopment loan for NCLT's Woolsey Gardens (3120-3130 Shattuck Avenue).

BE IT FURTHER RESOLVED that the requirements of Section I.A.1 of the HTF Guidelines shall be waived and NCLT approved as an eligible developer with demonstrated capacity to complete the Woolsey Gardens project, though it has not completed the number of projects required by the developer eligibility criteria.

BE IT FURTHER RESOLVED that the requirements of Section III.A.1 of the HTF Guidelines shall be waived and all units at Woolsey Gardens shall be required to be affordable to households whose income does not exceed 120% of the Area Median Income.

BE IT FURTHER RESOLVED that funds shall be reserved for a period of no more than 24 months from the date of this Resolution, contingent on the development teams obtaining all required land use approvals of the property and securing commitments for project funding that the City Manager or her designee deems sufficient within the reservation period.

BE IT FURTHER RESOLVED that the funding reservation is conditioned upon the completion of the environmental review process, except as authorized by 24 CFR, Part 58, and that should HOME and/or CDBG funds constitute a portion of the funding for any project, a final commitment of HOME and/or CDBG funds shall occur only upon the satisfactory completion of the appropriate level of environmental review and also upon the receipt of approval of the request for release of funds and related certification from the U.S. Department of Housing and Urban Development, when applicable. The funding reservation for any of the HOME and/or CDBG funded projects is conditioned upon the City of Berkeley's determination to proceed with, modify, or cancel the project based on the results of subsequent environmental review under the National Environmental Policy Act.

BE IT FURTHER RESOLVED that the making of each loan shall be contingent on and subject to such other appropriate terms and conditions as the City Manager or her designee may establish.

BE IT FURTHER RESOLVED the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements and any amendments will be kept on file in the Office of City Clerk.





Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services  
 Subject: Funding Recommendation for the Russell Street Project at 1741-1747 Russell

RECOMMENDATION

Adopt a Resolution:

1. Reserving up to \$4,500,000 in General Funds received pursuant to Measure P and/or Measure U1 for the Russell Street supportive housing project at 1741, 1743, and 1747 Russell Street as proposed by Berkeley Food and Housing Project (BFHP), contingent on BFHP's timely submission of a complete application demonstrating they meet the City's funding criteria; and
2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate this action.

FISCAL IMPACTS OF RECOMMENDATION

The attached resolution reserves \$4,500,000 in City General Funds received pursuant to Measure P, Measure U1, or a combination of the various funding sources to support the costs of purchasing and rehabilitating 1741, 1743, and 1747 Russell Street. Funding is subject to appropriation in the FY 2024 budget in the Measure P (Fund# 011) or Measure U1 (Fund #016) funds.

Russell Street will need additional funds to rehabilitate the property. No reservation of additional rehabilitation funding is recommended at this time. Staff will work with the development team to identify sources of funds to support the rehabilitation.

CURRENT SITUATION AND ITS EFFECTS

In response to the City of Berkeley's Request for Proposals (RFP) for potential Homekey projects, Berkeley Food & Housing Project (BFHP) requested funding to purchase and rehabilitate two adjacent parcels (located at 1741, 1743, and 1747 Russell Street), where it currently operates a 17-bed Board and Care (Russell Street Residence) and eight units of housing supported with Shelter Plus Care vouchers (Russell Street Annex and 1747 Russell) for 25 people with a disability or mental illness who are experiencing or at risk of homelessness. While the staff evaluation deemed Russell Street less competitive for Homekey funding than the other proposal received,

BFHP demonstrated in their application an urgent need for funding to secure the site and prevent the loss of Board and Care beds.

BFHP entered into an agreement with the property owner for a purchase price of \$4,000,000. If BFHP receives a commitment of funding from the City to acquire the site by June 30<sup>th</sup>, 2023, it will exercise its option under the agreement to extend its due diligence period and be required to close on the sale of the property between August 30<sup>th</sup> and November 30<sup>th</sup>, 2023. BFHP's lease with the property owner expires on December 31, 2023 and is not expected to be renewed if BFHP cannot purchase the site.

All three buildings are in need of repairs and system upgrades due to their age and condition. BFHP estimates the project renovation costs to be approximately \$4.3M. The projected costs could go up once a Physical Needs Assessment has been completed. Due to the risk involved with acquiring a property with substantial rehabilitation needs, BFHP will not close on the purchase if they are unable to identify a source of funding for renovation costs.

Staff recommends the City, upon the completion of underwriting review, enter into an acquisition loan agreement with the standard conditions of Housing Trust Fund (HTF) acquisition loans (a 55-year term, 3% interest, and the requirement that the project secure financing and start the rehabilitation within five years). The underwriting review will require BFHP to submit an updated funding application, appraisal, and Physical Needs Assessment to demonstrate the need for City funds as well as feasibility of the proposed project. The City loan will primarily fund the purchase of 1741-1747 Russell Street, not to exceed the appraised value of the property. Additional eligible costs include closing costs, safety inspections, and emergency rehabilitation.

Reserving funds for affordable housing is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

### BACKGROUND

BFHP has operated Russell Street Residence since 2002 in close partnership with the Mental Health division (HHCS/MH) as a community care licensed Board and Care facility for 17 formerly unhoused adults diagnosed with serious and persistent mental illness. Rehabilitation needs of Russell Street Residence include roof upgrades and building system repairs required to maintain safety and operations.

The adjacent Russell Street Annex is a four-bedroom single family house that provides housing for people with disabilities experiencing homelessness. 1747 Russell Street is also a four-bedroom single family home that BFHP recently began leasing.

The City issued an RFP on November 29, 2022 to select an eligible Homekey project and development team. HHCS received one proposal from Memar Properties, Inc. and Housing Consortium of the East Bay for the University Inn project and another from BFHP for the Russell Street project. Based on careful review of the two proposals, applicant experience with the Homekey program, and an evaluation of the Homekey program guidelines, staff recommended selection of the University Inn project and began working with BFHP to identify alternative sources to finance the Russell Street acquisition.

Section I.A.I of the HTF guidelines require applicants to have completed at least three projects of a similar size and scope within the last ten years in order to be eligible for funding. While BFHP has experience rehabilitating properties in its portfolio and partnering with lead developers on new construction projects, Russell Street would be BFHP's first time leading a large acquisition and rehabilitation project. Staff recommend waiving this requirement due to BFHP's knowledge of and existing use of the site. The HTF guidelines also require a City Council waiver if a City loan amount exceeds 40% of the project's total costs, which Staff recommends due to the unique nature of the Russell Street project and challenges securing alternative funding.

On April 18, 2023, the Homeless Services Panel of Experts (HSPE) took the following action:

Action: M/S/C (Marasovic/Hynes) recommend to City Council to allocate \$4.5 million in Measure P monies to Berkeley Food and Housing Project (BFHP) for the acquisition of Russell Street Residence and that City staff otherwise coordinate with BFHP to leverage other sources of funding, including City monies and monies external to the City, for necessary renovations in the amount of \$4.3 million.

Vote: Ayes: Bookstein, Feller, Hynes, Johnson, Kealoha-Blake, Marasovic, Meany, and Wachspress. Noes: None. Abstain: None. Absent: Jones.

On April 26, 2023, the HSPE took the following action:

Action: M/S/C (Bookstein/Feller) move to open the discussion about Russell House to ensure HSPE has adequate information and to consider the motion in light of the memo provided by the Berkeley Food and Housing Project.

Vote: Ayes: Marasovic, Hynes, Jones, Bookstein, Feller, and Kealoha-Blake. Noes: None. Abstain: None. Absent: Meany, Wachspress.

Action: M/S/C (Marasovic/Hynes) recommend to City Council to allocate \$4.5 million or an amount of monies necessary based on an appraisal of the property, in Measure P monies to Berkeley Food and Housing project for the acquisition of Russell Street Residence and that City staff otherwise coordinate with BFHP to

leverage other sources of funding, including monies external to the City and City monies, for necessary renovations in the amount of \$4.3 million.

HSPE supports this acquisition of Russell house to preserve the Board and Care as an essential service to the community; that the purchase price be based on an appraisal commissioned by the City staff.

Vote: Ayes: Marasovic, Hynes, Jones, Bookstein, Feller, and Kealoha-Blake. Noes: None. Abstain: None. Absent: Meany, Wachspress.

On May 16, 2023, the City Council Budget and Finance Policy Committee directed staff to explore the use of General Funds received pursuant to Measure P, Measure U1 or a combination of these funding sources for the Russell Street supportive housing project and took the following action:

Action: M/S/C (Arreguin/Harrison) to support the recommendation of HHCS and the Homeless Services Panel of Experts to allocate \$4.5 million for the acquisition of Russell House.

Votes: Ayes: Arreguin, Kesarwani, and Harrison. Noes: None. Abstain: None. Absent: None.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental sustainability effects directly associated with the recommendations in this report. If the project moves forward, BFHP will acquire and rehabilitate the property, which is generally considered a more sustainable type of development.

#### RATIONALE FOR RECOMMENDATION

Funding the acquisition of Russell Street will preserve critically-needed supportive housing in Berkeley for people with a disability or mental illness who are experiencing or at risk of homelessness.

#### ALTERNATIVE ACTIONS CONSIDERED

The City could decline to fund the acquisition of Russell Street. If BFHP is not able to secure financing to purchase the property, it is likely that the lease will not be renewed and tenants will need to be relocated. The number of licensed Board and Care units in Alameda County, which provide meals and manage medications for tenants, has sharply decreased in the last 15 years and finding placements is likely to be very difficult. Since that would not be consistent with the City's Strategic Plan to increase affordable housing opportunities, particularly for the most vulnerable residents, staff is recommending support for Russell Street as described above.



Staff are not recommending that the City reserve additional funds for the rehabilitation costs at this time due to the limited amount of available Measure P and U1 funding.

CONTACT PERSON

Grace Streltsov, Community Development Project Coordinator, HHCS, 510-981-5423

Attachments:

1: Resolution

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

APPROVAL OF A \$4,500,000 FUNDING RESERVATION FOR AN ACQUISITION  
LOAN FOR THE RUSSELL STREET PROJECT

WHEREAS, there is a great need for affordable and special needs housing in the City of Berkeley as stated in the General Plan Housing Element and the City of Berkeley's Consolidated plan; and

WHEREAS, City Council established a Housing Trust Fund Program (HTF) to assist in the development and expansion of housing affordable to low and moderate income persons who either work or reside within the City of Berkeley, and authorized the City Manager to implement the Program; and

WHEREAS, on January 19, 2021 City Council adopted Resolution No. 69,683 revising HTF guidelines (the "Guidelines") as revised and authorizing the HTF Program in accordance with the Guidelines; and

WHEREAS, the Guidelines allow acquisition loans to be submitted at any time; and

WHEREAS, Berkeley Food and Housing Project (BFHP) has provided supportive housing for people with disabilities and mental health diagnoses at the Russell Street Residence located at 1741 Russell Street and at Russell Street Annex located at 1743 Russell Street since 2002; and

WHEREAS, BFHP requested \$4,500,000 in City funds to support the acquisition and rehabilitation of 1741, 1743, and 1747 Russell Street (Russell Street); and

WHEREAS, on April 18, 2024, the Homeless Services Panel of Experts recommended \$4,500,000 in acquisition funding for BFHP's proposed purchase of Russell Street; and

WHEREAS, on April 26, 2024, the Homeless Services Panel of Experts reconfirmed their recommendation for the \$4,500,000 acquisition funding for BFHP's proposed purchase of Russell Street.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Council approves \$4,500,000 in funding reservations from General Funds received pursuant to either Measure P Allocation, Measure U1 Allocation, or the combination of these funding sources for the acquisition and emergency rehabilitation of 1741, 1743, and 1747 Russell Street.

BE IT FURTHER RESOLVED that that funds shall be reserved for a period of no more than 24 months from the date of this Resolution, contingent on the development team obtaining a physical needs assessment and appraisal of the property and securing commitments for project funding that the City Manager or her designee deems sufficient within the reservation period.

BE IT FURTHER RESOLVED that the making of this loan shall be contingent on and subject to such other appropriate terms and conditions as the City Manager or her designee may establish, including a staff underwriting review and the Guidelines with the exceptions of Sections 1.A.1 and IV.B.1.

BE IT FURTHER RESOLVED the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements and any amendments will be kept on file in the Office of City Clerk.





Office of the City Manager

CONSENT CALENDAR

June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director of Parks Recreation & Waterfront

Subject: Contract: Chemical Procurement Services, LLC for King and West Campus Swim Centers

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with Chemical Procurement Services, LLC for King and West Campus Swim Centers for a not-to-exceed total amount of \$120,000 over a two-year period, beginning July 1, 2023 and ending June 30, 2025, contingent upon annual budget appropriations.

FISCAL IMPACTS OF RECOMMENDATION

The \$120,000 contract over a two-year period averages out to an annual cost of approximately \$60,000 per year, depending on water treatment needs. Funding in the General Fund (Fund 011) is subject to appropriation in the FY 2024 budget to the King Pool 011-52-543-574-0000-000-461-64990 and West Campus Pool 011-52-543-575-0000-000-461-6428990 budgets. Funding is subject to appropriation in the FY 2025 General Fund (Fund 011).

CURRENT SITUATION AND ITS EFFECTS

In April 2023, the City conducted a competitive Request for Proposal (RFP) process for mini-bulk swimming pool treatment chemicals. The RFP was advertised on the City of Berkeley website as well as sent to suppliers in the greater Bay Area. The City received one submission from Chemical Procurement Services LLC. Staff determined that Chemical Procurement Services meets the criteria described in the RFP. As a result, staff recommends Council approval of a contract for a not-to-exceed total amount of \$120,000 for a two-year period beginning July 1, 2023 and ending June 30, 2025.

BACKGROUND

The City of Berkeley operates two community swimming facilities, King Swim Center and West Campus Swim Center. The ongoing operation of these facilities requires treating the swimming pool water to comply with the State of California Swimming Pool Operational code to ensure public safety.

ENVIRONMENTAL SUSTAINABILITY

Purchasing chemicals in mini-bulk quantities meets the needs of City of Berkeley operations and reduces the carbon emissions associated with transporting chemicals in smaller quantities.

RATIONALE FOR RECOMMENDATION

Staff determined that Chemical Procurement Services meets the criteria described in the RFP.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Parks, Recreation, and Waterfront Director, 981-6700  
Stephanie Chu, Recreation and Youth Services Manager, 981-6700

Attachments:

1: Resolution









Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Chief of Police

Subject: Contract No. 32100065 Amendment: BMI Imaging Systems, Incorporated for Data Conversion Services for the Berkeley Police Department

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend contract No. 32100065 and any necessary amendments with BMI Imaging Systems, Incorporated for continuing data conversion services and necessary hosting services for the Berkeley Police Department (BPD), increasing the amount by \$60,000 for a total contract not to exceed \$260,000 and extending the term to six years through August 31, 2026.

FISCAL IMPACTS OF RECOMMENDATION

The Berkeley Police Department is requesting authority to extend the contract and increase the contract amount to \$260,000. This amendment will allow BPD to continue to store and host the data in an approved California Justice Information System compliant data warehouse. Funds for this contract in FY 2023 will be allocated in State Proposition 172 Special Fund Budget Code: 126-71-702-805-0000-000-421-612990.

CURRENT SITUATION AND ITS EFFECTS

On May 12, 2020, the City Council adopted Resolution No. 69,391-N.S. authorizing the City Manager to execute a contract with BMI Imaging Systems, Incorporated to provide data conversion services and necessary hosting services for the Berkeley Police Department. BPD is required to maintain police records consistent with the laws of federal, state and local governments.

The Berkeley Police Department has completed the conversion of all of the records (more than 1,300 rolls of microfilm along with other database systems). However, more records were located and needed to be converted. The additional \$60,000 funding is to support the annual hosting services. BMI's hosting service is necessary for BPD to access the data warehouse where BPD's police data is stored, and is one of the industry-standard security measures that prevent unauthorized third-party access to confidential police data.

## BACKGROUND

The BPD utilized various data storage methods over the past 100 years which included microfilm, microfiche, and databases which were considered the best storage sources available at the time they were implemented. As technology improved, it was cost prohibitive to convert these data sources and conversion results were less successful based on the lack of conversion technologies. Over the past several years, advancements in technology have made the conversion of these older storage datasets more feasible but extremely costly. Optical Character Recognition (OCR) technologies have improved the quality of the data conversion results and several companies had the ability to successfully complete this project.

The BPD requested quotes for the data conversion from several vendors but found the most cost-effective solution was through BMI, Imaging Systems Incorporated. BMI, Imaging Systems Incorporated was awarded a competitive contract in 2015 through the Superior Court of California, County of Merced. The terms of this agreement allow other agencies to utilize the contract which is called “piggybacking.” The BPD exercised the “piggybacking” provisions to secure the contract with BMI, Imaging Systems Incorporated which also resulted in a significant cost-savings based on the other vendors cost estimates.

This contract addresses two Strategic Plan Goals: 1) Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community. 2) Provide an efficient and financially-healthy city government.

## ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The electronic system has resulted in staffing efficiencies in the search and production of public records/documents requests. This could result in reduced customer trips to the BPD Public Safety Building.

## RATIONALE FOR RECOMMENDATION

The BPD is required to maintain official police records for various crimes and to support entries into various public safety databases. In order to comply with these mandates, the BPD not only needs to have these records converted, but also to continue the hosting services to allow access for decades to come. The most effective and efficient method is to store the data in a secure format which will be accessible and at a CJIS compliant data warehouse off site with redundant capacity. This vendor has in place industry-standard security measures to prevent unauthorized third-party access to confidential police data. The contract with BMI, Imaging Systems Incorporated will be a cost-effective solution which will provide a reliable method to access these data files routinely.

ALTERNATIVE ACTIONS CONSIDERED

The viable option is to continue the hosting service with BMI, because it has CJIS-compliant security measures, converted the data, and provides the most cost-effective solution.

CONTACT PERSON

Jennifer Louis, Chief of Police, Police, 510-981-5900

Attachments:

1: Resolution

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

CONTRACT: BMI IMAGING SYSTEMS, INCORPORATED FOR DATA CONVERSION SERVICES FOR THE BERKELEY POLICE DEPARTMENT

WHEREAS, the Berkeley Police Department is required to maintain police records consistent with the laws of federal, state and local governments; and

WHEREAS, the Berkeley Police Department has had several legacy systems for records storage over the past 100 years and these records are required to be maintained; and

WHEREAS, the Berkeley Police Department legacy systems are unstable and require frequent repair which results in service delays to people and organizations requesting and/or requiring the records; and

WHEREAS, the Berkeley Police Department is able to “piggyback” on the Superior Court of California, County of Merced contract with BMI Imaging Systems Incorporated for data conversion services and associated hosting services in an approved California Justice Information System compliant data warehouse with industry-standard security measures to prevent unauthorized third-party access to confidential police data; and

WHEREAS, funds for the additional \$60,000 will be provided from the State Proposition 172 Special Fund Budget Code:126-71-702-805-0000-000-421-612990.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute an amendment, and any follow up amendments to contract No. 32100065 with BMI Imaging Systems, Incorporated, increasing the amount not-to-exceed \$260,000 for BPD data hosting services through August 31, 2026.



Office of the City Manager

CONSENT CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Liam Garland, Director, Department of Public Works  
 Subject: Declaration of Intent – Fiscal Year 2024 Street Lighting Assessments

RECOMMENDATION

Adopt two Resolutions granting the City Manager the authority to approve the Engineer’s Reports; set a public hearing to be held before the Council of the City of Berkeley at its June 27, 2023 meeting; and authorize the City Clerk to publish Notice of the Public Hearing for Fiscal Year 2024 Levy of Assessments for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018.

FISCAL IMPACTS OF RECOMMENDATION

Resolutions would conditionally approve, pending public hearing and final City Council authorization thereafter, the continued levying of assessments in Fiscal Year (FY) 2024 for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018, collectively referred to herein as the Districts.

The assessments are to be filed with the Alameda County Auditor and included on the County’s assessment roll. After collection by the County the total amount of the assessment minus a county collection fee is paid to the City of Berkeley. The revenue is posted in the Street Light Assessment District Fund (Fund 142).

A summary of forecasted FY 2024 revenue and expenditures for the Districts is shown in Table 1.

**Table 1: FY 2024 Street Light Assessment Revenue & Expenditures Forecast**

|   |                     |
|---|---------------------|
| <b>Street Lighting Program Expenditures</b>   | <b>\$ 2,275,155</b> |
| <b>Projected Assessments</b>                  |                     |
| Street Light Assessment District 1982-1       | \$ 1,422,966        |
| Street Light Assessment District 2018         | \$ 773,830          |
| Misc. Revenue                                 | \$ 957              |
| <b>Projected Net Assessments</b>              | <b>\$ 2,197,752</b> |
| <b>To (from) General Fund and/or Reserves</b> | <b>\$ (77,402)</b>  |

Allowable annual adjustments of the 2018 District assessment rates are expected to raise revenues over the coming years.

**CURRENT SITUATION AND ITS EFFECTS**

The proposed FY 2024 rates for Assessment District 1982-1 (1982 District) are incorporated into the Engineer’s Report (Attachment 3) and reflect no changes to assessment rates in FY 2024. Accordingly, this action is exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section 53753.5 (Article XIII D, Sec. 5). Any increase or change in formula for the assessments would make the annual assessment subject to procedures and approval process of Proposition 218 (Government Code Section 53750-53754). Table 2 details prior year and proposed FY 2024 assessment rates for this district.

**Table 2: Street Lighting Assessment District No. 1982-1 Rate Schedule**

| Rate Category                 | Assessment FY 2023 | Proposed Assessment FY 2024 | Unit             |
|-------------------------------|--------------------|-----------------------------|------------------|
| Residential and Institutional | \$ 0.0108          | \$ 0.0108                   | BSF <sup>1</sup> |
| Industrial and Utility        | \$ 0.0216          | \$ 0.0216                   | BSF              |
| Commercial                    | \$ 0.0432          | \$ 0.0432                   | BSF              |

The assessment for Street Lighting Assessment District 2018 (2018 District) is subject to an annual adjustment tied to the Consumer Price Index-U for the San Francisco Bay Area as of December of each succeeding year (the “CPI”), with a maximum annual adjustment not to exceed 3%. For the period beginning in December 2021 and ending in December 2022, the CPI increased by 4.88%<sup>2</sup>; therefore the assessment CPI adjustment for Fiscal Year 2024 may not exceed the prescribed maximum of 3.00%. As approved by voters, the total annual adjustment may be calculated by taking the sum of the 1982-1 District assessment and the 2018 District assessment, and multiplying the sum by the allowable CPI increase. Calculating the adjustment in this manner allows for the inclusion of a 1982-1 District adjustment as part of the 2018 District adjustment. The cumulative total adjustment results in a 2018 District assessment rate increase of approximately 9.45%.

These rate increases and the methodology used in their calculation are in accordance with the voter approved measure; therefore the proposed adjustments are exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section 53753.5 (Article XII D, Sec. 5). Table 3 details FY 2023 and proposed FY 2024 assessment rates for this district. A detailed calculation of the annual adjustment and the corresponding rate increases are included in the 2018 District Engineer’s Report (Attachment 4).

<sup>1</sup> Building Square Footage (BSF)

<sup>2</sup> Bureau of Labor Statistics, Data Series CUUSS49BSA0

**Table 3: Street Lighting Assessment District 2018 Rate Schedule**

| Rate Category                   | Assessment<br>FY 2023 | Proposed<br>Assessment<br>FY 2024 | Unit   |
|---------------------------------|-----------------------|-----------------------------------|--------|
| <b>Residential</b>              |                       |                                   |        |
| Single Family                   | \$ 15.34              | \$ 16.72                          | parcel |
| Multi-Family<5 units            | \$ 12.27              | \$ 13.38                          | unit   |
| Multi-Family 5 or more units    | \$ 9.20               | \$ 10.03                          | unit   |
| Condominium                     | \$ 12.27              | \$ 13.38                          | parcel |
| Mobile Home                     | \$ 7.67               | \$ 8.36                           | unit   |
| Multiple SFR on parcel          | \$ 15.34              | \$ 16.72                          | unit   |
| <b>Non-Residential</b>          |                       |                                   |        |
| General Commercial              | \$ 230.10             | \$ 250.80                         | acre   |
| Industrial / Warehouse          | \$ 23.01              | \$ 25.08                          | acre   |
| Auto Repair                     | \$ 153.40             | \$ 167.20                         | acre   |
| Hotel / Motel / Boarding        | \$ 153.40             | \$ 167.20                         | acre   |
| Hospital                        | \$ 95.88              | \$ 104.50                         | acre   |
| Retirement Home                 | \$ 19.18              | \$ 20.90                          | acre   |
| School / Day Care               | \$ 34.52              | \$ 37.62                          | acre   |
| Medical / Dental / Vet          | \$ 191.75             | \$ 209.00                         | acre   |
| Church                          | \$ 11.51              | \$ 12.54                          | acre   |
| Mortuary                        | \$ 3.84               | \$ 4.18                           | acre   |
| Recreational                    | \$ 38.35              | \$ 41.80                          | acre   |
| Parking / Transportation        | \$ 76.70              | \$ 83.60                          | acre   |
| Mini Storage                    | \$ 11.51              | \$ 12.54                          | acre   |
| Office                          | \$ 57.53              | \$ 62.70                          | acre   |
| Bank                            | \$ 191.75             | \$ 209.00                         | acre   |
| Park / Open Space / Agriculture | \$ 0.77               | \$ 0.84                           | acre   |
| Vacant                          | <i>Not assessed</i>   |                                   |        |

Revenue from the assessments will provide needed funding for the installation, maintenance, and servicing of public lighting facilities, including but not limited to street lights, traffic signals, and related electrical facilities. The improvements and services provided support the Strategic Plan goals of creating a resilient, safe, connected, and prepared city and of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

### BACKGROUND

The Berkeley Street Lighting Assessment District No. 1982-1 was established under the Landscaping and Lighting Act of 1972 (Streets and Highway Code Section 22620-22631) on July 27, 1982 (Resolution No. 51,449-N.S.)<sup>3</sup>. The Street Lighting

<sup>3</sup> State of California legislation (Streets & Highways §22500) allows local governmental agencies to form Landscape & Lighting Maintenance Districts. A 1972 Act Landscaping and Lighting District is a flexible tool used by local government agencies to pay for landscaping, lighting and other improvements and services in public areas. It is based on the concept of assessing only those properties that benefit from improvements financed, either directly, or indirectly through increased property values.

<http://www.californiataxdata.com/pdf/1972LLact.pdf>

Assessment District 2018 was established under the same Act on June 12, 2018 (Resolution No. 68,482-N.S.). The Landscaping and Lighting Act of 1972 requires City Council to hold a public hearing each year to consider adoption of an annual budget and approve changes to the Engineer’s Report, even if assessments are not being increased.

In accordance with the Landscaping and Lighting Act of 1972, the City Council sets a date for a public hearing, and authorizes publication of a notice at least ten days prior to the date of that hearing to allow owners of assessed properties within each district to make an oral or written protest against the annual levy. During the course of, or upon conclusion of the public hearing, City Council may order changes in any of the matters provided in the respective Engineer’s Report, including changes in improvements; zones within the assessment district; and the proposed district diagram, or the proposed assessment, as long as any proposed changes are less than the proposed annual levy.

Copies of the Engineer’s Reports with FY 2024 assessments are to be filed with the City Clerk and at the reference desk of the main branch of the Berkeley Public Library. Electronic copies of the reports and finalized assessment rolls will also be available to the public upon request.

ENVIRONMENTAL SUSTAINABILITY

The City exclusively uses LED (light emitting diode) street lighting. LED lights provide environmental benefits by reducing the level of greenhouse gases emitted; reducing level of toxic materials disposed; maximization of energy and energy cost savings; achieving the City’s illumination standards; and minimizing administration costs and staff time for street light maintenance.

RATIONALE FOR RECOMMENDATION

The Landscaping and Lighting Act of 1972, under which the Districts were formed, requires a public hearing to be held each year during the course of a regular City Council Meeting to consider adoption of an annual budget and changes to the Engineer’s Report. Failing to meet these requirements would prevent the City from collecting assessments for the Districts in FY 2024.

CONTACT PERSON

Liam Garland, Director, Department of Public Works, (510) 981-6303  
Ronald Nevels, Interim Manager of Engineering/City Engineer, (510) 981-6439

Attachments:

- 1: Resolution – Declaration of Intent – Street Lighting Assessment District 1982-1
- 2: Resolution – Declaration of Intent – Street Lighting Assessment District 2018
- 3: Engineer’s Report - Street Lighting Assessment District 1982-1 Fiscal Year 2024
- 4: Engineer’s Report - Street Lighting Assessment District 2018 Fiscal Year 2024



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

DECLARATION OF INTENT – ASSESSMENTS FOR FY 2024 STREET LIGHTING  
ASSESSMENT DISTRICT 1982-1

WHEREAS, on July 27, 1982, the Council of the City of Berkeley Adopted Resolution No. 51,449–N.S. that completed proceedings to form the Berkeley Street Lighting Assessment District No. 1982-1; and

WHEREAS, pursuant to Chapter III of the Landscaping and Lighting Act of 1972 Street and Highway Code Section 22620-22631, the Department of Public Works, Engineering Division, Engineer of Work for Berkeley Street Lighting Assessment District No. 1982-1, prepared and filed an annual report for levy of annual assessments for Fiscal Year (FY) 2024 with the City Clerk.

NOW THEREFORE, BE IT RESOLVED, the Council of the City of Berkeley approves the Engineer’s Report, dated April 2023, on levy of assessments for FY 2024 for Berkeley Street Lighting Assessment District 1982-1. The area of land to be assessed is located in the City of Berkeley, Alameda County.

BE IT FURTHER RESOLVED, the Council of the City of Berkeley declares its intention to levy and collect assessments within the Berkeley Street Lighting Assessment District 1982-1 for FY 2024.

BE IT FURTHER RESOLVED, the City Clerk shall publish a notice at least ten (10) days prior to the date of the public hearing listing the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

BE IT FURTHER RESOLVED, improvements to be made in this assessment district are generally described as maintenance or servicing of existing and future public lighting facilities, including, but not limited to street lights, traffic signals, and related electrical facilities; and the installation and construction of public lighting including but not limited to grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalk, paving, irrigation, and drainage as needed for the installation of public lighting or related electrical facilities.

BE IT FURTHER RESOLVED, the annual report for Fiscal Year 2024 for which assessments are to be levied and collected to pay the costs of the improvements described in the report prepared by the Department of Public Works, Engineering Division, in accordance with the Landscaping and Lighting Act of 1972 is filed with the Office of City Clerk. All interested persons are referred to that report for a full and detailed description of improvements, boundaries of the assessment district, and proposed assessments upon assessable lots and parcels of land within the assessment district.

BE IT FURTHER RESOLVED, at 6:00 PM on Tuesday, June 27, 2023 the City Council will conduct a public hearing. The hearing may be held in the School District Board Room located at 1231 Addison Street, Berkeley, CA 94702. The Council will consider all objections or protests, if any, to the proposed assessment. At the public hearing any interested person may present written or oral testimony.

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

DECLARATION OF INTENT – ASSESSMENTS FOR FY 2024 STREET LIGHTING  
ASSESSMENT DISTRICT 2018

WHEREAS, on June 12, 2018, the Council of the City of Berkeley Adopted Resolution No. 68,432–N.S. that completed proceedings to form the Street Lighting Assessment District 2018; and

WHEREAS, pursuant to Chapter III of the Landscaping and Lighting Act of 1972 Street and Highway Code Section 22620-22631, the Department of Public Works, Engineering Division, Engineer of Work for Street Lighting Assessment District 2018, prepared and filed an annual report for levy of annual assessments for Fiscal Year (FY) 2024 with the City Clerk.

NOW THEREFORE, BE IT RESOLVED, the Council of the City of Berkeley approves the Engineer’s Report, dated April 2023, on levy of assessments for FY 2024 for Street Lighting Assessment District 2018. The area of land to be assessed is located in the City of Berkeley, Alameda County.

BE IT FURTHER RESOLVED, the proposed annual adjustments of assessments are in compliance with the provisions of Proposition 218 because adjustments are in accordance with adjustment formulas established when the assessment district was formed.

BE IT FURTHER RESOLVED, the Council of the City of Berkeley declares its intention to levy and collect assessments within the Street Lighting Assessment District 2018 for FY 2024.

BE IT FURTHER RESOLVED, the City Clerk shall publish a notice at least ten (10) days prior to the date of the public hearing listing the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

BE IT FURTHER RESOLVED, improvements to be made in this assessment district are generally described as maintenance or servicing of existing and future public lighting facilities, including, but not limited to street lights, traffic signals, and related electrical facilities; and the installation and construction of public lighting, including but not limited to grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalk, paving, irrigation, and drainage as needed for the installation of public lighting or related electrical facilities.

BE IT FURTHER RESOLVED, the annual report for Fiscal Year 2024 for which assessments are to be levied and collected to pay the costs of the improvements described in the report prepared by the Department of Public Works, Engineering Division, in accordance with the Landscaping and Lighting Act of 1972 is filed with the

Office of City Clerk. All interested persons are referred to that report for a full and detailed description of improvements, boundaries of the assessment district, and proposed assessments upon assessable lots and parcels of land within the assessment district.

BE IT FURTHER RESOLVED, at 6:00 PM on Tuesday, June 27, 2023 the City Council will conduct a public hearing. The hearing may be held in the School District Board Room located at 1231 Addison Street, Berkeley, CA, 94702. The Council will consider all objections or protests, if any, to the proposed assessment. At the public hearing any interested person may present written or oral testimony.

CITY OF BERKELEY

# **STREET LIGHTING ASSESSMENT DISTRICT No. 1982-1**

## **ENGINEER'S REPORT**

on the  
Levy of an Assessment  
for  
Fiscal Year 2024

April 2023

Prepared by

RONALD NEVELS, PE  
CITY OF BERKELEY  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

**TABLE OF CONTENTS**

BACKGROUND .....3

PLANS AND SPECIFICATIONS.....3

METHODOLOGY .....3

ESTIMATE OF COSTS .....3

DIAGRAM .....4

ASSESSMENT .....5

APPENDIX A: FY 2024 ASSESSMENT ROLL .....7

**LIST OF TABLES**

Table 1- FY 2024 Street Light Fund Forecast .....4

**BACKGROUND**

---

By its Resolution 51,230 N.S., adopted April 6, 1982, the Berkeley City Council initiated proceedings under the provisions of Division 15, Part 2, of the California Streets and Highways Code, entitled "Landscaping and Lighting Act of 1972". The required public hearing was held on July 20, 1982, at which time the Council ordered the improvements and the formation of the assessment district, and confirmed the diagram and assessment. The district so formed was designated the "City of Berkeley Street Lighting Assessment District 1982-1". Assessments have been levied for the 1983 through 2022 fiscal years.

This report was prepared and filed pursuant to Division 15, Part 2, of the California Streets and Highway Code Section 2250, and is exempt from Government Code Section 53753 since the proposed assessment for FY 2024 will not be increased.

**PLANS AND SPECIFICATIONS**

---

The plans and specifications for this assessment district were prepared and filed with the Engineer's Report for the 1983 fiscal year, which plans and specifications are incorporated herein by this reference thereto.

**METHODOLOGY**

---

The benefit to individual parcels within the Assessment District was established in 1982 based on the median light intensity a parcel receives. Parcel's Land Use Code (LUC) is used to categorize the parcels. The assessment is calculated by multiplying the building square footage on the parcel times the rate of its category. The rate structure has three categories: 1) Residential and Institutional, 2) Industrial, 3) Commercial. An industrial area has twice the median light intensity of a residential area and a commercial area has four times the median light intensity; therefore, the rates are two and four times higher, respectively, than the residential rate. The rates are:

|                               |                                  |
|-------------------------------|----------------------------------|
| Residential and Institutional | \$0.0108/Building Square Footage |
| Industrial and Utility        | \$0.0216/Building Square Footage |
| Commercial                    | \$0.0432/Building Square Footage |

**ESTIMATE OF COSTS**

---

The improvements to be made in this assessment district are generally described as the maintenance or servicing of existing and future public lighting facilities, including, but not limited to street lights, traffic signals, and related electrical facilities; and the installation and construction of public lighting including grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalks, paving, irrigation, and drainage as needed for the installation of public lighting or related electrical facilities.

An estimate of costs for the maintenance of the improvements is provided in the fiscal year (FY) 2024 Street Light Assessment Fund (Fund 142) forecast provided below.

**Table 1- FY 2024 Street Light Fund Forecast**

| <b>Expenses</b>   |                     |
|---|---------------------|
| <i>Personnel Expenses</i>                               | \$ 455,955          |
| <i>Non-Personnel Expenses</i>                           |                     |
| <i>Non-Personnel</i>                                    | \$ 440,530          |
| <i>Debt Service</i>                                     | \$ 370,451          |
| <i>PG&amp;E Electric Costs</i>                          | \$ 483,837          |
| <i>Indirect Costs</i>                                   | \$ 54,916           |
| <i>Operating Transfer Out</i>                           | \$ 12,120           |
| <i>County Collection Fee</i>                            | \$ 37,346           |
| <b>Subtotal Non-Personnel Costs</b>                     | <b>\$ 1,399,200</b> |
| <i>Capital Expenses</i>                                 |                     |
| <i>Deferred Capital/Maint</i>                           | \$ 420,000          |
| <b>Subtotal Capital Expenses</b>                        | <b>\$ 420,000</b>   |
| <b>Total Expenses</b>                                   | <b>\$ 2,275,155</b> |
| <b>Assessments &amp; Other Revenue</b>                  |                     |
| Street Light Assessment District 1982-1                 | \$ 1,422,966        |
| Street Light Assessment District 2018                   | \$ 773,830          |
| Misc. Revenue   | \$ 957              |
| <b>Total Revenue</b>                                    | <b>\$ 2,197,752</b> |
| <b>Deficit – To (from) General Fund and/or Reserves</b> | <b>\$ (77,402)</b>  |

## **DIAGRAM**

The diagram for this assessment district was prepared and filed with the Engineer's Report for the 1983 fiscal year.



**ASSESSMENT**

---

Except as described below, the assessments to be made against the assessable lots and parcels of land within this assessment district are contained in the "2023 Assessment Roll" for this district, which roll is filed herewith and incorporated herein by this reference thereto.

Said assessment roll filed herewith is based on data contained in the City's 2023 Library Tax tape and the County Assessor's 2023 maps. In the event that data contained in the 2023 Library Tax tape and 2023 maps, when issued, conflict therewith, assessments to be made against the affected parcels for this 2024 Fiscal Year shall be based upon the revised data contained in said 2024 tape and 2024 maps.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Ronald Nevels, RCE 62524  
Engineer of Work

**APPENDIX A: FY 2024 ASSESSMENT ROLL**

An Assessment Roll (a listing of all parcels assessed within the City of Berkeley Street Lighting Assessment District 2018 and the amount of the assessment) has been filed with the City Engineer, and is, by reference, made part of this report and will be available for public inspection during normal office hours.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference, made part of this report. These records shall govern all details concerning the description of the lots or parcels.

FY 2024

# City of Berkeley

## Street Lighting Assessment District 2018

April 2023

Engineer of Work:



4745 Mangels Boulevard  
Fairfield, California 94534  
707.430.4300  
[www.sci1.com](http://www.sci1.com)

(This Page Intentionally Left Blank)

**CITY OF BERKELEY**

---

---

**City Council**

Jesse Arreguin, Mayor  
Rashi Kesarwani, District 1  
Terry Taplin, District 2  
Ben Bartlett, District 3  
Kate Harrison, District 4  
Sophie, Hahn, District 5  
Susan Wengraf, District 6  
Rigel Robinson, District 7  
Mark Humbert, District 8

---

**City Manager**

Dee Williams-Ridley

---

**Public Works Department**

Liam Garland, Director  
Joseph Enke, Manager of Engineering  
Ricardo Salcedo, Associate Civil Engineer

---

**City Attorney**

Farimah Brown

---

**Engineer of Work**

Jerry Bradshaw, P.E., SCI Consulting Group

## TABLE OF CONTENTS

---

|  |           |
|--|-----------|
| <i>City Council</i>  | <i>i</i>  |
| <i>City Manager</i>  | <i>i</i>  |
| <i>Public Works Department</i>   | <i>i</i>  |
| <i>City Attorney</i>   | <i>i</i>  |
| <i>Engineer of Work</i>  | <i>i</i>  |
| <b>Introduction</b>  | <b>1</b>  |
| Overview   | 1         |
| Assessment Formation Process   | 2         |
| Legal Requirements   | 2         |
| <i>Proposition 218</i>   | <i>2</i>  |
| <i>Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority</i> | <i>3</i>  |
| <i>Dahms v. Downtown Pomona Property</i>   | <i>4</i>  |
| <i>Bonander v. Town of Tiburon</i>   | <i>4</i>  |
| <i>Beutz v. County of Riverside</i>  | <i>5</i>  |
| <i>Golden Hill Neighborhood Association v. City of San Diego</i>                             | <i>5</i>  |
| <i>Compliance with Current Law</i>   | <i>5</i>  |
| <b>Plans and Specifications</b>  | <b>6</b>  |
| <b>Fiscal Year 2024 Budget</b>   | <b>8</b>  |
| <b>Method of Assessment</b>  | <b>10</b> |
| Discussion of Benefit  | 10        |
| Special Benefit  | 11        |
| <i>Improved Visibility and Safety</i>  | <i>11</i> |
| <i>Improved Access, Navigation and Traffic Safety</i>  | <i>11</i> |
| <i>Improved Community Character and Vitality</i>   | <i>11</i> |
| General Versus Special Benefit   | 12        |
| Quantification of General Benefit  | 12        |
| <i>Calculation of General Benefit</i>  | <i>13</i> |
| <i>Calculation of the Current General Benefit Contribution from the City</i>                 | <i>15</i> |
| <i>General Benefit is More than Offset by City Contribution</i>                              | <i>15</i> |
| Method of Assessment   | 16        |
| <i>Residential Traffic</i>   | <i>16</i> |
| <i>Non-Residential Traffic</i>   | <i>17</i> |
| <i>Darkness</i>  | <i>17</i> |
| <i>Single-Family Equivalents</i>   | <i>17</i> |

|                                     |           |
|-------------------------------------|-----------|
| Annual Assessment Increase          | 18        |
| Duration of Assessment              | 19        |
| Appeals and Interpretation          | 19        |
| <b>Assessment Statement</b>         | <b>20</b> |
| <b>Assessment Diagram</b>           | <b>22</b> |
| <b>Appendix B – Assessment Roll</b> | <b>25</b> |

## List of Tables

|   |    |
|---|----|
| Table 1 – FY 2024 Budget Summary .....                            | 8  |
| Table 2 – General Benefit for Arterial Streets .....              | 14 |
| Table 3 – Calculation of General Benefit .....                    | 14 |
| Table 4 – Single-Family Equivalent Rates.....                     | 18 |
| Table 5 – Maximum Single-Family Equivalent Rate Calculation ..... | 19 |



## List of Figures

Figure 1 – Assessment Diagram ..... 22

## Introduction

### Overview

The City of Berkeley (“City”) provides maintenance and servicing of certain publicly-owned street lights throughout the City. In order to fund the installation, maintenance and operation (the “Services”) of these improvements (“Improvements”), the City formed a city-wide street light assessment district in 1982. The rates for the 1982 assessment district have never been increased. Revenues from these assessments are placed into the streetlight fund (Fund 470).

In time, the financial outlook of the Streetlight fund began to cause concern as the costs increased for energy, labor and materials, while the revenue remained relatively static. Accordingly, the Streetlight fund no longer had enough funds to fund the Street light program. As a result, beginning in Fiscal Year 2006<sup>1</sup> the Streetlight fund began to receive a subsidy from the City’s General Fund in order to balance revenues with expenditures. However, because of other demands on the General Fund, that subsidy ended beginning Fiscal Year 2018. The modest fund balance was sufficient for Fiscal Year 2018 to cover that year’s anticipated expenses, but under current conditions it was expected to be depleted during Fiscal Year 2019. To establish financial sustainability for the Streetlight fund and avoid significant reductions in service levels, in 2018 the City conducted a funding measure to increase the assessment revenue for street light services.

With the passage of Proposition 218 in 1996, any increase in assessments must be approved by the affected property owners through a specified ballot proceeding. In addition, Proposition 218 and related subsequent court decisions create strict criteria for how assessments can be apportioned to the various properties, and the existing 1982 assessment structure may not be adequately consistent with these newer criteria. While the 1982 assessment structure may continue as a “grandfathered” assessment, any increase must be implemented in accordance with Proposition 218 and court decisions. For this reason, a new district, Street Lighting Assessment District 2018 (“District”), was formed separately, leaving the 1982 assessment structure in place, as is. The District will was formed and the levies are made pursuant to Part 2 of Division 15 of the *California Streets and Highways Code*, commonly known as the Landscape and Lighting Act of 1972 (“Act”), and Article XIID of the California Constitution (“Article”).

---

<sup>1</sup> Fiscal years are referenced in this Report by the year that fiscal period ends. For example, Fiscal Year 2006 would cover the period from July 1, 2005 through June 30, 2006.

## Assessment Formation Process

This Engineer's Report ("Report") describes the Street Lighting Assessment District 2018 ("District"), along with the boundaries, a description of the facilities and public improvements to be improved, serviced and maintained by the assessments (the "Improvements"), and the proposed assessments for Fiscal Year 2024 ("Assessments").

At its meeting on April 3, 2018, the City Council passed a resolution directing that a notice of assessment and assessment ballot be mailed to property owners within the District whose property receives special benefit from the Improvements. The notice included a description of the Improvements to be funded by the Assessments, the proposed assessment amount for each parcel owned, and an explanation of the method of completing and submitting the ballot. Ballots were mailed on or about April 11, 2018.

On May 29, 2018, a public hearing was held for the purpose of allowing public testimony regarding the proposed Assessments. At the Public Hearing, the public had the opportunity to speak on the issue, voice any concerns or protests, and obtain further information about the proposed Assessments.

The returned ballots were then tabulated, and the ballot results were announced at the City Council meeting on June 12, 2018. It was determined that the assessment ballots submitted in opposition to the proposed Assessments did not exceed the assessment ballots submitted in favor of the Assessments (each ballot was weighted by the proportional financial obligation of the property for which the ballot was submitted), so the Council was able to take action to approve the levying of Assessments for Fiscal Year 2019. The Assessments were so confirmed and approved, and the Assessment information was submitted to the County Auditor/Controller. The County Auditor/Controller included the Assessments on the property tax roll beginning in Fiscal Year 2019. Assessments may now be continued by the City Council from year to year.

## Legal Requirements

### Proposition 218

This Assessment District was formed consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996 and is now codified as Articles XIII C and XIII D of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property.

Proposition 218 describes a number of important requirements, including property-owner balloting for the imposition, increase and extension of assessments, and these requirements are satisfied by the process used to establish this Assessment District.

---

### **Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority**

In July 2008, the California Supreme Court decided *Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority* (“SVTA”), the most significant court case clarifying the substantive assessment requirements of Proposition 218. Several of the most important elements of the decision included further emphasis that:

- Benefit assessments are for special benefits to property, not general benefits.
- The services and/or improvements funded by assessments must be clearly defined.
- Assessment districts must be drawn to contain all parcels that receive a special benefit from a proposed public improvement.
- Assessments paid in each assessment district must be proportional to the special benefit received by each such parcel from the improvements and services funded by the assessment.

This Engineer’s Report and the process used to establish the Assessments are consistent with the *SVTA* decision and with the requirements of Article XIIC and XIID of the California Constitution based on the following factors:

1. The District is narrowly drawn to include only the properties that receive special benefit from the specific Improvements. Thus, zones of benefit are not required, and the assessment revenue derived from real property in the District is extended only on the Improvements in the District.
2. The Improvements which will be constructed and maintained with Assessment proceeds in the District are located in close proximity to the real property subject to the Assessment. The Improvements provide illumination to streets and sidewalks enabling improved access to the residents of such assessed property. The proximity of the Improvements to the assessed parcels and the improved access and increased safety provided to the residents of the assessed parcels by the Improvements provides a special benefit to the parcel being assessed pursuant to the factors outlined by the Supreme Court in that decision.

3. Due to their proximity to the assessed parcels, the Improvements financed with Assessment revenues in the District benefit the properties in that District in a manner different in kind from the benefit that other parcels of real property in the area derive from such Improvements, and the benefits conferred on such property in the District are more extensive than a general increase in property values.
4. The assessments paid in the District are proportional to the special benefit that each parcel within the District receives from the Improvements because:
  - a) The costs of the specific lighting Improvements and maintenance and utility costs in the District are specified in this Report; and
  - b) Such Improvement and maintenance costs in the District are allocated among different types of property located within the District and equally among those properties which have similar characteristics, such as single-family residential parcels, multi-family residential parcels, commercial parcels, industrial parcels, etc.

---

#### **Dahms v. Downtown Pomona Property**

On June 8, 2009, the Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona in *Dahms v. Downtown Pomona Property* (“*Dahms*”). On July 22, 2009, the California Supreme Court denied review. In *Dahms* the Court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

---

#### **Bonander v. Town of Tiburon**

On December 31, 2009, in *Bonander v. Town of Tiburon* (“*Bonander*”), the Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments primarily on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of the overall cost of the improvements and the overall proportional special benefits.

---

### **Beutz v. County of Riverside**

On May 26, 2010 the Court of Appeals issued a decision in Steven Beutz v. County of Riverside ("*Beutz*"). This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services was not explicitly calculated, quantified and separated from the special benefits.

---

### **Golden Hill Neighborhood Association v. City of San Diego**

On September 22, 2011, the Court of Appeal issued a decision in Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The Court described two primary reasons for its decision. First, like in *Beutz*, the Court found the general benefits associated with services were not explicitly calculated, quantified and separated from the special benefits. Second, the Court found that the City failed to record the basis for the assessment on its own parcels.

---

### **Compliance with Current Law**

This Engineer's Report is consistent with the requirements of Articles XIIC and XIID of the California Constitution and with the *SVTA* decision because the Improvements to be funded are clearly defined; the Improvements are directly available to and will directly benefit property in the District; and the Improvements provide a direct advantage to property in the District that would not be received in absence of the Assessments.

This Engineer's Report is consistent with *Beutz*, *Dahms* and *Greater Golden Hill* because the Improvements will directly benefit property in the District and the general benefits have been explicitly calculated and quantified and excluded from the Assessments. The Engineer's Report is consistent with *Bonander* because the Assessments have been apportioned based on the overall cost of the Improvements and Services and proportional special benefit to each property.

## Plans and Specifications

The work and Improvements to be undertaken by the City and the cost paid from the levy of the annual assessment provide special benefit to assessor parcels within the District defined in the Method of Assessment herein. Consistent with the Act, the Improvements are generally described as follows:

The installation, maintenance, and servicing of local street lights in close proximity to certain lots and parcels which provide a direct special benefit to such lots or parcels.

The installation, maintenance, and servicing of peripheral street light structures which provide a special benefit to all the assessable parcels within the District whether or not such parcels are in close proximity to such lighting.

The installation or construction of public lighting facilities, or the acquisition of any new improvements.

Plans and Specifications for the Improvements for the District are voluminous and are not bound in this Report but by this reference are incorporated and made a part of this Report. The Plans and Specifications are on file in the office of the Public Works Director where they are available for public inspection.

Article XIII D of the California Constitution defines "maintenance and servicing expenses" as, "the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care and supervision necessary to properly operate and maintain a permanent public improvement". The Improvement funding includes, but is not limited to, the removal, repair, replacement or relocation of light standards, poles, bulbs, fixtures and appurtenances, electrical energy, supplies, engineering and incidental costs relating to the maintenance and servicing of the local lighting improvements benefiting the parcels within the District.

The Improvements to be maintained and serviced within the District are to be part of the local street light system of the City of Berkeley that confers special benefit to the District's parcels. The specific location of local street light Improvements within the City can be found in the Streetlight Condition Assessment by Tanko Lighting, which is on file in the office of the Director of Public Works, where it is available for public inspection.

The Improvements to be maintained and serviced within the District include City-owned street lights within the right of way of the local public streets located within the boundaries of the District. These lights are all within close proximity to the parcels within the District identified as receiving local lighting benefit in the Method of Assessment, and, as such, provide special benefit to these parcels.

All street light maintenance will be performed by the City of Berkeley or its contractors.



## Fiscal Year 2024 Budget

A summary budget for fiscal year 2024 for the maintenance of the Improvements is provided below. The full Itemized budget for the Assessment District is voluminous and is not bound in this report but by reference is incorporated and made a part of this report. The Itemized budget is on file in the Department of Public Works where it is available for public inspection.

**Table 1 – FY 2024 Budget Summary**

|  | FY 2024             |
|--|---------------------|
| <b>Revenue</b>                                   |                     |
| 1982 Assessment Dist                             | \$ 1,422,966        |
| SLAD 2018 Assessments <sup>1</sup>               | 773,830             |
| Misc. Revenue                                    | 957                 |
| <b>TOTAL REVENUE</b>                             | <b>\$ 2,197,752</b> |
| <b>Expenses</b>                                  |                     |
| <b><u>Personnel Expenses</u></b>                 |                     |
| Personnel  | 455,955             |
| <b><u>Other Operating Expenses</u></b>           |                     |
| Non-Personnel                                    | 440,530             |
| Indirect Costs                                   | 54,916              |
| Gas/Electricity                                  | 483,837             |
| Debt Service Payment                             | 370,451             |
| Operating Transfer Out                           | 12,120              |
| County Collection Fee                            | 37,346              |
| <b>Other Operating Subtotal</b>                  | <b>\$ 1,399,200</b> |
| <b><u>Capital Expenses</u></b>                   |                     |
| Deferred Capital/Maint                           | 420,000             |
| <b>Capital Subtotal</b>                          | <b>\$ 420,000</b>   |
| <b>TOTAL EXPENSES</b>                            | <b>\$ 2,275,155</b> |
| <b>To (from) General Fund and/or Reserves</b>    | <b>\$ (77,402)</b>  |
| <b>Budget Allocation to Parcels</b>              |                     |
| Total Street Light 2018 Assessments <sup>1</sup> | \$ 773,830          |
| Total Street Light 2018 SFEs                     | 46,277.819          |
| <b>Assessment per SFE <sup>2</sup></b>           | <b>\$ 16.72</b>     |

**Notes on the Budget:**

- The Act requires that proceeds from the Assessments must be deposited into a special fund that has been set up for the revenues and expenditures of the District. Moreover, funds raised by the Assessment shall be used only for the purposes stated within this Report. Any balance remaining at the end of the Fiscal Year, June 30, must be carried over to the next Fiscal Year. The City may also establish a reserve fund for contingencies and special projects, as well as a capital improvement fund for accumulating funds for

larger capital improvement projects or capital renovation needs. Any remaining balance would either be placed in the reserve fund, the capital improvement fund, or would be used to reduce future years' assessments.

2. The rate shown here is for a Single-Family Equivalent ("SFE"), which is a single-family home or its equivalent. For the definition of the term SFE and rates for other types of property, see the section titled, "Method of Assessment" and the sections following it in this report.

## Method of Assessment

This section of the Engineer's Report includes an explanation of the benefits derived from the installation, maintenance and servicing of the Improvements throughout the District and the Assessment methodology used to apportion the total Assessment to properties within the District.

The District consists of all assessor parcels within the boundaries as defined by the Assessment Diagram and the parcels identified by the Assessor Parcel Numbers listed with the levy roll included with this Report. The parcel list includes all assessable privately and publicly owned parcels within the boundaries. The method used for apportioning the Assessment is based on the proportional special benefits to be derived by the properties in the District over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two-step process: the first step is to identify the types of special benefit arising from the Improvements and the second step is to allocate the Assessments to property based on the estimated relative special benefit for each type of property.

## Discussion of Benefit

In summary, the Assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Moreover, such benefit is not based on any one property owner's use of the Improvements or a property owner's specific demographic status. With reference to the requirements for Assessments, Section 22573 of the Act states:

*The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.*

Proposition 218, as codified in Article XIID of the California Constitution, has confirmed that Assessments must be based on the special benefit to property:

*No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.*

## Special Benefit

Street lighting is an optional improvement, not required by state or federal law, that is an enhancement over and above requisite infrastructure, and thus is a special benefit. The majority of the benefits of the street lights are received by the benefited property, with a small portion of the benefits received by the general public on major streets only. This portion received by the general public is captured and quantified in the following section.

The factors that determine special benefit conferred on parcels are detailed below:

---

### Improved Visibility and Safety

Well maintained, effective street lighting provides special benefit to proximate parcels, within range of the light, because it allows for safer and improved use of the property in the evenings, early morning, and at night. Street lighting provides special benefit because it increases neighborhood safety and, at least indirectly, reduces the likelihood of crime on the proximate parcels. Over time, the Improvements continue to confer a particular and distinct special benefit upon parcels within the District because of the nature of the Improvements. The proper maintenance of the street lights and appurtenant facilities increases visibility and local human presence and, in many situations, helps reduce property-related crimes, especially vandalism, against assessed properties in the District.

---

### Improved Access, Navigation and Traffic Safety

Well maintained, effective street lighting enhances ingress, egress and accessibility of all forms to the assessed parcels in the evening, early morning, and at night by increasing visibility. Improved visibility also helps prevent local automobile, bicycle, and pedestrian traffic accidents related to the assessed parcels. This benefit includes a reduction in accidents during non-daylight hours.

---

### Improved Community Character and Vitality

Well maintained, effective street lighting promotes evening and nighttime social interaction of residents and customers of businesses and industry. This creates a positive atmosphere and enhanced community image in the evening and at night for the assessed parcels.

All of the above-mentioned items also contribute to a specific enhancement to each of the parcels within the District. The proximate street lights make each parcel safer, more visible, more accessible, more useful, more valuable and more desirable; and this further strengthens the basis of these Assessments.

### General Versus Special Benefit

The proceeds from the Assessments are used to fund the described Improvements and increased levels of maintenance to the other City facilities that serve and benefit the properties in the District. In absence of the Street Lighting Assessment District 2018, such Improvements would not be properly maintained. Therefore, the District's purpose is to ensure that the necessary and beneficial public facilities for property in the District are properly maintained, operated and repaired over time. The Assessments will ensure that street lighting and associated improvements within and adjacent to the District are functional, well maintained and effective. These public resources directly benefit the property in the District and will confer distinct and special benefits to the properties within the District.

The Improvements and Services are specifically designed, located and created to provide additional and improved resources for property inside the District and not the public at large although the Improvements maintained by the Services may be available to the general public. Other properties that are outside the District do not enjoy the unique proximity and other special benefit factors described previously. These Improvements and Services are of special benefit to properties located within the District because they provide a direct advantage to properties in the District that would not be provided in the absence of the Assessments. Any general benefits to surrounding properties outside of the Assessment District, if any, are collateral and conferred concomitantly.

### Quantification of General Benefit

Although the analysis used to support these assessments concludes that the benefits are solely special, as described above, consideration is made for the suggestion that a portion of the benefits are general. General benefits cannot be funded by these assessments. The funding for general benefits must come from other sources.

The maintenance and servicing of these Improvements is also partially funded, directly and indirectly, from other sources, including the City of Berkeley, Alameda County, and the State of California. This funding comes in the form of grants, development fees, special programs, and general funds, as well as direct maintenance and servicing of facilities (e.g. curbs, gutters, streets, drainage systems, etc.). This funding from other sources more than compensates for general benefits, if any, received by the properties within the Assessment District.

In the 2009 *Dahms* case, the Court upheld an assessment that was 100% special benefit on the rationale that the services funded by the assessments were directly provided within the assessment district. It is also important to note that the improvements and services funded by the assessments in Pomona are similar to the improvements and services funded by the Assessments described in this Engineer's Report and the Court found these improvements and services to be 100% special benefit. Also similar to the assessments in Pomona, the Assessments described in this Engineer's Report fund Improvements and Services directly provided within the District and every benefiting property in the District enjoys proximity and access to the Improvements. Therefore, *Dahms* establishes a basis for minimal or zero general benefits from the Assessments. Nonetheless, possible general benefits have been liberally calculated below and then shown to be more than offset by resources from non-assessment sources.

---

### Calculation of General Benefit

The Illumination Engineering Society of North America provides a widely-used standard for street lighting which has become the de-facto industry standard. This standard specifies footcandle requirements as a measurement of illumination at the roadway level, which are different for local, collector, and major streets using three levels (low/medium/high) of pedestrian activity. The three street classifications and pedestrian activity levels are described below with a discussion of their general benefit contribution from the street light system.

Local Streets – a street that is used to gain access to the property bordering it. The street lights on local streets primarily serve the adjacent property owner. Therefore, per industry standard, the street lights on local streets have no general benefit component.

Collector Streets – low to moderate capacity roads which serve to move traffic from local streets to arterial roads. Similar to local streets, collector streets are primarily used by local residents and per industry standard are also deemed to have no general benefit component. This street classification will be used as the baseline for this analysis.

Arterials – high capacity streets that serve as the principal network for through traffic flow. These routes connect areas of principal traffic generation and important regional roadways traversing the City. As such, this traffic includes a significant number of drivers from outside the District and the street light Improvements may confer some general benefit on those drivers.

On average, arterial streets require a 45% increase in lighting levels from the baseline collector streets.<sup>2</sup> This increase in lighting reinforces the special benefits to the abutting properties as defined above: increased visibility and safety; improved access, navigation and traffic safety; and improved community character and vitality. In addition to these benefits, the through traffic flow, which includes drivers from outside the District, receives the additional benefit of reduction in nighttime accidents due to enhanced lighting. The degree to which each of these benefits can be considered general benefit is shown in Table 2 below.

**Table 2 – General Benefit for Arterial Streets**

| <b>Benefit Factor</b>   | <b>Relative Weight</b> | <b>General Benefit Contribution</b> | <b>Relative General Benefit</b> |
|---|------------------------|-------------------------------------|---------------------------------|
| Improved Nighttime Visibility and Safety                          | 25                     | 0%                                  | 0.0%                            |
| Improved Access, Navigation and Traffic Safety                    | 25                     | 50%                                 | 12.5%                           |
| Improved Community Character and Vitality                         | 25                     | 0%                                  | 0.0%                            |
| Reduction in Nighttime Accidents                                  | 25                     | 75%                                 | 18.8%                           |
| <b>General Benefit on Arterial Streets from Improved Lighting</b> |                        |                                     | <b>31.3%</b>                    |

The general benefit from arterial streets must be combined with the general benefit from all other streets in the District. Each category of street has its unique general benefit weight, prorated by center line miles of streets. This calculation is shown in Table 3 below.

**Table 3 – Calculation of General Benefit**

| <b>Street Classification</b> | <b>Centerline Miles</b> | <b>General Benefit Weight</b> | <b>General Benefit</b> |
|------------------------------|-------------------------|-------------------------------|------------------------|
| Local                        | 158                     | 73.1%                         | 0.0%                   |
| Collector                    | 37                      | 17.1%                         | 0.0%                   |
| Arterial                     | 21                      | 9.7%                          | 3.0%                   |
| <b>TOTAL</b>                 | <b>216</b>              | <b>100%</b>                   | <b>3.0%</b>            |

<sup>2</sup> Based on values from the Illumination Engineering Society of North America, "American National Standard Practice for Roadway Lighting."

As a result, the City of Berkeley will contribute at least 3.0% of the total budget from sources other than the Assessment. This contribution offsets any general benefits from the Assessment Services.

---

### Calculation of the Current General Benefit Contribution from the City

This general benefit contribution is the sum of the following components:

The City of Berkeley owns, maintains, rehabilitates and replaces curb and gutter along the border of the Assessment District improvements. This curb and gutter serves to support, contain, retain, manage irrigation flow and growth, and provide a boundary for the Improvements. The contribution from the City of Berkeley toward general benefit from the maintenance, rehabilitation, and replacement of the curb and gutter is conservatively estimated to be 1%.

The City of Berkeley owns and maintains a storm drainage system along the border of the District's Improvements. This system serves to prevent flooding and associated damage to the Improvements and to manage urban runoff including local pollutants loading from the Improvements. The contribution from the City of Berkeley toward general benefit from the maintenance and operation of the local storm drainage system is conservatively estimated to be 1%.

The City of Berkeley owns and maintains local public streets throughout the District. These public streets provide access to the Improvements for its enjoyment as well as efficient maintenance. The contribution from the City of Berkeley toward general benefit from the maintenance of local public streets is conservatively estimated to be 1%.

The value of the construction of the existing street light Improvements can be quantified and monetized as an annuity. Since this construction was performed and paid for by funds other than these Assessments, this "annuity" can be used to offset general benefit costs and is conservatively estimated to contribute 25%.

---

### General Benefit is More than Offset by City Contribution

Therefore, the total general benefit is liberally quantified at 3.0%, which is more than offset by the total non-assessment contribution toward general benefit of 28%. In addition, the budget anticipates receiving 3.4% of the budget from sources other than the assessment.



## Method of Assessment

As previously discussed, the proposed Assessments will provide comprehensive Improvements that will clearly confer special benefits to properties in the proposed District. The allocation of special benefits to property is partially based on the type of property and the size of property.

The development of an Assessment methodology requires apportioning to determine the relative special benefit for each property. To determine the special benefit received by individual parcels, the use of that parcel must be considered. Each category of property can benefit from street lights in a unique way, and those characteristics must be quantified. As noted above, the special benefit factors are as follows:

- Improved visibility and safety
- Improved access, navigation and traffic safety
- Improved community character and vitality

The basis for apportioning Assessments is traffic generated to and from a particular parcel. This is used because the amount of traffic generated by a parcel is directly proportional to, and effectively models, the relative quantity of the three special benefit factors. For instance, the more people that come and go from a site, the more the site benefits from the improved visibility and safety. The same reasoning applies to the other special benefit factors.

---

### Residential Traffic

The typical single-family residence (“SFR”) generates approximately ten vehicular trips per day. Condominium units generate approximately eight trips per day and apartment units generate approximately six trips per day per unit. The trip generation rates that are used for each land use are based on the trip generation rates published by the San Diego Association of Governments and the Encinitas Ranch Austin Foust Traffic Study. The trip generation rates are included in Appendix A of this report.

---

### Non-Residential Traffic

Trip generation for non-residential parcels vary depending on their designated land use as well as size of parcel. The trip generation data for non-residential land uses are based on trips per acre. For instance, a commercial parcel on two acres typically will have twice the traffic of a commercial parcel on one acre. It follows that the two-acre parcel will then receive twice the benefit from the street lighting as the one-acre parcel. Various land uses were grouped into categories with similar traffic characteristics, resulting in the fee categories shown later in this report.

---

### Darkness

Non-residential parcels typically do not operate all night long. The average period of darkness is 12 hours, but non-residential uses will only operate for approximately three hours of that time. For that reason, a non-residential darkness factor of  $(3 \div 12 =)$  25% is applied to those parcels. For two non-residential categories, the darkness factor is different, as shown below:

- Offices and banks typically close earlier than other non-residential uses so they are assigned a darkness factor of 12.5%.
- Hotels, motels and boarding houses typically have activity further into the night than other non-residential uses, so they are assigned a darkness factor of 50%.

Non-residential trip generation is then adjusted for the darkness factor for each rate category.

---

### Single-Family Equivalents

The SFR category is used as the baseline for calculating the special benefit for all other land uses and sizes. Each rate category is assigned a single-family equivalent (“SFE”) rate using the following formula:

$$\frac{ADT \times \text{Darkness Factor}}{ADT \text{ for SFR}} = \text{SFE Rate}$$

Where:

- ADT = Average Daily Trips for each category
- ADT for SFR = ADT for single-family residential, which is used as a baseline figure for SFE rate
- SFE Rate = SFEs per unit shown (parcel, [living] unit, or acre)

The results of these calculations for each rate category are shown in Table 4 below.

Table 4 – Single-Family Equivalent Rates

| Landuse Category                | ADT  | Darkness Factor | Adj ADT | SFE Rate | Unit   |
|---------------------------------|------|-----------------|---------|----------|--------|
| <b>Residential</b>              |      |                 |         |          |        |
| Single Family                   | 10   | 1               | 10      | 1.000    | parcel |
| Multi-Family < 5 units          | 8    | 1               | 8       | 0.800    | unit   |
| Multi-Family 5 or more units    | 6    | 1               | 6       | 0.600    | unit   |
| Condominium                     | 8    | 1               | 8       | 0.800    | parcel |
| Mobile Home                     | 5    | 1               | 5       | 0.500    | unit   |
| Multiple SFR on parcel          | 10   | 1               | 10      | 1.000    | unit   |
| <b>Non-Residential</b>          |      |                 |         |          |        |
| General Commercial              | 600  | 0.25            | 150     | 15.000   | acre   |
| Industrial / Warehouse          | 60   | 0.25            | 15      | 1.500    | acre   |
| Auto Repair                     | 400  | 0.25            | 100     | 10.000   | acre   |
| Hotel / Motel / Boarding        | 200  | 0.5             | 100     | 10.000   | acre   |
| Hospital                        | 250  | 0.25            | 62.5    | 6.250    | acre   |
| Retirement Home                 | 50   | 0.25            | 12.5    | 1.250    | acre   |
| School / Day Care               | 90   | 0.25            | 22.5    | 2.250    | acre   |
| Medical / Dental / Vet          | 500  | 0.25            | 125     | 12.500   | acre   |
| Church                          | 30   | 0.25            | 7.5     | 0.750    | acre   |
| Mortuary                        | 10   | 0.25            | 2.5     | 0.250    | acre   |
| Recreational                    | 100  | 0.25            | 25      | 2.500    | acre   |
| Parking / Transportation        | 200  | 0.25            | 50      | 5.000    | acre   |
| Mini Storage                    | 30   | 0.25            | 7.5     | 0.750    | acre   |
| Office                          | 300  | 0.125           | 37.5    | 3.750    | acre   |
| Bank                            | 1000 | 0.125           | 125     | 12.500   | acre   |
| Park / Open Space / Agriculture | 2    | 0.25            | 0.5     | 0.050    | acre   |
| Vacant                          | 0    |                 |         | na       |        |

### Annual Assessment Increase

The Assessment is subject to an annual adjustment tied to the San Francisco-Oakland-Hayward Consumer Price Index-U as of December of each succeeding year (“CPI”), with a maximum annual adjustment not to exceed 3%. In order for the City’s dedicated Streetlight fund revenue sources to satisfy cost requirements into the future, the maximum rate per SFE is calculated based upon the sum of the 1982 assessment and the Street Light Assessment District 2018 Assessment.

**Table 5 – Maximum Single-Family Equivalent Rate Calculation**

|   | FY 2023                | FY 2024             |
|---|------------------------|---------------------|
| 2018 District Maximum for FY 23           | \$ 709,845.29          | \$ 709,845.29       |
| 1982 District Maximum for FY 23           | <u>\$ 1,422,965.52</u> |                     |
| Total for FY 23                           | \$ 2,132,810.81        |                     |
| Maximum Increase of 3% of Total for FY 23 |                        | <u>\$ 63,984.32</u> |
| FY 24 Maximum Assessment                  |                        | \$ 773,829.61       |
| Total SFEs                                |                        | 46,277.819          |
| <b>FY 24 Maximum Rate per SFE</b>         |                        | <b>\$ 16.72</b>     |

### Duration of Assessment

The Assessments may be continued every year after their formation, so long as the public Improvements need to be maintained and improved and the City requires funding from the Assessments for these Improvements in the District. As noted previously, the Assessment can continue to be levied annually after the City Council approves an annually updated Engineer’s Report, budget for the Assessment, Improvements to be provided and other specifics of the Assessment. In addition, the City Council must hold an annual public hearing to continue the Assessment.

### Appeals and Interpretation

Any property owner who feels that the Assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the City of Berkeley Public Works department. Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the City of Berkeley City Engineer or his or her designee will promptly review the appeal and any information provided by the property owner. If the City Engineer or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the City Engineer or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the City Engineer or her or his designee shall be referred to the Public Works Director and the decision of the Public Works Director shall be final.

## Assessment Statement

WHEREAS, on March 21, 2023, the City Council of the City of Berkeley, County of Alameda, California, adopted a Resolution initiating proceedings for the levy of Assessments for fiscal year 2024 within the Street Light Assessment District 2018, pursuant to the provisions of the Landscaping and Lighting Act of 1972 and Article XIID of the California Constitution (collectively “the Act”);

WHEREAS, the City of Berkeley directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the Assessment District and an assessment of the estimated costs of the Improvements upon all assessable parcels within the Assessment District, to which the description of the proposed Improvements therein contained, reference is hereby made for further particulars;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under the Act and the order of the City Council of the City of Berkeley, hereby make the following assessment to cover the portion of the estimated cost of the Improvements, and the costs and expenses incidental thereto to be paid by the Assessment District.

The amount to be paid for the Improvements and the expense incidental thereto to be paid by the City of Berkeley Street Lighting Assessment District 2018 for the fiscal year 2024 are generally as listed in Table 1.

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of the City of Berkeley Street light Assessment District 2018. The distinctive number of each parcel or lot of land in the City of Berkeley Street light Assessment District 2018 is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion the net amount of the cost and expenses of the Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within the City of Berkeley Street Lighting Assessment District 2018, in accordance with the special benefits to be received by each parcel or lot, from the Improvements, and more particularly set forth in the cost estimate and method of assessment hereto attached and by reference made a part hereof.

The Assessments are made upon the parcels or lots of land within the City of Berkeley Street Lighting Assessment District 2018 in proportion to the special benefits to be received by the parcels or lots of land from the Improvements.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Alameda for the fiscal year 2018. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2024 for each parcel or lot of land within the City of Berkeley Street Lighting Assessment District 2018.

Dated: April 6, 2023

Engineer of Work



By \_\_\_\_\_  
Jerry Bradshaw, License No. C48845







Appendix A – SANDAG Trip Generation Tables

**(NOT SO)**  
**BRIEF GUIDE OF VEHICULAR TRAFFIC GENERATION RATES**  
**FOR THE SAN DIEGO REGION**



401 B Street, Suite 800  
San Diego, California 92101  
(619) 699-1900 • Fax (619) 699-1950

APRIL 2002

NOTE: This listing only represents a *guide* of average, or estimated, traffic generation "driveway" rates and some very general trip data for land uses (emphasis on acreage and building square footage) in the San Diego region. These rates (both local and national) are subject to change as future documentation becomes available, or as regional sources are updated. For more specific information regarding traffic data and trip rates, please refer to the San Diego Traffic Generators manual. *Always check with local jurisdictions for their preferred or applicable rates.*

| LAND USE  | TRIP CATEGORIES<br>(PRIMARY-DIVERTED-PASS-BY) <sup>1</sup> | ESTIMATED WEEKDAY VEHICLE<br>TRIP GENERATION RATE (DRIVEWAY)                                     | HIGHEST PEAK HOUR % (plus IN-OUT ratio) |                        | TRIP LENGTH<br>(Miles) <sup>2</sup> |
|---|--|--|---|------------------------|-------------------------------------|
|   |  |  | Between 6:00-9:30 A.M.                  | Between 3:00-6:30 P.M. |                                     |
| AGRICULTURE (Open Space)  | [80:18:2]  | 2/acre**   |   |                        | 10.8                                |
| AIRPORT   | [78:20:2]  |  |   |                        | 12.5                                |
| Commercial  |  | 60/acre, 100/flight, 70/1000 sq. ft.***  | 5% (6:4)                                | 6% (5:5)               |                                     |
| General Aviation  |  | 6/acre, 2/flight, 6/base aircraft***   | 9% (7:3)                                | 15% (5:5)              |                                     |
| Heliports   |  | 100/acre**   |   |                        |                                     |
| AUTOMOBILE <sup>5</sup>   |  |  |   |                        | 2.8                                 |
| Car Wash  |  |  |   |                        |                                     |
| Automatic   |  | 900/site, 600/acre**   | 4% (5:5)                                | 9% (5:5)               |                                     |
| Self-serve  |  | 100/wash stall**   | 4% (5:5)                                | 8% (5:5)               |                                     |
| Gasoline  | [21:51:28]   |  |   |                        |                                     |
| with/Food Mart  |  | 160/vehicle fueling space**  | 7% (5:5)                                | 8% (5:5)               |                                     |
| with/Food Mart & Car Wash   |  | 155/vehicle fueling space**  | 8% (5:5)                                | 9% (5:5)               |                                     |
| Older Service Station Design  |  | 150/vehicle fueling space, 900/station**   | 7% (5:5)                                | 9% (5:5)               |                                     |
| Sales (Dealer & Repair)   |  | 50/1000 sq. ft., 300/acre, 60/service stall***   | 5% (7:3)                                | 8% (4:6)               |                                     |
| Auto Repair Center  |  | 20/1000 sq. ft., 400/acre, 20/service stall***   | 3% (7:3)                                | 11% (4:6)              |                                     |
| Auto Parts Sales  |  | 60/1000 sq. ft.**  | 4%                                      | 10%                    |                                     |
| Quick Lube  |  | 40/service stall**   | 7% (6:4)                                | 10% (5:5)              |                                     |
| Tire Store  |  | 25/1000 sq. ft., 30/service stall**  | 7% (6:4)                                | 11% (5:5)              |                                     |
| CEMETERY  |  | 5/acre*  |   |                        |                                     |
| CHURCH (or Synagogue)   | [64:25:11]   | 9/1000 sq. ft., 30/acre** (quadruple rates for Sunday, or days of assembly)                      | 5% (6:4)                                | 8% (5:5)               | 5.1                                 |
| COMMERCIAL/RETAIL <sup>5</sup>  |  |  |   |                        |                                     |
| Super Regional Shopping Center (More than 80 acres, more than 800,000 sq. ft., w/usually 3+ major stores)   |  | 35/1000 sq. ft., <sup>c</sup> 400/acre*  | 4% (7:3)                                | 10% (5:5)              |                                     |
| Regional Shopping Center (40-80 acres, 400,000-800,000 sq. ft., w/usually 2+ major stores)  | [54:35:11]   | 50/1000 sq. ft., <sup>c</sup> 500/acre*  | 4% (7:3)                                | 9% (5:5)               | 5.2                                 |
| Community Shopping Center (15-40 acres, 125,000-400,000 sq. ft., w/usually 1 major store, detached restaurant(s), grocery and drugstore)                          | [47:31:22]   | 80/1000 sq. ft., 700/acre**  | 4% (6:4)                                | 10% (5:5)              | 3.6                                 |
| Neighborhood Shopping Center (Less than 15 acres, less than 125,000 sq. ft., w/usually grocery & drugstore, cleaners, beauty & barber shop, & fast food services) |  | 120/1000 sq. ft., 1200/acre***   | 4% (6:4)                                | 10% (5:5)              |                                     |
| Commercial Shops  | [45:40:15]   |  |   |                        | 4.3                                 |
| Specialty Retail/Strip Commercial   |  | 40/1000 sq. ft., 400/acre*   | 3% (6:4)                                | 9% (5:5)               |                                     |
| Electronics Superstore  |  | 50/1000 sq. ft.**  |   | 10% (5:5)              |                                     |
| Factory Outlet  |  | 40/1000 sq. ft.**  | 3% (7:3)                                | 9% (5:5)               |                                     |
| Supermarket   |  | 150/1000 sq. ft., 2000/acre***   | 4% (7:3)                                | 10% (5:5)              |                                     |
| Drugstore   |  | 90/1000 sq. ft.**  | 4% (6:4)                                | 10% (5:5)              |                                     |
| Convenience Market (15-16 hours)  |  | 500/1000 sq. ft.**   | 5% (5:5)                                | 8% (5:5)               |                                     |
| Convenience Market (24 hours)   |  | 700/1000 sq. ft.**   | 3% (5:5)                                | 7% (5:5)               |                                     |
| Convenience Market (w/gasoline pumps)   |  | 850/1000 sq. ft., 550/vehicle fueling space**  | 5% (5:5)                                | 7% (5:5)               |                                     |
| Discount Club   |  | 60/1000 sq. ft., 600/acre***   | 7% (7:3)                                | 9% (5:5)               |                                     |
| Discount Store  |  | 60/1000 sq. ft., 600/acre***   | 3% (6:4)                                | 8% (5:5)               |                                     |
| Furniture Store   |  | 6/1000 sq. ft., 100/acre**   | 4% (7:3)                                | 9% (5:5)               |                                     |
| Lumber Store  |  | 30/1000 sq. ft., 150/acre**  | 7% (6:4)                                | 9% (5:5)               |                                     |
| Home Improvement Superstore   |  | 40/1000 sq. ft.**  | 5% (6:4)                                | 8% (5:5)               |                                     |
| Hardware/Paint Store  |  | 60/1000 sq. ft., 600/acre**  | 2% (6:4)                                | 9% (5:5)               |                                     |
| Garden Nursery  |  | 40/1000 sq. ft., 90/acre**   | 3% (6:4)                                | 10% (5:5)              |                                     |
| Mixed Use: Commercial (w/supermarket)/Residential   |  | 110/1000 sq. ft., 2000/acre* (commercial only)<br>15/dwelling unit, 200/acre* (residential only) | 3% (6:4)<br>3% (3:7)                    | 9% (5:5)<br>13% (6:4)  |                                     |
| EDUCATION   |  |  |   |                        |                                     |
| University (4 years)  | [91:9:0]   | 2.4/student, 100 acre*   | 10% (8:2)                               | 9% (3:7)               | 8.9                                 |
| Junior College (2 years)  | [92:7:1]   | 1.2/student, 24/1000 sq. ft., 120/acre***  | 12% (8:2)                               | 9% (6:4)               | 9.0                                 |
| High School   | [75:19:6]  | 1.3/student, 15/1000 sq. ft., 60/acre***   | 20% (7:3)                               | 10% (4:6)              | 4.8                                 |
| Middle/Junior High  | [63:25:12]   | 1.4/student, 12/1000 sq. ft., 50/acre***   | 30% (6:4)                               | 9% (4:6)               | 5.0                                 |
| Elementary  | [57:25:10]   | 1.6/student, 14/1000 sq. ft., 90/acre***   | 32% (6:4)                               | 9% (4:6)               | 3.4                                 |
| Day Care  | [28:58:14]   | 5/child, 80/1000 sq. ft.**   | 17% (5:5)                               | 18% (5:5)              | 3.7                                 |
| FINANCIAL <sup>5</sup>  | [35:42:23]   |  |   |                        | 3.4                                 |
| Bank (Walk-In only)   |  | 150/1000 sq. ft., 1000/acre***   | 4% (7:3)                                | 8% (4:6)               |                                     |
| with Drive-Through  |  | 200/1000 sq. ft., 1500/acre*   | 5% (6:4)                                | 10% (5:5)              |                                     |
| Drive-Through only  |  | 250 (125 one-way)/lane*  | 3% (5:5)                                | 13% (5:5)              |                                     |
| Savings & Loan  |  | 60/1000 sq. ft., 600/acre**  | 2%                                      | 9%                     |                                     |
| Drive-Through only  |  | 100 (50 one-way)/lane**  | 4%                                      | 15%                    |                                     |
| HOSPITAL  | [73:25:2]  |  |   |                        | 8.3                                 |
| General   |  | 20/bed, 25/1000 sq. ft., 250/acre*   | 8% (7:3)                                | 10% (4:6)              |                                     |
| Convalescent/Nursing  |  | 3/bed**  | 7% (6:4)                                | 7% (4:6)               |                                     |
| INDUSTRIAL  |  |  |   |                        |                                     |
| Industrial/Business Park (commercial included)  | [79:19:2]  | 16/1000 sq. ft., 200/acre***   | 12% (8:2)                               | 12% (2:8)              | 9.0                                 |
| Industrial Park (no commercial)   |  | 8/1000 sq. ft., 90/acre**  | 11% (9:1)                               | 12% (2:8)              |                                     |
| Industrial Plant (multiple shifts)  | [92:5:3]   | 10/1000 sq. ft., 120/acre*   | 14% (8:2)                               | 15% (3:7)              | 11.7                                |
| Manufacturing/Assembly  |  | 4/1000 sq. ft., 50/acre**  | 19% (9:1)                               | 20% (2:8)              |                                     |
| Warehousing   |  | 5/1000 sq. ft., 60/acre**  | 13% (7:3)                               | 15% (4:6)              |                                     |
| Storage   |  | 2/1000 sq. ft., 0.2/vault, 30/acre*  | 6% (5:5)                                | 9% (5:5)               |                                     |
| Science Research & Development  |  | 8/1000 sq. ft., 80/acre*   | 16% (9:1)                               | 14% (1:9)              |                                     |
| Landfill & Recycling Center   |  | 6/acre   | 11% (5:5)                               | 10% (4:6)              |                                     |

(OVER)

MEMBER AGENCIES: Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, Vista and County of San Diego.  
ADVISORY/LIAISON MEMBERS: California Department of Transportation, County Water Authority, U.S. Department of Defense, S.D. Unified Port District and Tijuana/Baja California.



| LAND USE  | TRIP CATEGORIES<br>[PRIMARY-DIVERTED-PASS-BY]* | ESTIMATED WEEKDAY VEHICLE<br>TRIP GENERATION RATE (DRIVEWAY) | HIGHEST PEAK HOUR % (plus IN:OUT ratio) |                        | TRIP LENGTH<br>(Miles) <sup>1</sup> |
|---|--|--|---|------------------------|-------------------------------------|
|   |  |  | Between 6:00-9:30 A.M.                  | Between 3:00-6:30 P.M. |                                     |
| LIBRARY   | [44:44:12]                                     | 50/1000 sq. ft., 400/acre**                                  | 2%                                      | (7:3) 10% (5:5)        | 3.9                                 |
| LODGING   | [58:38:4]                                      |  |   |                        | 7.6                                 |
| Hotel (w/convention facilities/restaurant)                                  |  | 10/occupied room, 300/acre                                   | 6%                                      | (6:4) 8% (6:4)         |                                     |
| Motel   |  | 9/occupied room, 200/acre*                                   | 8%                                      | (4:6) 9% (6:4)         |                                     |
| Resort Hotel  |  | 8/occupied room, 100/acre*                                   | 5%                                      | (6:4) 7% (4:6)         |                                     |
| Business Hotel  |  | 7/occupied room**  | 8%                                      | (4:6) 9% (6:4)         |                                     |
| MILITARY  | [82:16:2]                                      | 2.5/military & civilian personnel*                           | 9%                                      | (9:1) 10% (2:8)        | 11.2                                |
| OFFICE  |  |  |   |                        |                                     |
| Standard Commercial Office (less than 100,000 sq. ft.)                      | [77:19:4]                                      | 20/1000 sq. ft., <sup>o</sup> 300/acre*                      | 14%                                     | (9:1) 13% (2:8)        | 8.8                                 |
| Large (High-Rise) Commercial Office (more than 100,000 sq. ft., 6+ stories) | [82:15:3]                                      | 17/1000 sq. ft., <sup>o</sup> 600/acre*                      | 13%                                     | (9:1) 14% (2:8)        | 10.0                                |
| Office Park (400,000+ sq. ft.)  |  | 12/1000 sq. ft., 200/acre**                                  | 13%                                     | (9:1) 13% (2:8)        |                                     |
| Single Tenant Office  |  | 14/1000 sq. ft., 180/acre*                                   | 15%                                     | (9:1) 15% (2:8)        | 8.8                                 |
| Corporate Headquarters  |  | 7/1000 sq. ft., 110/acre*                                    | 17%                                     | (9:1) 16% (1:9)        |                                     |
| Government (Civic Center)   | [50:34:16]                                     | 30/1000 sq. ft., 1*  | 9%                                      | (9:1) 12% (3:7)        | 6.0                                 |
| Post Office   |  | 90/1000 sq. ft.**  | 9%                                      | 7%                     |                                     |
| Central/Walk-In Only  |  | 200/1000 sq. ft., 1300/acre*                                 | 6%                                      | (6:4) 9% (5:5)         |                                     |
| Community (not including mail drop lane)                                    |  | 300/1000 sq. ft., 2000/acre*                                 | 7%                                      | (5:5) 10% (5:5)        |                                     |
| Community (w/mail drop lane)  |  | 1500 (750 one-way)/lane*                                     | 7%                                      | (5:5) 12% (5:5)        |                                     |
| Mail Drop Lane only   |  | 180/1000 sq. ft., 900/acre**                                 | 6%                                      | (6:4) 10% (4:6)        |                                     |
| Department of Motor Vehicles  |  | 50/1000 sq. ft., 500/acre*                                   | 6%                                      | (8:2) 11% (3:7)        | 6.4                                 |
| Medical-Dental  | [60:30:10]                                     |  |   |                        |                                     |
| PARKS   | [66:28:6]                                      |  |   |                        | 5.4                                 |
| City (developed w/meeting rooms and sports facilities)                      |  | 50/acre*   | 4%                                      | 8%                     |                                     |
| Regional (developed)  |  | 20/acre*   | 13%                                     | (5:5) 9% (5:5)         |                                     |
| Neighborhood/County (undeveloped)   |  | 5/acre (add for specific sport uses), 6/picnic site**        |   |                        |                                     |
| State (average 1000 acres)  |  | 1/acre, 10/picnic site**                                     |   |                        |                                     |
| Amusement (Theme)   |  | 80/acre, 130/acre (summer only)**                            |   | 6% (6:4)               |                                     |
| San Diego Zoo   |  | 115/acre*  |   |                        |                                     |
| Sea World   |  | 80/acre*   |   |                        |                                     |
| RECREATION  |  |  |   |                        |                                     |
| Beach, Ocean or Bay   | [52:39:9]                                      | 600/1000 ft. shoreline, 60/acre*                             |   |                        | 6.3                                 |
| Beach, Lake (fresh water)   |  | 50/1000 ft. shoreline, 5/acre*                               |   |                        |                                     |
| Bowling Center  |  | 30/1000 sq. ft., 300/acre, 30/lane**                         | 7%                                      | (7:3) 11% (4:6)        |                                     |
| Campground  |  | 4/campsite**   | 4%                                      | 8%                     |                                     |
| Golf Course   |  | 7/acre, 40/hole, 700/course**                                | 7%                                      | (8:2) 9% (3:7)         |                                     |
| Driving Range only  |  | 70/acre, 14/tee box*   | 3%                                      | (7:3) 9% (5:5)         |                                     |
| Marinas   |  | 4/berth, 20/acre**   | 3%                                      | (3:7) 7% (6:4)         |                                     |
| Multi-purpose (miniature golf, video arcade, batting cage, etc.)            |  | 90/acre  | 2%                                      | 6%                     |                                     |
| Racquetball/Health Club   |  | 30/1000 sq. ft., 300/acre, 40/court*                         | 4%                                      | (6:4) 9% (6:4)         |                                     |
| Tennis Courts   |  | 16/acre, 30/court**  | 5%                                      | 11% (5:5)              |                                     |
| Sports Facilities   |  |  |   |                        |                                     |
| Outdoor Stadium   |  | 50/acre, 0.2/seat*   |   |                        |                                     |
| Indoor Arena  |  | 30/acre, 0.1/seat*   |   |                        |                                     |
| Racetrack   |  | 40/acre, 0.5/seat*   |   |                        |                                     |
| Theaters (multiplex w/matinee)  | [66:17:17]                                     | 80/1000 sq. ft., 1.8/seat, 360/screen*                       | 13%                                     | 8% (6:4)               | 6.1                                 |
| RESIDENTIAL   | [86:11:3]                                      |  |   |                        | 7.9                                 |
| Estate, Urban or Rural (average 1-2 DU/acre)                                |  | 12/dwelling unit**   | 8%                                      | (3:7) 10% (7:3)        |                                     |
| Single Family Detached (average 3-6 DU/acre)                                |  | 10/dwelling unit**   | 8%                                      | (3:7) 10% (7:3)        |                                     |
| Condominium (or any multi-family 6-20 DU/acre)                              |  | 8/dwelling unit**  | 8%                                      | (2:8) 10% (7:3)        |                                     |
| Apartment (or any multi-family units more than 20 DU/acre)                  |  | 6/dwelling unit**  | 8%                                      | (2:8) 9% (7:3)         |                                     |
| Military Housing (off-base, multi-family)                                   |  |  |   |                        |                                     |
| (less than 6 DU/acre)   |  | 8/dwelling unit  | 7%                                      | (3:7) 9% (6:4)         |                                     |
| (6-20 DU/acre)  |  | 6/dwelling unit  | 7%                                      | (3:7) 9% (6:4)         |                                     |
| Mobile Home   |  |  |   |                        |                                     |
| Family  |  | 5/dwelling unit, 40/acre*                                    | 8%                                      | (3:7) 11% (6:4)        |                                     |
| Adults Only   |  | 3/dwelling unit, 20/acre*                                    | 9%                                      | (3:7) 10% (6:4)        |                                     |
| Retirement Community  |  | 4/dwelling unit**  | 5%                                      | (4:6) 7% (6:4)         |                                     |
| Congregate Care Facility  |  | 2.5/dwelling unit**  | 4%                                      | (6:4) 8% (5:5)         |                                     |
| RESTAURANT <sup>s</sup>   | [51:37:12]                                     |  |   |                        | 4.7                                 |
| Quality   |  | 100/1000 sq. ft., 3/seat, 500/acre***                        | 7%                                      | (6:4) 8% (7:3)         |                                     |
| Sit-down, high turnover   |  | 160/1000 sq. ft., 6/seat, 1000/acre***                       | 8%                                      | (5:5) 8% (6:4)         |                                     |
| Fast Food (w/drive through)   |  | 650/1000 sq. ft., 20/seat, 3000/acre***                      | 7%                                      | (6:5) 7% (6:5)         |                                     |
| Fast Food (without drive-through)   |  | 700/1000 sq. ft.**   | 5%                                      | (6:4) 7% (5:5)         |                                     |
| Delicatessen (7am-4pm)  |  | 150/1000 sq. ft., 11/seat*                                   | 9%                                      | (6:4) 3% (3:7)         |                                     |
| TRANSPORTATION  |  |  |   |                        |                                     |
| Bus Depot   |  | 25/1000 sq. ft.**  |   |                        |                                     |
| Truck Terminal  |  | 10/1000 sq. ft., 7/bay, 80/acre**                            | 9%                                      | (4:6) 8% (5:5)         |                                     |
| Waterport/Marine Terminal   |  | 170/berth, 12/acre**   |   |                        |                                     |
| Transit Station (Light Rail w/parking)                                      |  | 300/acre, 2 <sup>1/2</sup> /parking space (4/occupied)**     | 14%                                     | (7:3) 15% (3:7)        |                                     |
| Park & Ride Lots  |  | 400/acre (600/paved acre),<br>5/parking space (8/occupied)** | 14%                                     | (7:3) 15% (3:7)        |                                     |

\* Primary source: San Diego Traffic Generators.  
 \*\* Other sources: ITE Trip Generation Report (6th Edition), Trip Generation Rates (other agencies and publications), various SANDAG & CALTRANS studies, reports and estimates.

<sup>o</sup> Trip category percentage ratios are daily from local household surveys, often cannot be applied to very specific land uses, and do not include non-resident drivers (draft SANDAG Analysis of Trip Diversion, revised November, 1990).

PRIMARY - one trip directly between origin and primary destination.  
 DIVERTED - linked trip (having one or more stops along the way to a primary destination) whose distance compared to direct distance ≥ 1 mile.  
 PASS-BY - undiverted or diverted < 1 mile.

<sup>1</sup> Trip lengths are average weighted for all trips to and from general land use site. (All trips system-wide average length = 6.9 miles)

<sup>c</sup> Fitted curve equation:  $\ln(T) = 0.502 \ln(x) + 6.945$  } T = total trips, x = 1,000 sq. ft.

<sup>d</sup> Fitted curve equation:  $\ln(T) = 0.756 \ln(x) + 3.950$  }

<sup>R</sup> Fitted curve equation:  $t = -2.169 \ln(d) + 12.85$        $t = \text{trips/DU, } d = \text{density (DU/acre), DU = dwelling unit}$

<sup>S</sup> Suggested PASS-BY (undiverted or diverted < 1 mile) percentages for trip rate reductions only during P.M. peak period (based on combination of local data/review and Other sources\*\*):

|   |     |
|---|-----|
| COMMERCIAL/RETAIL                         |     |
| Regional Shopping Center                  | 20% |
| Community                                 | 30% |
| Neighborhood                              | 40% |
| Specialty Retail/Strip Commercial (other) | 10% |
| Supermarket                               | 40% |
| Convenience Market                        | 50% |
| Discount Club/Store                       | 30% |
| FINANCIAL                                 |     |
| Bank                                      | 25% |
| AUTOMOBILE                                |     |
| Gasoline Station                          | 50% |
| RESTAURANT                                |     |
| Quality                                   | 10% |
| Sit-down high turnover                    | 20% |
| Fast Food                                 | 40% |

<sup>1</sup> Trip Reductions - In order to help promote regional "smart growth" policies, and acknowledge San Diego's expanding mass transit system, consider vehicle trip rate reductions (with proper documentation and necessary adjustments for peak periods). The following are some examples:

[1] A 5% daily trip reduction for land uses with transit access or near transit stations accessible within 1/4 mile.

[2] Up to 10% daily trip reduction for mixed-use developments where residential and commercial retail are combined (demonstrate mode split of walking trips to replace vehicular trips).

## Appendix B – Assessment Roll

An Assessment Roll (a listing of all parcels assessed within the City of Berkeley Street Lighting Assessment District 2018 and the amount of the assessment) has been filed with the City Engineer, and is, by reference, made part of this report and will be available for public inspection during normal office hours.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this report. These records shall govern all details concerning the description of the lots or parcels.



Fair Campaign Practices Commission

PUBLIC HEARING

June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Jim Hynes, Chair, Fair Campaign Practices Commission

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices Commission

Subject: Amendments to Berkeley Election Reform Act; Amending Berkeley Municipal Code Chapter 2.12

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to modify the forms required to open a campaign committee, change the deadline to qualify for the public financing program and make associated amendments, clarify the rules for public financing candidates that do not qualify for the ballot, add an automatic inflator for the amount a public financing candidate can give to their own committee, clarify post-election processes for public financing candidates, modify the threshold to create a campaign committee, and clarify the rules for returning certain types of contributions.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

These recommended amendments to the Berkeley Election Reform Act (“BERA”) were approved by the Fair Campaign Practices Commission (“FCPC”) at its regular meeting of May 18, 2023.

**Action:** M/S/C (Saginer/Ching) Motion to approve staff’s recommended BERA amendments for submission to the City Council.

**Vote:** Ching, Hernandez, O’Donnell, Saginer, Hynes; Noes: none; Abstain: none; Absent: Blome.)

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the “double green light” process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

### BACKGROUND

The proposed amendments and the narrative context for each amendment are reproduced from the May 18, 2023 FCPC agenda packet in Attachment 1.

The proposed amendments are supported by MapLight, a local advocacy and transparency group that contributed significantly to the drafting of the Fair Elections Act of 2016 (Public Financing Program).

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

### RATIONALE FOR RECOMMENDATION

The proposed BERA amendments will simplify the process for candidates and campaign committees and add clarity to the BERA for several processes in order to facilitate proper use of public matching funds and appropriate enforcement by staff and the FCPC.

### ALTERNATIVE ACTIONS CONSIDERED

None.

### CITY MANAGER

Staff concurs with the content and recommendations of the Commission's report.

### CONTACT PERSON

Jim Hynes, Chair, Fair Campaign Practices Commission, (510) 981-6998

Samuel Harvey, Commission Secretary, Fair Campaign Practices Commission (510) 981-6998

### Attachments:

1. FCPC Agenda Item with Narrative Context for Proposed Amendments
2. Letter from MapLight in Support of Amendments
3. Proposed ordinance amending BERA
4. Public Hearing Notice

## Proposed BERA Amendments for 2023

### #1 Sections 2.12.255, 2.12.260, and 2.12.265 Statement of Organization

The requirements for filing the statement of organization are largely duplicative of state law. The requirements for the Berkeley Statement of Organization was adopted the same year as the state Political Reform Act, so it needed to be very prescriptive at the outset because the state Form 410 did not yet exist. Under state law, all committees must file a Form 410, which makes the City form an extra, duplicative filing.

The information that BERA requires that is not captured in the State Form 410 is not essential for public disclosure, enforcement, or administration. The pieces of information are: funds on hand at the time of formation, candidate address (when applicable), and the dissolution statement. The candidate address is listed on the State Form 501 which is required to be filed before any funds are raised or spent in connection with an election.

The filing process has become more complex, especially for public financing candidates. There are several new forms that public financing candidates must file during the formation process. These revisions will eliminate the requirement to file a superfluous form and streamline the process for all candidates.

#### Proposed Code Amendments:

2.12.255 Statement of organization--Committee required to file.

A. Subject to the exception in Section [2.12.255\(B\)](#), every committee under Section [2.12.095](#) of this chapter shall file with the City Clerk a statement of organization, as defined in Government Code Section 84101 et. seq., or its successors, within ten days after ~~it is formed~~qualifying as a committee pursuant to Section 2.12.095.

B. Every committee that ~~forms~~qualifies during the period between the closing date of the last pre-election statement and the election shall file with the City Clerk, by hand delivery or by such means as the commission may prescribe, a statement of organization no later than the close of the next business day.

C. The date on which a committee ~~formed~~qualified, and not the date on which the committee filed its statement of organization, shall determine the committee's obligation to file the campaign statements and late contribution reports required by this chapter. All committees, whether ~~formed~~qualified before or after the date of the final pre-election statement, but before the date of an election, are subject to late contribution reporting requirements.

2.12.260 ~~Repealed. Statement of organization--Information required.~~

~~The statement of organization required by Section [2.12.255](#) shall include:~~

~~A.—The name, street address and telephone number, if any, of the committee;~~

~~B.—The name, street address and telephone number of each candidate, if any, with which the committee is affiliated or connected;~~

~~C.—The full name, street address and telephone number, if any, of the treasurer and other principal officer;~~

~~D.—The full name and office sought by each candidate and the title and ballot number if any, of each measure, which the committee supports or opposes;~~

~~E.—A statement of whether the committee is independent or controlled, and if it is controlled, the name of each candidate or committee by which it is controlled or with which it acts jointly;~~

~~F.—The disposition of surplus funds which will be made in the event of dissolution;~~

~~G.—The account number and name of the bank at which the campaign checking account, required by Section 2.12.250(A), is maintained; if the information required by this section is unavailable at the time of filing, the statement of organization, the filer shall promptly submit an amended statement after such information becomes available;~~

~~H.—The cash on hand at the time of filing the statement of organization;~~

~~I.—Such other information as shall be required by the rules or regulations of the commission consistent with the purposes and provisions of this chapter.~~

~~2.12.265 Repealed. Statement of organization—Change of information—Amendment required.~~

~~Whenever there is a change in any of the information contained in the statement of organization, an amendment shall be filed within ten days to reflect the change.~~

## #2 Section 2.12.168 Deadline for Qualification

The need for this amendment became apparent in the 2022 election, the first election in which School Board and Rent Board candidates were able to participate in public financing.

Currently, the deadline to qualify for public financing is the same day as the end of the candidate nomination period. This creates a very difficult situation for the candidate. Completing the nomination paperwork to qualify for the ballot and obtaining and submitting the required public financing contributions and documentation are huge tasks. Most candidates are first-time candidates with volunteer treasurers, rather than paid professional treasurers.

In 2022, several candidates had great difficulty completing both tasks simultaneously, and two candidates were initially disqualified as participating candidates because their materials were not filed by the deadline. Also, staff is unable to provide additional assistance to public financing candidates at the deadline due to the demands of receiving and processing candidate nomination documents at the same time.

The proposed amendment changes the deadline to qualify for public financing to 14 days before the election. The 14-day deadline is the close of the qualification period for write-in candidates. However, write-in candidates have fewer forms to file as a candidate and their candidate filing period is longer, so they are less impacted by the filing date matching the public financing deadline.

This amendment allows candidates to start their public financing work after they have completed their candidate requirements. This timeline is consistent with the general past practice of campaign committees prior to public financing when most candidates, especially first-time candidates, started their fundraising activities after completing their nomination documents and qualifying for the ballot. Using the 14-day deadline also factors in write-in candidates and allows for there to be just one deadline for all candidates.

### Proposed Code Amendments:

2.12.168        Qualifying period.

"Qualifying period" means the period beginning on the day after the date of the most recent general election for the specific office or seat that a candidate is seeking and ending at the close of regular business hours, 14 days before the date of the election for which the candidate is seeking office. ~~at the close of the nomination period.~~



### #3 Section 2.12.510 Candidate Statement Notice

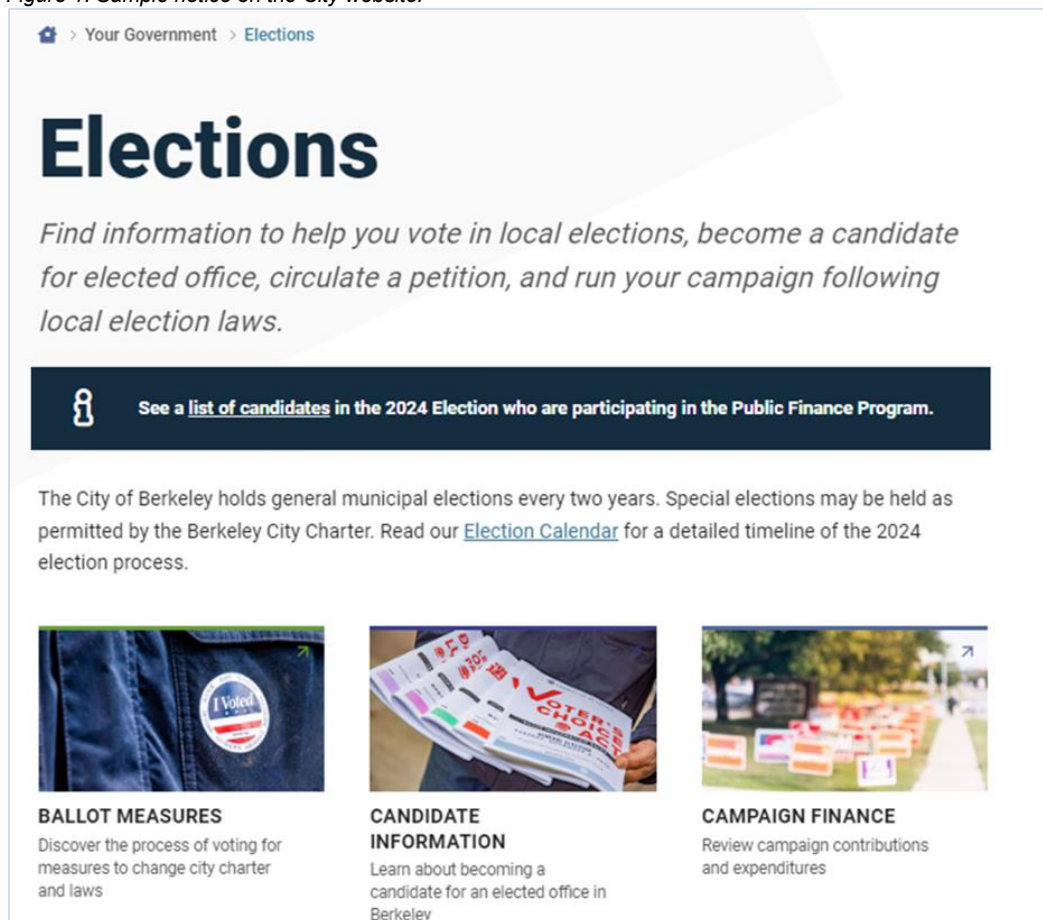
If the deadline to qualify for public financing is moved to 14 days before the election, then the notice regarding candidate participation would need to change from the voter guide to a web posting. This is due to the County's strict publishing deadlines. Cities are required to provide candidate statement text to the Registrar of Voters immediately after the close of the nomination period. Even without the change to the deadline, it has been very difficult to meet the County's publishing deadlines when initial qualifying requests are being reviewed for several days after the filing deadline. And, as we saw in the last election, if there is an appeal of the candidates qualification status, the determination on qualification may not occur for several days or a few weeks after the filing deadline. City staff can make the web notice very prominent on the web as seen in the example below (Figure 1).

#### Proposed Code Amendments:

2.12.510 Candidate statement notice.

A candidate certified as a Fair Elections program participant shall be identified as such by a notice prominently posted on the City website~~printed on the same page as the candidate's statement of qualifications distributed to voters pursuant to City Charter Article III Section 6.1.~~

Figure 1: Sample notice on the City website.





**#4 Section 2.12.505.H.1 Return of funds upon failure to qualify as a candidate.**

The language “remain a candidate” is unclear and not tied to the official status of a candidate through the nomination process. This amendment will clarify the candidate status in a manner than can be verified by official documents filed with the City Clerk.

The second amendment in this section clarifies that if a participating candidate does not qualify for the ballot, they must refund the matching funds to the City before refunding individual contributors.

Proposed Code Amendments:

H. 1). Unspent campaign funds of any Participating Candidate who does not ~~remain-qualify~~ as a candidate for the ballot at the election for which the funds were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City no later than the date of the election for which the funds were distributed~~-candidate attempted to qualify within 30 (thirty) days of the determination on the qualification of the candidate~~. All funds returned under this paragraph must be accompanied by any required supporting documentation. In such cases, the participating candidate must return the unspent funds to the City, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions, prior to refunding any contributions to individual contributors.

**#5 Section 2.12.545 Cost of living adjustments.**

Now that the non-participating \$250 contribution limit is indexed, this amendment is needed to index the \$250 amount that a participating public financing candidate can contribute to their own committee. Keeping these amounts tied will create fairness and consistency for all candidates.

In addition, we have added non-qualified contributions and non-monetary contributions to the dollar amounts are indexed after each election.

Proposed Code Amendments:

2.12.545 Cost of living adjustments.

The Commission shall adjust the dollar amounts specified in Sections 2.12.167, 2.12.500.A.3, [2.12.500.A.6](#), [2.12.500.A.7](#), [2.12.500.A.8](#), 2.12.505.B and 2.12.530.B.3.b for cost of living changes pursuant to Section 2.12.075 in January of every odd-numbered year following Council implementation. Such adjustments shall be rounded to the nearest ten dollars (\$10) with respect to Sections 2.12.167, 2.12.500.A.3 and 2.12.530.B.3.b and one thousand dollars (\$1,000) with respect to Section 2.12.505.B.

**#6 Section 2.12.505 Fair Elections Fund payments.**

Amendment 1 (2.12.505.H.5) clarifies the process and requirements for retiring debt and continuing to raise funds after the 60-day deadline to return unspent funds. All committees should be able to retire debt within 60 days after the election, and they can receive matching funds until 30 days after the election (Amendment 2). It is important to retain the \$60 limit after the 60-day deadline so that a candidate does not disqualify themselves from participating in public financing in the next election.

Amendment 2 (2.12.505.J) adds a deadline to submit matching funds requests after Election Day. This will allow for adequate time to process the requests and issue the matchings funds before the 60-day deadline to return unspent funds.

Amendment 3 (2.12.505.K) clarifies that a participating candidate may not withdraw from the program and then raise money at the non-public financing level. This is in line with the intent of the program, especially with the candidate's certification on the Application for Participation, the published notice of participation, and the contributor's certification on the qualified contribution receipt.

Proposed Code Amendments:

2.12.505 Fair Elections Fund payments.

H.

- 1). Unspent campaign funds of any Participating Candidate who does not remain a candidate for the ballot at the election for which the funds were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City within 30 (thirty) days of the determination on the qualification of the candidate. All funds returned under this paragraph must be accompanied by any required supporting documentation.
- 2). Any campaign funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed, up to the total amount of funds that the Participating Candidate received as Fair Elections Funds distributions in that elections cycle and after accounting for campaign debts and expenditures, must be returned to the City, within sixty (60) days after the date of the election. All funds returned under this paragraph must be accompanied by any required supporting documentation.
- 3). All unspent campaign funds returned to the City shall be deposited in the Fair Elections Fund pursuant to the City Charter.
- 4). The City Clerk shall immediately refer to the Commission for enforcement any participating candidate who does not return unspent funds as required by this subsection.

5). After the deadline to return unspent funds in 2.12.505.H.2, a participating candidate may continue to raise funds in accordance with Article 8 of Chapter 2.12 to pay campaign-

related debt from the most recent election. Any such contributions received shall not be eligible for matching funds.

I. Any request by a Participating Candidate for a refund of any amount of unspent campaign funds previously repaid to the City, for a qualified campaign expenditure or other permissible campaign purpose, shall be submitted to the Commission to approve, in whole or in part, or deny. The Commission shall make a final determination on the refund within 45 days of receipt.

J. Requests for matching funds may be submitted no later than 30 days after Election Day for the election at which the participating candidate qualified as a candidate.

K. Upon approval of a participating candidate's Initial Qualifying Request, the candidate is prohibited from withdrawing from the Public Financing Program and receiving contributions pursuant to Section 2.12.415 for the same office at the same election for which they are were a participating candidate.

**#7 Section 2.12.095 Committee**

The \$250 contribution limit is now indexed to \$270 and it will continue to rise in future elections. Thus, the contribution limit and the threshold to qualify as a committee are now un-linked. The section setting the threshold to qualify as a committee has not been amended since 1976 and it is due for an adjustment. Indexing the committee qualification amount would be very confusing since it will change every election. Staff recommends setting a new committee threshold of \$1,000 which will make the committee threshold the same as the required electronic filing threshold. A committee threshold of \$1,000 is half of the state threshold (\$2,000) so Berkeley would still retain a stricter threshold that creates more disclosure than state law.

Proposed Code Amendments:

2.12.095 Committee

"Committee" means any person or combination of persons that directly or indirectly receives contributions which total more than ~~one thousand two hundred fifty~~ dollars in a calendar year or makes expenditures exceeding more than ~~one thousand two hundred fifty~~ dollars in a calendar year for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of one or more candidates, or the passage or defeat of any measure, including any committee or subcommittee of a political party.

**#8 Amendment - New Section**

Currently, the Fair Elections Act does not contain any specific provisions regarding the return of contributions by participating candidates. This new section will establish rules that staff believes are consistent with the intent and purpose of the Fair Elections Act.

Committees must have the ability to return contributions. They may need to return a contribution because the receipt of the contribution violates BERA. They also must have the ability to return contributions that they do not wish to receive to preserve their speech and freedom of association rights. A candidate and their committee cannot be forced to keep a contribution from an individual with whom they do not want to associate.

Of course, if a committee is returning a contribution for which it received matching funds, it must return the associated matching funds to the City.

Proposed Code Amendments:

**2.12.507 Return of Contributions by Participating Candidates**

A. Notwithstanding the requirements in Section 2.12.505.H.1, if a participating candidate returns a qualified contribution for which they have requested and received matching funds, they must immediately return all said matching funds to the City.

B. Notwithstanding the requirements in Section 2.12.505.H.1, a participating candidate may return a non-qualified contribution to the contributor at any time without triggering any requirement that they return matching funds.



May 9, 2023

Via email

Dear City of Berkeley Fair Campaign Practices Commission,

MapLight, a nonpartisan nonprofit that works to improve U.S. democracy, leads the coalition in support of public funding of elections in Berkeley, including the passage and implementation of the Berkeley Fair Elections Act, passed by voters in 2016.

MapLight has had the opportunity to review proposed amendments to BERA prepared by the City Clerk's office and City Attorney's office. These amendments would make modest changes to streamline both the administration of the program and the candidate experience. We reviewed the latest version of these amendments that were provided to us May 8. **We are in support of these amendments and urge the FCPC to adopt them at your next meeting.**

We deeply appreciate the efforts of the City Clerk's office, City Attorney's office, and the Commission in continuing to update the Fair Elections program so that it works well for candidates, the city, and the public.

Sincerely,

A handwritten signature in blue ink that reads "Daniel Newman".

Daniel Newman  
President  
MapLight

ORDINANCE NO. X,XXX–N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12

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

Section 1. That Berkeley Municipal Code Section 2.12.095 is amended to read as follows:

**2.12.095 Committee**

"Committee" means any person or combination of persons that directly or indirectly receives contributions which total more than ~~one thousandtwo hundred fifty~~ dollars in a calendar year or makes expenditures exceeding more than ~~one thousandtwo hundred fifty~~ dollars in a calendar year for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of one or more candidates, or the passage or defeat of any measure, including any committee or subcommittee of a political party.

Section 2. That Berkeley Municipal Code Section 2.12.168 is amended to read as follows:

**2.12.168 Qualifying period.**

"Qualifying period" means the period beginning on the day after the date of the most recent general election for the specific office or seat that a candidate is seeking and ending at the close of regular business hours, 14 days before the date of the election for which the candidate is seeking office. ~~at the close of the nomination period.~~

Section 3. That Berkeley Municipal Code Section 2.12.255 is amended to read as follows:

**2.12.255 Statement of organization--Committee required to file.**

A. Subject to the exception in Section 2.12.255(B), every committee under Section 2.12.095 of this chapter shall file with the City Clerk a statement of organization, as defined in Government Code Section 84101 et. seq., or its successors, within ten days after ~~it is formed~~qualifying as a committee pursuant to Section 2.12.095.

B. Every committee that ~~forms~~qualifies during the period between the closing date of the last pre-election statement and the election shall file with the City Clerk, by hand delivery or by such means as the commission may prescribe, a statement of organization no later than the close of the next business day.

C. The date on which a committee ~~formed~~qualified, and not the date on which the committee filed its statement of organization, shall determine the committee's obligation to file the campaign statements and late contribution reports required by this chapter. All committees, whether ~~formed~~qualified before or after the date of the final pre-election



statement, but before the date of an election, are subject to late contribution reporting requirements.

Section 4. That Berkeley Municipal Code Section 2.12.260 is repealed.

**2.12.260 Repealed. Statement of organization--Information required.**

The statement of organization required by Section 2.12.255 shall include:

- A. ~~The name, street address and telephone number, if any, of the committee;~~
- B. ~~The name, street address and telephone number of each candidate, if any, with which the committee is affiliated or connected;~~
- C. ~~The full name, street address and telephone number, if any, of the treasurer and other principal officer;~~
- D. ~~The full name and office sought by each candidate and the title and ballot number if any, of each measure, which the committee supports or opposes;~~
- E. ~~A statement of whether the committee is independent or controlled, and if it is controlled, the name of each candidate or committee by which it is controlled or with which it acts jointly;~~
- F. ~~The disposition of surplus funds which will be made in the event of dissolution;~~
- G. ~~The account number and name of the bank at which the campaign checking account, required by Section 2.12.250(A), is maintained; if the information required by this section is unavailable at the time of filing, the statement of organization, the filer shall promptly submit an amended statement after such information becomes available;~~
- H. ~~The cash on hand at the time of filing the statement of organization;~~
- I. ~~Such other information as shall be required by the rules or regulations of the commission consistent with the purposes and provisions of this chapter.~~

Section 5. That Berkeley Municipal Code Section 2.12.265 is repealed.

**2.12.265 Repealed. Statement of organization--Change of information--Amendment required.**

~~Whenever there is a change in any of the information contained in the statement of organization, an amendment shall be filed within ten days to reflect the change.~~

Section 6. That Berkeley Municipal Code Section 2.12.505.H is amended to read as follows:

H.

1). Unspent campaign funds of any Participating Candidate who does not ~~remain qualify as~~ a candidate for the ballot at the election for which the funds were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City no later than the date of the election for which the funds were distributed~~within 30 (thirty) days of the determination on the qualification of the candidate~~. All funds returned under this paragraph must be accompanied by any required supporting documentation. In such cases, the participating candidate must return the unspent funds to the City, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions, prior to refunding any contributions to individual contributors.

2). Any campaign funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed, up to the total amount of funds that the Participating Candidate received as Fair Elections Funds distributions in that elections cycle and after accounting for campaign debts and expenditures, must be returned to the City, within sixty (60) days after the date of the election. All funds returned under this paragraph must be accompanied by any required supporting documentation.

3). All unspent campaign funds returned to the City shall be deposited in the Fair Elections Fund pursuant to the City Charter.

4). The City Clerk shall immediately refer to the Commission for enforcement any participating candidate who does not return unspent funds as required by this subsection.

5).After the deadline to return unspent funds in 2.12.505.H.2, a participating candidate may continue to raise funds in accordance with Article 8 of Chapter 2.12 to pay campaign-related debt from the most recent election. Any such contributions received shall not be eligible for matching funds.

Section 7. That Berkeley Municipal Code Section 2.12.505.J is added to read as follows:

J. Requests for matching funds may be submitted no later than 30 days after Election Day for the election at which the participating candidate qualified as a candidate.

Section 8. That Berkeley Municipal Code Section 2.12.505.K is added to read as follows:

K. Upon approval of a participating candidate's Initial Qualifying Request, the candidate is prohibited from withdrawing from the Public Financing Program and receiving contributions pursuant to Section 2.12.415 for the same office at the same election for which they are a participating candidate.

Section 9. That Berkeley Municipal Code Section 2.12.507 is added to read as follows:

**2.12.507 Return of Contributions by Participating Candidates**

A. Notwithstanding the requirements in Section 2.12.505.H.1, if a participating candidate returns a qualified contribution for which they have requested and received matching funds, they must immediately return all said matching funds to the City.

B. Notwithstanding the requirements in Section 2.12.505.H.1, a participating candidate may return a non-qualified contribution to the contributor at any time without triggering any requirement that they return matching funds.

Section 10. That Berkeley Municipal Code Section 2.12.510 is amended to read as follows:

**2.12.510 Candidate statement notice.**

A candidate certified as a Fair Elections program participant shall be identified as such by a notice prominently posted on the City website~~printed on the same page as the candidate's statement of qualifications distributed to voters pursuant to City Charter Article III Section 6.1.~~

Section 11. That Berkeley Municipal Code Section 2.12.545 is amended to read as follows:

**2.12.545 Cost of living adjustments.**

The Commission shall adjust the dollar amounts specified in Sections 2.12.167, 2.12.500.A.3, 2.12.500.A.6, 2.12.500.A.7, 2.12.500.A.8, 2.12.505.B and 2.12.530.B.3.b for cost of living changes pursuant to Section 2.12.075 in January of every odd-numbered year following Council implementation. Such adjustments shall be rounded to the nearest ten dollars (\$10) with respect to Sections 2.12.167, 2.12.500.A.3 and 2.12.530.B.3.b and one thousand dollars (\$1,000) with respect to Section 2.12.505.B.

Section 12. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT**

**The public may participate in this hearing by remote video or in-person.**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Fair Campaign Practices Commission of the City of Berkeley is proposing amendments to the Berkeley Election Reform Act related to: modify the forms required to open a campaign committee, change the deadline to qualify for the public financing program and make associated amendments, clarify the rules for public financing candidates that do not qualify for the ballot, add an automatic inflator for the amount a public financing candidate can give to their own committee, clarify post-election processes for public financing candidates, modify the threshold to create a campaign committee, and clarify the rules for returning certain types of contributions

The hearing will be held on, June 13, 2023 at 6:00 p.m. in the School District Board Room, 1231 Addison Street, Berkeley, CA 94702.

For further information, please contact Samuel Harvey, Commission Secretary at (510) 981- 6998.


A copy of the staff report for this hearing will be available on the City’s website at [www.berkeleyca.gov](http://www.berkeleyca.gov) as of June 1, 2023. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to [council@berkeleyca.gov](mailto:council@berkeleyca.gov) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or [council@berkeleyca.gov](mailto:council@berkeleyca.gov) for further information.

**Published:** June 2, 2023 pursuant to Berkeley Municipal Code Section 2.12.051

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on June 1, 2023.

  
\_\_\_\_\_  
Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING  
June 13, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Sharon Friedrichsen, Budget Manager  
 Subject: FY 2024 Proposed Budget Update Public Hearing #2

RECOMMENDATION

Conduct Public Hearing #2 on the FY 2024 Proposed Budget Update and provide staff with comments and direction.

FISCAL IMPACTS OF RECOMMENDATION

On May 16, 2023, a proposed update to the FY 2024 Adopted Budget (Proposed FY 2024 Update) was presented to Budget & Finance Policy Committee and to the City Council. The City Council conducted the first public hearing on the Proposed FY 2024 Update that same day. Tonight, the City Council will conduct the second public hearing on the Proposed FY 2024 Update.

CURRENT SITUATION AND ITS EFFECTS

The Proposed FY 2024 Update will include updated information on adopted FY 2024 revenues and expenditures by funding source; proposed expenditures by City department; proposed staffing levels; and the proposed capital improvement program.

Following a brief presentation on the Proposed FY 2024 Update, staff requests that the City Council conduct the second public hearing on the budget. Subsequently, the Budget and Finance Policy Committee will continue discussions regarding the proposed budget update prior to adoption by the City Council on June 27, 2023.

The Proposed FY 2024 Update is a Strategic Plan Priority Project, advancing our goal to provide an efficient and financially-health City government.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Actions included in the budget will be developed and implemented in a manner that is consistent with the City's environmental sustainability goals and requirements.

RATIONALE FOR RECOMMENDATION

This recommendation conducts the second public hearing on the Fiscal Years 2024 Proposed Budget Update and provide staff with comments and direction from the City Council prior to the budget adoption on June 27, 2023.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions have been considered.

CONTACT PERSON

Sharon Friedrichsen, Budget Manager, City Manager's Office, 981-7000

Attachments:

1: Public Hearing Notice

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**FY 2024 PROPOSED BUDGET UPDATE PUBLIC HEARING #2**

**The public may participate in this hearing by remote video or in-person.**

The City Manager’s Office is proposing a public hearing for the Fiscal Year 2024 Proposed Budget Update, which is being presented to the City Council.

The hearing will be held on **Tuesday, June 13, 2023 at 6:00 p.m.** in the School District Board Room, 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City’s website at <https://berkeleyca.gov/> as of June 1, 2023. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact **Sharon Friedrichsen** at (510) 981-7000.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Posted:** June 1, 2023

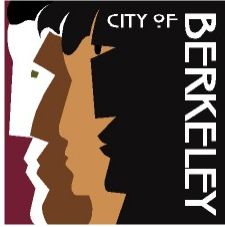
~~~~~

I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on June 1, 2023.

\_\_\_\_\_  
Mark Numainville, City Clerk







Office of the City Manager

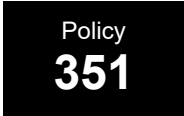
## REVISED AGENDA MATERIAL

**Meeting Date:** June 13, 2023

**Item Description:** Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)

**Submitted by:** Dee Williams-Ridley, City Manager  
Chief Jennifer Louis, Police Department

These updated policies reflect many of the edits proposed by Councilmember Harrison in her Supp 2 as well as the discussion of Council on May 23, 2023 that the BPD policies related to Fixed Surveillance Cameras be “decoupled” from an overarching City policy covering cameras that may regularly capture public facing City facilities and employees engaged in their work. These policies are intended to cover the Berkeley Police Department uses allowing work to continue forward with the Council approved fixed cameras at intersections as well as continue to use the cameras at the Marina and San Pablo Park.



## External Fixed Video Surveillance Cameras

### 351.1 PURPOSE AND SCOPE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department.

This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department. Department Personnel shall adhere to requirements for External Fixed Video Surveillance Cameras covered in this policy as well as the corresponding Surveillance Use Policy – 1304.

### 351.2 POLICY

The Berkeley Police Department utilizes a video surveillance system to enhance its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance safety and security in public areas and City property. ~~As specified by this policy, C~~ cameras may be placed in strategic locations throughout the City to ~~detect-record~~ and deter crime, to help ~~the City~~ safeguard against potential threats to the public, to help manage emergency response situations during natural and human-made disasters, ~~to assist City officials in providing services to the community,~~ among other uses ~~specified in Section 351.3.1.~~

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 351.3 OPERATIONAL GUIDELINES

Only City Council-approved video surveillance equipment shall be utilized. ~~BPD~~ Members authorized to review video surveillance should only ~~record and~~ monitor public areas and public activities where no reasonable expectation of privacy ~~exists and pursuant to Section 351.3.1.~~ The City Manager shall obtain Council approval for any proposed additional locations for the use of video surveillance technology.

#### 351.3.1 PLACEMENT, ~~REVIEW~~ AND MONITORING

Camera placement will be guided by ~~this policy and~~ the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City departments when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Camera placement includes, ~~but is not limited to,~~ existing cameras such as those located at San Pablo Park, the Berkeley Marina, and cameras placed in Council identified and approved intersections throughout the City, and potential future camera locations as approved by City Council.

Commented [LJ1]: Supp 2

Commented [DMR2R2]: "Supp 2" reference in comments indicates Department accepted proposed edits.

Commented [LJ3]: Supp 2

Commented [LJ4]: Supp 2

Commented [LJ5]: Supp 2

Commented [LJ6]: Supp 2

Commented [LJ7]: Supp 2

Commented [LJ8]: Supp 2

Commented [LJ9]: Supp 2

Commented [LJ10]: Supp 2

Commented [LJ11]: Noted from CC 5/23/23

Current City Council approved locations:

- 6<sup>th</sup> Street at University Avenue
- San Pablo Avenue at University Avenue
- 7th Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62<sup>nd</sup> Street at King Street

~~The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal or civil administrative investigations. The video surveillance system may shall only be utilized be useful for the following purposes:~~

- ~~(a) To prevent, deter and identify criminal activity.~~
- ~~(b) To address identified areas of criminal activity.~~
- ~~(c) To respond to critical incidents and natural disasters.~~
- ~~(d) To assist in identifying, apprehending and prosecuting offenders.~~
- ~~(e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.~~
- ~~(f) To augment resources in a cost-effective manner.~~
- ~~(g) To monitor pedestrian and vehicle traffic activity in order to assist withaid in traffic related investigations.~~
- ~~(h) To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct~~

The cameras shall only record video images and not sound. Recorded images may be used and video surveillance may be monitored for the following purposes:

- (a) To support specific and active criminal or administrative investigations.
- (a)(b) To respond and review critical incidents or natural disasters.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

**Commented [LJA12]:** Reflects council discussion from May 23<sup>rd</sup> meeting to set clear purpose for allowable BPD uses. Uses language proposed in Supp 2

351.3.2 FIXED CAMERA MARKINGS

All public areas monitored by video surveillance equipment shall be marked in a conspicuous manner with unobstructed signs to inform the public that the area is under police surveillance.

351.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department is prohibited from integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition and other video-based analytical systems.

351.4 VIDEO SUPERVISION

Access to video surveillance cameras data shall be limited to Berkeley Police Department (BPD) personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 351.6 or 1304.9 below.

BPD Members seeking access to the camera system shall seek the approval from the Investigations Division Captain, or their designee.

Commented [LJ13]: Supp 2

Supervisors should monitor camera access and usage to ensure BPD members are complying with this policy, other applicable department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

Commented [LJ14]: Supp 2

351.4.1 VIDEO LOG

No one without authorization will be allowed to login and view the recordings. Access to the data must be obtained through the Public Works Department. All system access including system login, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. Those who are authorized and login should automatically trigger the audit trail function to ensure compliance with the guidelines and policy. This is further outlined in 1304.4 of the Surveillance Use Policy.

351.4.2 PROHIBITED ACTIVITY

Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

Video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

351.5 STORAGE AND RETENTION OF MEDIA

The cameras should record minimally for one year as guided by Government Code 34090. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one

Commented [DMR15]: Retention period remained unchanged for further discussion and decision by Council on 6/13/23.

month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings pursuant to this section shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Commented [LJ16]: Supp 2

Commented [LJ17]: Supp 2

Any recordings needed as evidence in a criminal or civil administrative proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

Commented [LJ18]: Supp 2

351.5.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as available and appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

351.6 RELEASE OF VIDEO IMAGES

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law, also referenced in Policy 1304.8.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Requests for recorded images-video from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with this policy, and a specific and legitimate law enforcement and active criminal investigation purpose.

Commented [DMR19]: Already defined in policy.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

351.7 VIDEO SURVEILLANCE AUDIT

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. System audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of the cameras pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d.,

---

published on the City of Berkeley website in an appropriate location, and retained within [the](#) Professional Standards Bureau.

**351.8 TRAINING**

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

**351.9 MAINTENANCE**

-It shall be the responsibility [ies](#) of the Public Works Department to facilitate and coordinate any updates and required maintenance.

## Surveillance Use Policy-External Fixed Video Surveillance Cameras

### 1304.1 PURPOSE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department (BPD). This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department. Department Personnel shall adhere to requirements for External Fixed Video Surveillance Cameras covered in this policy as well as the corresponding Use Policy – 351.

This Surveillance Use Policy is legally-enforceable pursuant to BMC 2.99.

### 1304.2 AUTHORIZED USE

Only BPD members who receive training on this policy, who are then granted access by an administrator may access the data from the video surveillance cameras. This data may only be accessed to further a legitimate law enforcement purpose. Members must follow the necessary logging mechanisms, such as case number and case type when querying the database.

The cameras shall only record video images and not sound. Recorded images may be used and video surveillance may be monitored for the following purposes:

(a) To support specific and active criminal or administrative investigations.

(b) To respond and review critical incidents or natural disasters.

~~Recorded images may be used for a variety of purposes, including criminal or civil investigations. The video surveillance system may be useful for the following purposes:~~

- ~~(a) To prevent, deter and identify criminal activity.~~
- ~~(b) To address identified areas of criminal activity.~~
- ~~(c) To respond to critical incidents.~~
- ~~(d) To assist in identifying, apprehending and prosecuting offenders.~~
- ~~(e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.~~
- ~~(f) To augment resources in a cost-effective manner.~~
- ~~(g) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.~~
- ~~(h) To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct~~

**Commented [LJA1]:** Reflects council discussion from May 23<sup>rd</sup> meeting to set clear purpose for allowable BPD uses. Uses language proposed in Supp 2

The following are prohibited uses of the video surveillance system:

- (a) Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.
- (b) Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

- (c) Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.
- (d) Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.
- (e) Video surveillance systems and recordings are subject to the Berkeley Police Department’s Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

**1304.3 DATA COLLECTION**

The cameras will film and store video on City of Berkeley encrypted servers. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. The cameras and storage devices shall be wholly owned and operated/maintained by the City of Berkeley.

**1304.4 DATA ACCESS**

Access to video surveillance cameras data shall be limited to Berkeley Police Department personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 1304.9 below. BPD mMembers seeking access to the video surveillance system shall seek the approval from the Investigations Division Captain, or their designee.

Supervisors should monitor camera access and usage to ensure BPD members are complying with this policy, other applicable department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

Commented [LJ2]: Supp 2

**1304.5 DATA PROTECTION**

All data transferred from the cameras and the servers shall be encrypted. Access to the data must be obtained through the Public Works Department. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works Department’s authorized administrator. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

**1304.6 CIVIL LIBERTIES AND RIGHTS PROTECTION**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. Provisions of this policy, including 1304.4 Data Access, 1304.5 Data Protection, 1304.7 Data Retention, 1304.8 Public Access and 1304.9 Third Party Data Sharing serve to protect against any unauthorized use of video surveillance camera data. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. These procedures ensure the data is not used in a way that would violate or infringe upon anyone’s civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

**1304.7 DATA RETENTION**

The video surveillance camera system should record minimally for one year as guided by



Government Code 34090. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative ~~or civil~~ proceedings pursuant to this section shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court. All data will automatically delete after the aforementioned retention period by the System Administrator from Public Works.

Any recordings needed as evidence in a criminal or ~~administrative~~ civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

## Berkeley Police Department

Law Enforcement Services Manual

### *Surveillance Use Policy-External Fixed Video Surveillance Cameras*

#### **1304.8 PUBLIC ACCESS**

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **1304.9 THIRD-PARTY DATA-SHARING**

Requests for recorded ~~video images~~ from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with ~~this policyspecific and legitimate law enforcement purposes~~.

Data collected from the video surveillance system may be shared with the following:

- (a) The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- (b) Other law enforcement personnel as part of an active criminal investigation;
- (c) Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process

#### **1304.10 TRAINING**

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

#### **1304.11 AUDITING AND OVERSIGHT**

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. Video surveillance system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of this policy pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., published on the City of Berkeley website in an appropriate location, and retained within ~~the~~ Professional Standards Bureau.

#### **1304.12 MAINTENANCE**

It shall be the responsibility~~ies~~ of the Public Works Department to facilitate and coordinate any updates and required maintenance.

**PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

---

**SURVEILLANCE CAMERAS**

**A. DESCRIPTION**

The Avigilon camera system consists of three main components: The camera, the server, and a remote information management system referred to as the Avigilon Control Center Client application (ACC).

The first component, the Avigilon camera, is a device that incorporates a video recording from an image. The cameras are affixed to City of Berkeley-owned infrastructure including utility poles on City streets and parks. The cameras provide protection to indoor and outdoor spaces with high-resolution images of up to 5 MP, a wide field of view, and efficient bandwidth management in a compact design without compromising building aesthetics. Although license plate and facial recognition hardware is available, neither was purchased or installed. Without the hardware, these features cannot be activated. Audio is a standard feature of the camera, but will remain deactivated by the authorized administrators of the system.



The second component of the system is the server. Once the Avigilon camera captures the imagery, a local device called a server, functions as a repository for the data. Servers are physically secured on City property and video recordings are protected within the City's network. Servers are designed to store recorded events in real time for secure retrieval and analysis. Recorded videos are transferred from the server's storage into an information management system, Avigilon Control Center (ACC) application. <sup>1</sup>.

---

<sup>1</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=200320040AB839](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200320040AB839)

**PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

---



The third component is the Avigilon Control Center Client application (ACC) which streamlines data management and allows users to access videos on one secure platform. The ACC software provides various levels of analytics to sort stored videos faster and is a standard feature. These include pixel motion detection of vehicles and people. Vehicular characteristics are searchable by vehicle type and color. Personal characteristics are searchable by gender (gender is a binary search, female or male), hair color, age, and upper and lower body clothing color. Authorized users of the system can only access data stored on a server through the ACC application. The ACC application is located on the server and accessed solely through the City's secured intranet by protected login and password. The application does not allow the authorized administrator or system users to alter, manipulate, or edit any of the footage recorded by the server.

**B. PURPOSE**

The cameras shall only record video images and not sound. Recorded images may be used and video surveillance may be monitored for the following purposes:

(a) To support specific and active criminal or administrative investigations.

(b) To respond and review critical incidents or natural disasters.

Surveillance cameras will be utilized for the following business purposes:

- i. To prevent, deter and identify criminal activity.
- ii. To address identified areas of criminal activity.
- iii. To respond to critical incidents.
- iv. To assist in identifying, apprehending and prosecuting offenders.
- v. To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- vi. To augment resources in a cost-effective manner.
- vii. To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- viii. To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct

**Commented [LJA1]:** Reflects council discussion from May 23<sup>rd</sup> meeting to set clear purpose for allowable BPD uses. Uses language proposed in Supp 2

**PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

---

**C. LOCATION**

Surveillance cameras encompassed by this report, are located at, or will be installed at, the following locations.

**Future Projects:**

- 6<sup>th</sup> Street at University Avenue
- San Pablo Avenue at University Avenue
- 7<sup>th</sup> Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62<sup>nd</sup> Street at King Street

**Completed Projects:**

- San Pablo Park
- City of Berkeley Marina
- ~~Transfer Station~~

**D. IMPACT**

The primary intent of these cameras is to deter and address crime in the City of Berkeley. The Public Works Department will work to ensure that the video recordings are secured and only accessible to authorized personnel. The right to maintain someone's anonymity versus the need to collect information to maintain public safety is of paramount concern. The Department recognizes that all people have a right to privacy and is committed to protecting and safeguarding civil rights by adhering to the strictest requirements concerning the release of video recordings. There should not be any impact on anyone's civil liberties or civil rights. The camera system lacks the hardware to conduct license plate reader or facial recognition technology. Audio is a standard feature of the cameras, but will remain deactivated by the authorized

**PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

---

administrators of the system. Staff is explicitly prohibited from using any facial recognition technology as outlined in BMC 2.99.

The Public Works Department will ensure responsible data management, transparency, and accountability including the posting of video surveillance notices.

**E. MITIGATION**

In order to minimize violations of privacy, data shall be maintained in a secure, non-public accessible location, such locations require specialized system access including a dedicated password and log in. Data will be obtained or released in accordance with the use policy. Data will not be used to unlawfully discriminate against people based on race, ethnicity, political opinions, religious or philosophical beliefs, trade union membership, gender identity, disability status, sexual orientation or activity, or genetic and/or biometric data. Additionally, the Department will not use the camera surveillance system to scan footage and identify individuals based on any of the categories listed in the preceding sentence.

Employees are prohibited from retaining, duplicating, or distributing video recordings except for departmental business purposes in accordance with the use policy.

**F. DATA TYPES AND SOURCES**

The surveillance camera system's use is limited to capturing non-audio, video recordings on affixed City buildings, including utility poles on streets and within park boundaries. The Camera Surveillance system collects video recordings in high-resolution imagery that is stored securely on a local server and accessible by authorized users on the ACC application. As video images are recorded, the ACC application automatically stamps the video with the current date/time and the camera's identity.

**G. DATA SECURITY**

External users will not have access to the ACC application. The authorized administrator and designated staff will have access to video recordings. To gain system access, staff must obtain approval from system management. Authorized users will access the ACC application via a single sign-on and password administered by Information Technology. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works authorized administrator. The application prohibits the authorized administrator and users from altering, manipulating, tampering, or editing video recordings.

The Public Works Director or his/her designee shall appoint a member of the department as the authorized administrator to coordinate the use and maintenance of the Surveillance Camera system and the storage of recordings, including:

1. Establishing a system for downloading, storing, and securing of recordings.

**PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

---

2. Designating persons responsible for downloading recorded data.
3. Establishing a maintenance system to ensure the working order of surveillance cameras.
4. Monitoring the system to prevent tampering, deleting, and copying recordings.
5. Working in alignment with the State of California record retention policy, AB 839 to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
6. Maintaining an audit trail record for all access to video recording files, wherein access information for each file is logged using a secure log-in system. The ACC application associates an audit trail record with each user access information, thereby logging the date, time, user name, and activity occurring during each video recording file access.

**H. FISCAL COST**

Costs for future projects listed in Section C of this report are unknown at this time. Future costs will depend on additional maintenance, equipment, and parts. Ongoing costs include associated staff time relative to the system administrator’s role of administering and maintaining the surveillance camera program. All cameras are purchased and wholly owned and operated by City of Berkeley.

Initial Purchase Costs:

San Pablo Park: \$64,829.46 – 1 server and 21 camera views

~~Zero Waste Transfer Station—Weigh Station: \$15,962.35—1 server and 10 camera views~~

Marina: \$106,620.14 – 2 servers and 45 camera views

Ongoing Costs:

Personnel, maintenance, and other ongoing costs, including compliance and other reporting and oversight requirements - \$13,443.20 per year.

**I. THIRD PARTY DEPENDENCE AND ACCESS**

All Camera Surveillance data is accessed by a secure network login and password and stored on servers maintained by the Department of Information Technology. There is no third-party dependence or external access to information other than the ACC is a proprietary technology which requires all the components to be Avigilon.



**PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

---

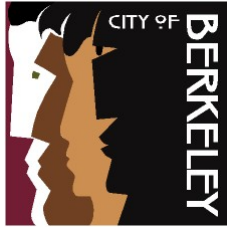
**J. ALTERNATIVES**

The City can decide to rely on traditional policing techniques as a method for addressing crime such as deploying sworn officers to patrol City buildings and parks.

There is a broad consensus – among the community– that surveillance cameras can be an important tool for deterring criminal activities.

**K. EXPERIENCE OF OTHER ENTITIES**

Neighboring cities including San Francisco, Oakland, and San Jose have adopted the use of Surveillance Cameras as a tool for reducing crime on city streets and parks. Many cities have developed their own usage policies which may include standards for use, data retention standards, and system controls.



Kate Harrison  
Councilmember District 4

## SUPPLEMENTAL 3 AGENDA MATERIAL

**Meeting Date:** May 23, 2023

**Item Number:** 46

**Item Description:** Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)

**Supplemental/Revision Submitted By:** Councilmember Harrison

**“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.*

Submitting the Police Accountability Board’s March 2023 recommendation letters (without attachments) regarding Fixed Surveillance Cameras and Unmanned Aerial Systems.

This supplemental is for the “Good of the City” because under the Surveillance Ordinance and Charter the PAB is charged with providing recommendations on proposed policies.

***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/revised 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.

Public



Friday, March 10, 2023

***Via Electronic Transmittal***

Interim Chief Jennifer Louis  
Berkeley Police Department  
2100 Martin Luther King Jr. Way  
Berkeley, CA 94704

**Re: Fixed Video Surveillance Cameras**

Dear Interim Chief Jennifer Louis:

The Police Accountability Board (PAB) would like to provide its recommendations on the proposed policies<sup>1</sup> regarding fixed video surveillance cameras being considered by the Berkeley Police Department. As mandated by Berkeley Municipal Code Section 2.99 "Acquisition and Use of Surveillance Technology," specifically section 2.99.030.2, the PAB conducted a review of the proposed policies and voted to provide the attached report at their March 8th, 2023 special meeting.

The PAB brings to your attention several points. First, these policies state that the surveillance cameras are to be used for "a variety of purposes", which appears to be inconsistent with the Council's intent to use the cameras "solely for the purpose of solving criminal investigations", as passed in their budget referral and adoption in 2021. Second, because the two use policies provided to the PAB appear to be duplicative, the PAB recommends that to avoid confusion the Department make it clear what the intended purpose of each policy is. Thirdly, several sections of these policies are ambiguous and require further clarification. Lastly, the data retention policies should be further elaborated

---

<sup>1</sup> BPD Draft Policy 351 "External Fixed Video Surveillance Cameras" & Policy 1304 "Surveillance Use Policy – External Fixed Video Surveillance Cameras"

to provide additional clarity on the proposed uses of the data. For more information, please refer to the attached report.

The PAB understands the importance of maintaining public safety and does not wish to limit the effectiveness of the BPD in ensuring the safety of the community. We strive to balance the needs of public safety with the protection of civil liberties and privacy. We hope that by addressing the aforementioned points, we can work together to maintain a safe and secure environment for all members of the Berkeley community while respecting their rights and privacy.

Sincerely,

Police Accountability Board

cc: Honorable Mayor & Members of the Berkeley City Council  
City Manager

Attachments: PAB POLICY REVIEW REPORT  
BPD Draft Policies 351 & 1304:  
External Fixed Video Surveillance Cameras & Surveillance Use Policy -  
External Fixed Video Surveillance Cameras

Public



**Police Accountability Board  
&  
Office of the Director of  
Police Accountability**

# POLICY REVIEW REPORT

BPD Draft Policies 351 & 1304:

External Fixed Video Surveillance Cameras & Surveillance Use Policy -  
External Fixed Video Surveillance Cameras



**Mayor**

Jesse Arreguin

**City Council**

Rashi Kesarwani, District 1

Terry Taplin, District 2

Ben Bartlett District 3

Kate Harrison, District 4

Sophie Hahn, District 5

Susan Wengraf, District 6

Rigel Robinson, District 7

Mark Humber, District 8

**City Manager**

Dee Williams-Ridley

**Berkeley Police Department**

Interim Chief Jennifer Louis

**Police Accountability Board**

John Moore, Chair

Regina Harris, Vice-Chair

Kitty Calavita

Juliet Leftwich

Deborah Levine

Cheryl Owens

Ismail Ramsey

**Office of the Director of Police Accountability**

Hansel Aguilar, Director of Police Accountability

Jose Murillo, Policy Analyst

## Contents

**Summary Review:** ..... 1

**Background:** ..... 1

**Recommendation:** ..... 3

**Reasoning:** ..... 3

*The misalignment between the proposed policies and the City Council's intended Direction ...* 4

*The adoption of two similar policies could cause implementation confusion.....* 5

**Other Notes:** ..... 5

*Doubts on the effectiveness of the proposed surveillance camera installation.....* 5

*Doubts on the interpretation of Government Code 34090.....* 6

**Works Cited** ..... 8

**Attachment List** ..... 9



Police Accountability Board  
&  
Office of the Director of  
Police Accountability

## POLICY REVIEW REPORT

BPD Draft Policies 351 & Policy 1304:

“External Fixed Video Surveillance Cameras” & “Surveillance Use Policy – External Fixed Video Surveillance Cameras”

**Date of Report:** March 10, 2023

---

### **Summary Review:**

The Police Accountability Board (PAB) has reviewed these policies and notes several primary points. First, these policies state that the surveillance cameras are to be used for “a variety of purposes”, which appears to be inconsistent with the Council’s intent to use the cameras “solely for the purpose of solving criminal investigations”, as passed in their budget referral and adoption in 2021. Second, because the two use policies provided to the PAB appear to be duplicative, the PAB recommends that to avoid confusion the Department make it clear what the intended purpose of each policy is.

### **Background:**

On February 8th, 2023, in compliance with the BMC Section 2.99.030.2, Interim Chief Louis presented to the Police Accountability Board (PAB) a triad of documents for their review. A Surveillance Technology Acquisition Report, which was crafted by the Public



Works Department, was accompanied by two proposed policies, Policy 351 entitled "External Fixed Video Surveillance Cameras," and Policy 1304 entitled "Surveillance Use Policy - External Fixed Video Surveillance Cameras," both of which were drafted by the Berkeley Police Department (BPD). Please refer to Attachment 1, which includes a copy of the Surveillance Technology Acquisition Report, as well as the proposed policies.

The acquisition report and proposed policies state that the cameras will serve several business purposes that will include, *but not be limited to*: the prevention, deterrence, and identification of criminal activity; the addressing of areas of criminal activity; and the response to critical incidents. Additionally, the cameras will assist in identifying, apprehending, and prosecuting offenders, documenting officer and offender conduct during interactions to safeguard the rights of the public and officers, cost-effectively augmenting resources, monitoring pedestrian and vehicle traffic activity to aid traffic-related investigations, and documenting employee, employer, and/or customer conduct during interactions to protect them from any potential misconduct. See Attachment 1. However, these proposed uses of surveillance cameras—which are not inclusive of all possible uses—may be inconsistent with the implied purpose seen throughout the procedural history of these policies.

On October 12, 2021, Councilmember Taplin and Councilmember Kesarwani presented a budget referral to the City Council for "Security Cameras in the Public Right of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment of High Crime Areas." The presented recommendation aimed to deter gun violence and obtain evidence to solve criminal investigations, with an understanding that the cameras would not be used for any type of surveillance purposes. The recommendation was approved with revisions that included referring to the City Manager to develop a use policy for the security cameras, based on active investigations only and including a data retention schedule. Staff was also required to provide the council with an off-agenda memo commemorating the use policy, and the locations of the cameras would be based on calls-for-service data, with a list of locations brought to the council and referred to the AA01 budget process. See attachment 2 for a copy of the consent item 20

with Council actions from the October 12, 2021, City Council regular meeting and the relevant supplemental material.

On December 14, 2021, the City Council voted to adopt the budget recommendations that included the proposal for security cameras in certain locations. However, funding for the cameras was made conditional on the development and implementation of a Use Policy before their deployment and siting in District 1, District 2, and District 8 locations as proposed by the Police Department and at 62nd & King (District 3). The policy was set to be adopted administratively and presented to the City Council as an off-agenda memo. See attachment 3 for a copy of the action item with Council actions from the December 14, 2021, City Council regular meeting. City Manager Dee Williams-Ridley presented an off-agenda memorandum to Council on January 25, 2022, providing an early version of Policy 351. See attachment 4 for a copy of that memorandum.

The PAB has thoroughly examined all pertinent materials, and procedural history relating to the development of these policies and conducted independent research to present recommendations to the City Council and City Manager about the proposed policies of the Berkeley Police Department (BPD).

**Recommendation:**

The PAB recommends that the BPD revise the proposed policies to align with the initial scope of the budget referral, as well as the conditions placed by the City Council when the budget referral was approved. This will involve implementing changes such as clarifying language and limiting use to the intended purpose. In addition to these changes, the PAB recommends that to avoid confusion the Department make it clear what the intended purpose of each policy is and clearly define which policy is intended for internal training purposes and which is intended to ensure compliance with BMC 2.99.

**Reasoning:**

In developing its recommendation, the PAB considered the following:

*The misalignment between the proposed policies and the City Council's intended Direction*

Upon careful analysis of the proposed policies, the PAB determined that the language included within these policies is not reflective of the Council's original intent when approving the budget for these cameras. Policy 351 and Policy 1304 state that "recorded images may be used for a variety of purposes, including criminal or civil investigations." Among the potential uses, the policies note that the video images may be used "to document officer and offender conduct during interactions to safeguard the rights of the public and officers," "to augment resources in a cost-effective manner," "to monitor pedestrian and vehicle traffic related to investigations," and "to document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct." See attachment 1, proposed policy 351 section 351.3.1, and proposed policy 1304 section 1304.2. The proposal made by Councilmembers Taplin and Kesarwani made it clear that these cameras would be "used solely to solve criminal investigations." The proposed application of these cameras by the BPD is not in alignment with the Council's original objective of restricting their use as a crime deterrent and solely for solving ongoing criminal investigations. See attachment 2, the revised agenda material for supplemental packet 1 of the Council's October 12, 2021, regular meeting. Therefore, we recommend that the authorized use section should be revised to reflect Council's intent. The PAB's suggested changes to Policy 351 are included hereto as Attachment 5.

If, after a careful review of all relevant information, the City Council determines that it would be appropriate to expand the permissible uses of these systems beyond their original intent, the policy must specify what those allowable uses are. The current lack of clarity surrounding the proposed uses leaves too much room for interpretation, which could result in unintended uses that are not aligned with the Council's intent or the needs of the general public. Therefore, a well-defined policy that explicitly outlines the acceptable uses of these systems is necessary to ensure that they are used only for their intended purposes and to maintain public trust in their implementation.

*The adoption of two similar policies could cause implementation confusion.*

The BPD's Draft Policy 351, "External Fixed Video Surveillance Cameras," and Policy 1304, "Surveillance Use Policy - External Fixed Video Surveillance Cameras," are almost identical. While one policy is a "use" policy intended to provide internal training guidelines and the other is a "surveillance use" policy, it is difficult to distinguish between the two. The Police Accountability Board recommends these policies be consolidated into a comprehensive single policy or that the policies are revised to better reflect their intended purpose. If the Council and the BPD deem it appropriate to merge the policies, please refer to Attachment 5.

**Other Notes:**

*Doubts on the effectiveness of the proposed surveillance camera installation.*

In their Budget Referral memo to City Council on October 12, 2021, Council Members Taplin and Kesarwani cite a 2011 Urban Institute study entitled "Evaluating the Use of Public Surveillance Cameras for Crime Control and Prevention." That study of three large cities—Baltimore, Chicago, and Washington DC—concluded that fixed surveillance cameras could reduce crime, but only "when actively monitored" in real-time, a condition that raises personnel and other costs substantially (La Vigne et al., Page xii). Proposed policies 351 and 1304 appear to limit the cameras to the sole use of recording only video without sound and explicitly prohibit the integration of additional technologies.

The PAB's stance is not to advocate for the removal of restrictions on the integration of surveillance technology. Rather, the PAB suggests that all parties consider the possible advantages of implementing these cameras in comparison to the costs of maintenance, implementation, and training associated with the systems. According to the Urban Institute's study, "analysis results indicate that cameras, when actively monitored, have a cost-beneficial impact on crime with no statistically significant evidence of displacement to neighboring areas. However, in some contexts and locations, these crime reduction benefits are not realized" (La Vigne et al., Page xii). The study also specifies two reasons why certain locations do not observe a reduction in crime. As previously mentioned, the first explanation is that the cameras are not consistently monitored in real-time, and the

second is those areas with fewer cameras and restricted coverage limit the potential for crime prevention (La Vigne et al., Page xii).

All stakeholders must evaluate the limitations identified in the Urban Institute's study and assess whether the infrastructure necessary to make these cameras effective is already established. As the PAB acknowledges, as do other interested parties, these cameras can serve as a vital tool for deterring crime. Nonetheless, to ensure that crime is not merely being displaced to other regions, we encourage additional research to be conducted. Such research should consider the long-term effects of surveillance technology in specific areas and assess whether crime rates have decreased, remained constant, or relocated to neighboring regions. By conducting additional research, we can better comprehend the impacts of surveillance technology and make informed decisions that prioritize public safety.

*Doubts on the interpretation of Government Code 34090 as implemented in proposed policies 351.5 and 1304.7*

The PAB questions the relevance of California Government Code 34090 concerning the proposed data retention schedule in the proposed policies—specifically sections 351.5 and 1304.7. The PAB has interpreted the proposed policies to say that all video recordings, including recordings of citizen engaging in non-criminal activity, is subject to section 34090.6.a which states “the head of a department of a city or city and county, after one year, may destroy recordings of routine video monitoring, and after 100 days destroy recordings of telephone and radio communications maintained by the department.” Within this section, the following definitions are provided:

- “recordings of telephone and radio communications” means the routine daily recording of telephone communications to and from a city, city and county, or department, and all radio communications relating to the operations of the departments.
- “routine video monitoring” means video recording by a video or electronic imaging system designed to record the regular and ongoing operations of the departments described in subdivision (a), including mobile in-car video systems, jail observation, and monitoring systems, and building security recording systems.

- “department” includes a public safety communications center operated by the city or city and county.”

The PAB believes this government code, based on the definition provided, may not apply to all the data gathered by the proposed technology and that the activity of private citizens may be deleted before one year.

Based on the definitions provided by the government code, the PAB believes that the one-year retention period only applies to the monitoring of routine or departmental activities (i.e building security videos, routine video monitoring of maintenance and repair activities, police officer dash camera footage). Under this definition and the context of the proposed surveillance camera use, members of the public are not part of the “regular and ongoing operations” of city agents and their video recording would not be considered routine video monitoring and could be deleted much earlier than a year. However, if the video recording of members of the public is part of the regular and ongoing operations of any of these departments (such as a routine traffic stop), then it would fall under the definition of routine video monitoring. Otherwise, the PAB believes the retention period should be shorter than what is currently included in the proposed policies.

## Works Cited

La Vigne, Nancy G, et al. "Evaluating the Use of Public Surveillance Cameras for Crime Control and Prevention." *Www.urban.org*, Urban Institute, 19 Sept. 2011, <https://www.urban.org/research/publication/evaluating-use-public-surveillance-cameras-crime-control-and-prevention>.

## Additional Research on the topic

Piza, E. L., Welsh, B. C., Farrington, D. P., & Thomas, A. L. (2019). CCTV surveillance for crime prevention: A 40-year systematic review with meta-analysis. *Criminology & public policy*, 18(1), 135-159.

Piza, E. L. (2018). The crime prevention effect of CCTV in public places: A propensity score analysis. *Journal of Crime and Justice*, 41(1), 14-30.

National Academies of Sciences, Engineering, and Medicine. (2018). *Proactive policing: Effects on crime and communities*. National Academies Press.

Alexandrie, G. (2017). Surveillance cameras and crime: a review of randomized and natural experiments. *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 18(2), 210-222.

Lum, C., Koper, C. S., & Willis, J. (2017). Understanding the limits of technology's impact on police effectiveness. *Police Quarterly*, 20(2), 135-163.

### Attachment List

| Attachment | Description   |
|------------|---|
| 1          | Surveillance Technology Acquisition Report and Proposed Policies 351 and 1304   |
| 2          | Copy of Consent Item Number 20, City Council Actions from the October 12, 2021, Regular Meeting, and Related Supplementary Materials.       |
| 3          | Copy of Action Item Number 44 with City Council Actions from the December 14, 2021, Regular Meeting.  |
| 4          | Copy of City Manager Dee Williams-Ridley's Off-Agenda Memorandum to Council on January 25, 2022, Presenting an Early Version of Policy 351. |
| 5          | PAB's Proposed Revisions to Policy 351 and 1304 Which Consolidates Both Policies.   |





**Police Accountability Board  
&  
Office of the Director of  
Police Accountability**

## **POLICY REVIEW REPORT**

**BPD DRAFT POLICIES 611 & 1303:**

**UNMANNED AERIAL SYSTEM OPERATIONS &  
SURVEILLANCE USAGE**



**Police Accountability Board**

**Mayor**

Jesse Arreguin

**City Council**

Rashi Kesarwani, District 1  
Terry Taplin, District 2  
Ben Bartlett District 3  
Kate Harrison, District 4

Sophie Hahn, District 5  
Susan Wengraf, District 6  
Rigel Robinson, District 7  
Mark Humber, District 8

**City Manager**

Dee Williams-Ridley

**Berkeley Police Department**

Interim Chief Jennifer Louis

**Police Accountability Board**

John Moore, Chair  
Regina Harris, Vice-Chair  
Kitty Calavita  
Juliet Leftwich  
Deborah Levine  
Cheryl Owens  
Ismail Ramsey

**Office of the Director of Police Accountability**

Hansel Aguilar, Director of Police Accountability  
Jose Murillo, Policy Analyst

## Contents

|   |    |
|---|----|
| Introduction and Overview:.....   | 1  |
| Recommendation:.....  | 4  |
| Concerns regarding potential implications for civil liberties and constitutional rights.....                      | 5  |
| The role of civilian oversight in the acquisition and use of UAS.....   | 6  |
| Lack of technical specifications and potential misuse .....   | 7  |
| Lack of definition for “Exigent Circumstances”: A key concern for appropriate use of UAS in law enforcement ..... | 8  |
| The uncertainty of UAS operations through mutual aid agreements with outside agencies .....                       | 9  |
| References .....  | 10 |
| Attachments.....  | 11 |



Police Accountability Board  
&  
Office of the Director of  
Police Accountability

## **POLICY REVIEW REPORT**

BPD DRAFT POLICIES 611 & 1303:

UNMANNED AERIAL SYSTEM OPERATIONS & SURVEILLANCE USAGE

**Date of Report:** Thursday, February 23, 2023

---

### **Introduction and Overview:**

On January 11<sup>th</sup>, 2023, the Office of the Director of Police Accountability (ODPA) presented to the Board a recommendation regarding Policy Complaint #31, which concerned the alleged use of drones by the Berkeley Police Department (BPD) during the 2022 Solano Stroll event. See Attachment 1, the ODPA Recommendation to the Police Accountability Board (PAB) regarding Policy Complaint #31. The ODPA advised the Police Accountability Board (PAB) not to proceed with the policy complaint process due to the upcoming review of new BPD Unmanned Aerial System (UAS) acquisition and use policies. The PAB accepted the recommendation. On January 24<sup>th</sup>, 2023, Interim Chief Louis provided the PAB and ODPA with two policies—Policy 611 “Unmanned Aerial System (UAS) Operations” and Policy 1303 “Surveillance Use Policy – Unmanned Aerial System (UAS)”—and respective acquisition report as required by Berkeley Municipal Code §2.99.030.2. See Attachment 2, Draft Policy 611 “Unmanned Aerial System (UAS) Operations” and Policy 1303 “Surveillance Use Policy – Unmanned Aerial System (UAS).”

Although that is the immediate procedural history of how these proposed policies have made it before the Board, the conversation on UAS technologies is not new to the City of Berkeley. The conversation began over 10 years ago with the PAB's predecessor agency, the Police Review Commission (PRC). Specifically, on December 18, 2012, the Berkeley City Council reviewed a resolution submitted to it by the Berkeley Peace and Justice Commission to "Proclaim Berkeley a No Drone Zone and Enact an Ordinance to that Effect." At that time, the Council referred the issue of drones, or unmanned aerial vehicles, back to the Peace and Justice Commission, the Berkeley Police Review Commission, and the Berkeley Disaster and Fire Commission for further review and study. The Council asked that the referenced stakeholder Commissions report back to Council for further consideration of the issues and review a proposal to permit police use of drones upon approval of the City Manager, or approval of the Chief of Police in emergencies when the City Manager isn't available, in the following circumstances:

1. In the case of a disaster;
2. To assist in locating missing persons;
3. To assist in rescue efforts;
4. To assist in a police pursuit of known suspects who have committed serious or violent crimes.

See Attachment 3, the PRC's 2013 letter and recommendation on drones to the Mayor and City Council.

Ultimately, the Council decided on February 24, 2015, to impose a ban on the use of unmanned aircraft systems, commonly known as "drones," by the BPD for one year and to formulate a protocol for their deployment by law enforcement. However, the Council granted permission for the Berkeley Fire Department to use drones for emergency response in the event of a disaster, although the Fire Department did not procure any and currently has none. See Attachment 4, the Berkeley City Council's minutes for February 24, 2015, where the topic is discussed as action item number 26. Subsequently, the Council enacted Ord. 7592-NS §2 in 2018, which introduced Chapter 2.99 to the Berkeley Municipal Code.

For this report, the term Unmanned Aerial System (UAS) is defined in the same manner as provided in the BPD Surveillance Acquisition Report (hereinafter the "Report"). A UAS is defined as an unmanned aircraft that is capable of sustained flight, whether through pre-programmed instructions or remote control, and is equipped with components designed to gather information through various means, such as imaging or recording. Typically, a UAS is composed of an unmanned aircraft that includes a chassis, propellers for flight, communication equipment, flight stabilization technology, a control chip, a camera, and a digital image/video storage system. Additionally, a UAS includes a remote-control unit that communicates with the aircraft, as well as battery charging equipment for both the aircraft and the remote control. UAS is controlled from a remote-control unit with wireless connectivity, which allows pilots to view the UAS and its surroundings from a birds-eye perspective. The UAS's cameras enable pilots to view the aerial perspective, and image and video data are recorded onto secure digital (SD) memory cards that can be removed from the UAS for evidence.

The Report addresses the need for UAS technology as being necessary to "[improving] the capacity of law enforcement (LE) to provide a variety of foundational police services." See Attachment 5, a copy of BPD's draft Surveillance Acquisition Report for Unmanned Aerial System (UAS). The claim is that the acquisition of UAS drones by the Berkeley Police Department would significantly improve their capacity to provide foundational police services and that the technology has already been proven to save lives and help capture dangerous criminal suspects in other law enforcement agencies. The need for this acquisition is justified by an annual increase in violent crimes in Berkeley, including shootings, robberies, assaults, and firearms recovery. From 2018 to 2022, the yearly average number of shootings has doubled. In 2021 Berkeley had 265 robberies, 210 aggravated assaults, 57 sexual assaults, and 118 firearms recovered. See Attachment 5. The Department notes that UAS drones can provide a greater view into the immediate surroundings of crime scenes and active pursuits, which can offer officers greater time and distance to de-escalate volatile situations (see Attachment 5). Furthermore, the Department states that UAS drones are effective in locating missing persons in remote

areas and assisting in rescue missions. Overall, the claim is that UAS systems would help mitigate risk for both officers and the public.

The increasing number of police departments across the country acquiring and using drones indicates a growing trend in law enforcement agencies relying on this technology. The Atlas of Surveillance, a project of the Electronic Frontier Foundation (EFF) and the University of Nevada, has reported that at least 1,172 police departments nationwide are currently using drones (Guariglia, 2022). With the widespread use of UAS technology, it is becoming increasingly evident that drones are being viewed as an essential tool for law enforcement agencies as UAS technologies continue to develop. The PAB does not challenge the claim that UAS technology can be beneficial to both the BPD and the community, as long as the appropriate accountability measures and safeguards are in place. Additionally, the PAB also recognizes the concern for disparate impacts when implementing these technologies as noted by Samuelson Law, Technology & Public Policy Clinic, “it can also enable targeting and discrimination against vulnerable communities” (Chivukula et al., 2021).

In conducting this policy review, the PAB assessed the necessity of acquiring a drone, weighed the benefits of such an acquisition against the cost and the concerns raised by the community, and identified the oversight measures that should be considered if the technology is deemed necessary to acquire. To that end, the Board reviewed the historical record of this conversation to include the PRC’s reports and recommendations, the current literature surrounding UAS technologies, and neighboring jurisdictions’ policies and uses of UAS technologies.

### **Recommendation:**

The Board notes that it is not clear whether Berkeley Municipal Code 2.99 "Acquisition and Use of Surveillance Technology," specifically section 2.99.030.2, requires review if the Berkeley Police Department does not intend to acquire drones. Because the preambles to both proposed policies (611.5 and 1303.2) clearly state, “UAS shall only occur as the result of a mutual assistance request”, the PAB needs to know if the Berkeley

Police Department intends to request or is requesting acquisition for or purchase of drones. If BPD does not intend to make this purchase it would appear more appropriate to propose a policy for requests for mutual aid such as in BPD Policy 418 "Obtaining Air Support". That policy should then include in its title that this is the mutual aid policy for use of other Department's Drones. Berkeley PD will not have the authority to supervise, train or limit other jurisdictions' use of their drones.

To ensure the City of Berkeley and the Berkeley Police Department adopt Unmanned Aerial System (UAS) policies that restrict the use of this technology to the most serious situations, minimize the potential for constitutional violations, and increase trust between BPD officers and community members, the PAB recommends that the City not approve the Department's proposed policies in their current form. Furthermore, the PAB recommends that when and if the City revisits the issue of adopting Unmanned Aerial System (UAS) policies for use or acquisition it addresses the following concerns:

#### Concerns regarding potential implications for civil liberties and constitutional rights

UAS technologies present concerns for the preservation, respect, and adherence to well-established civil liberties and constitutional rights. Specifically, the technological capabilities of drones can threaten First Amendment rights to freely and peaceably assemble (U.S. Const. amend. I) and the Fourth Amendment protection which safeguards, "...the privacy and security of individuals against arbitrary invasions by governmental officials" (*Camara v. Municipal Court of City and County of San Francisco*, 1967). Considering the Board's purpose of promoting public trust through the review of the Police Department's policies, practices, and procedures, the PAB believes the current policies as drafted will impede that purpose.

In the PRC's 2013 Town Hall discussion, Linda Lye, staff attorney with the American Civil Liberties Union, indicated that deploying drones not only raises serious Fourth Amendment concerns, but would also likely violate the California Constitution's Article I, Section I, which grants privacy protection for personal information. Among some of the reasons to oppose the technology, she stated:



- Their low cost encourages widespread surveillance.
- Their small size and advanced abilities prevent people from knowing they are being spied on.

### The role of civilian oversight in the acquisition and use of UAS

The role of a civilian oversight body, such as the PAB, in these instances, is to ensure that the use of technology by law enforcement is appropriate, transparent, and in line with the community values and protects civil liberties. The current reporting on UAS deployments is limited to the Annual Surveillance Technology Report compiled by the City Manager. This limited reporting is done in compliance with Ordinance 7592-NS § 2. While an annual report can provide some insight, currently the City of Berkeley falls short of meeting the transparency standards set by other California cities when reporting out on UAS deployments (See San Jose UAS Deployments<sup>1</sup>, Chula Vista Drone-Related Activity Dashboard<sup>2</sup>; Hayward Police Department Flight Logs<sup>3</sup>).

In 2022, the BPD requested UAS support from the Alameda County Sheriff's Office (ASCO) on three occasions. See Attachment 6, a copy of the UAS Deployment entries of the City Manager's 2022 surveillance technology usage report. Given the possibility of an increase in UAS deployments in Berkeley, it is crucial to establish an updated log that provides information on what, when, and why the UAS was deployed, as well as the duration of each deployment. This information is essential in ensuring transparency and accountability for law enforcement agencies, particularly in light of the concerns surrounding deployments of UAS. A publicly accessible log of UAS deployments would provide the community with much-needed transparency and accountability, and it would help build trust between law enforcement and residents. The PAB strongly recommends the implementation of such a measure if the BPD decides to implement the proposed policies.

---

<sup>1</sup> <https://www.sjpd.org/records/uas-deployments>

<sup>2</sup> <https://www.chulavistaca.gov/departments/police-department/programs/uas-drone-program>

<sup>3</sup> <https://www.hayward-ca.gov/police-department/transparency/uas-drone>

## Lack of technical specifications and potential misuse

The BPD's current proposals are not transparent enough and do not clearly outline which specific UAS technologies they are seeking to use through mutual aid agreements. The wide range of capabilities and features of different UAS systems is a cause for concern among members of the Berkeley Community. The 2013 PRC Recommendation to City Council Regarding Drones identifies concerns regarding the advanced capabilities of drone technologies, including thermal imaging. See Attachment 3. In addition, the PRC letter also raised the issue of "mission creep", where certain technologies are initially requested for specific purposes but are later used for unintended or broader purposes.

The BPD cited the study, "Mission-based citizen views on UAV usage and privacy: an effective perspective," within their Acquisition Report. In the study, the authors indicate that community members are "much more concerned over their privacy when the UAV was airborne 24 hours a day than when it was used for a specific mission and returned to base" (Winter et al., 2016). The study suggests that citizens may be more accepting of UAS technology when they "see the advantages of the UAS usage outweighing their privacy concerns." For instance, UAS technology used for search and rescue during natural disasters may lead citizens to perceive the gain in benefits that offset their privacy concerns. However, when the purpose and capability of such technology are not clear, members of the community may become concerned about the uses of the UAS. This research, as cited by the Berkeley Police Department, highlights the need for clear guidelines on the appropriate usage of UAS to balance the potential benefits of UAS operations with citizens' right to privacy.

The lack of clarity and transparency regarding the technical specifications for UAV acquisition and usage has been a major source of concern for the PAB and the Berkeley community. As noted, the PAB will not endorse any policy related to UAS acquisition and usage that does not incorporate measures to promote transparency and limit the acquisition and usage of certain surveillance technologies. The current policy is vague in terms of technical specifications and does not provide any additional information other than the basic features of a majority of modern-day UAVs. This lack of clarity raises

concerns about privacy violations, civil rights abuses, and the potential for mission creep. Without clear guidelines on what technologies are being acquired and how they will be used, the community is left to speculate on the potential harms and risks associated with UAVs, which can erode public trust and acceptance. Providing clear guidelines and disclosures of the technical specifications would be a critical step toward promoting greater public acceptance of UAVs while also upholding individual rights and maintaining public trust.

**Lack of definition for “Exigent Circumstances”:** A key concern for appropriate use of UAS in law enforcement

Clearly defining what qualifies as an exigent circumstance helps prevent officers from claiming exigent circumstances as a blanket justification for using UAS surveillance technology. Inappropriate use of UAS systems can create a culture of constant surveillance, which can erode public trust and exacerbate tensions between BPD and the community. By using UAS only when necessary, BPD can demonstrate that they respect the privacy and civil liberties of the public and are not engaging in constant monitoring.

Additionally, restricting the use of drones to exigent circumstances can help prevent mission creep, which occurs when a technology or policy designed for a specific purpose is gradually expanded to other areas or uses. By setting clear limitations on when and how drones can be used, law enforcement can help ensure that they are not overstepping their bounds or engaging in practices that are not consistent with their intended purpose.

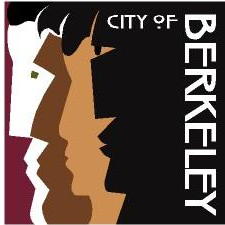
The PAB recognizes that UAS technology has the potential to be used for legitimate law enforcement purposes. However, to ensure the technology is used responsibly and transparently, policies must be put in place to guide their use. The PAB believes that the policy being considered by the BPD should clearly define what an exigent circumstance is, to provide better guidance to BPD staff as to when it is appropriate for drones to be used. The PAB is not comfortable endorsing a policy that does not clearly define what constitutes an exigent circumstance, as this generates too much ambiguity.

The uncertainty of UAS operations through mutual aid agreements with outside agencies

The use of unmanned aerial systems (UAS) by law enforcement is a complex issue, and the uncertainty created by the proposed policy surrounding UAS operations through mutual aid agreements with outside police agencies adds another layer of complexity. The PAB is concerned that the policies being considered by the BPD do not provide clear guidelines on how the Department will ensure that the UAS used under mutual aid agreements comply with the authorized uses, limitations, and reporting requirements of the City of Berkeley. The lack of clarity on how the Department will oversee UAS operations under mutual aid agreements raises concerns about the potential misuse of the technology, which can result in the erosion of public trust. Therefore, the PAB urges the BPD to provide more clarity on how it plans to manage UAS operations under mutual aid agreements and ensure that they comply with the authorized uses and limitations outlined in the City of Berkeley's policies.

## References

- Chivukula, A., & Takemoto, T. (n.d.). *Local surveillance oversight ordinances - berkeley law*. Berkeley Law. Retrieved February 17, 2023, from <https://www.law.berkeley.edu/wp-content/uploads/2021/02/Local-Surveillance-Ordinances-White-Paper.pdf>
- Guariglia, M. (2022, January 6). *How are police using drones?* Electronic Frontier Foundation. Retrieved February 17, 2023, from <https://www.eff.org/deeplinks/2022/01/how-are-police-using-drones#:~:text=Across%20the%20country%2C%20police%20departments,departments%20nationwide%20are%20using%20drones>
- Legal Information Institute. (n.d.). *Roland Camara, appellant, V. Municipal Court of the city and county of San Francisco*. Legal Information Institute. Retrieved February 17, 2023, from <https://www.law.cornell.edu/supremecourt/text/387/523>
- U.S. Constitution - First Amendment | Resources - Congress*. Constitution Annotated: Analysis and Interpretation of the U.S. Constitution. (n.d.). Retrieved February 17, 2023, from <https://constitution.congress.gov/constitution/amendment-1/>
- Winter, S. R., Stephen, R., Gajapriya, T., & Russell, T. (2016, February 29). *Mission-based citizen views on UAV usage and privacy: An affective perspective*. Journal of Unmanned Vehicle Systems. Retrieved February 17, 2023, from <https://cdnsiencepub.com/doi/10.1139/juvs-2015-0031>



Kate Harrison  
Councilmember, District 4

## SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2

**Meeting Date:** May 23, 2023

**Item number:** 46

**Item Description:** Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)

**Submitted by:** Councilmember Harrison

### **RECOMMENDATION:**

Adopt revised version of the External Fixed Surveillance Cameras Policy 351 consistent with Councilmember Taplin and Kesarwani's legislative intent and 2021 Council action approving the budget referral.

### **BACKGROUND**

The authors' 2021 budget referral item was explicit that it was limited to criminal investigations: "deter gun violence and obtain evidence to solve criminal investigations." In addition, the authors explicitly stated their limited intent: "We note that the security camera footage would be used solely for the purpose of solving criminal investigations. The cameras are not intended and would not be used for any kind of surveillance purposes whatsoever."

Nevertheless, the policy proposed by BPD broadly expands uses to include monitoring of pedestrian and traffic activity, and civil investigations.

Further, in approving the camera budget referral in 2021 the Council was clear to state that data should be strictly used for "active [criminal] investigations only." Minutes from the Council action in October 2021 read:

Approved recommendation as revised in Supplemental Communications Packet #1 from Councilmember Taplin, and further revised to include the amendments below.

- Refer to the City Manager to develop a use policy for the security cameras that includes provisions that the data may be used for active investigations only and that the policy will include the data retention schedule. Staff to provide Council with an off-agenda memo commemorating the use policy.
- The locations of the cameras will be based on calls-for-service data; that staff will bring a list of locations to Council; and to refer the item to the AAO1 budget process

The amended version included in this item narrows the scope to the version Council approved.

The proposed Policy 351 as drafted also attempts to re-litigate the question of whether video or image recordings constitute "government records" that have to be kept for a year or more. During the Parking Enforcement ALPR development process, Councilmember Harrison successfully worked with the City Attorney to determine that collection of data which did not result in an investigation does not constitute a government record in and of itself. For example, thousands of drivers may pass through a given intersection in a day; images of their vehicles should not be retained unless part of an active City investigation. As with ALPRs parking enforcement, data should only be retained for purposes identified in the policy. The proposed version clarifies that unless a video recording has a nexus to an active investigation, use of force by a police officer, detention, arrest, or recordings relevant to a formal or informal complaint, all recordings shall be purged within 30 days.

Finally, as drafted, Policy 351 permits expansive installation of cameras potentially at locations not approved by Council with the phrase "Camera placement includes, but is not limited to." The policy also conflates two distinct types of surveillance: recording and live monitoring, which needs to be delineated and clarified to match the authors' and Council's intent. This updated version of Policy 351 separates policies around recording and monitoring to properly achieve the intent of the authors and Council.

**ATTACHMENT**

Revised BPD Policy 351

## External Fixed Video Surveillance Cameras

### 351.1 PURPOSE AND SCOPE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department.

This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department. Department Personnel shall adhere to requirements for External Fixed Video Surveillance Cameras covered in this policy as well as the corresponding Surveillance Use Policy – 1304.

### 351.2 POLICY

The Berkeley Police Department utilizes a video surveillance system to enhance its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance safety and security in public areas and City property. [As specified by this policy](#), cameras may be placed in strategic locations throughout the City to ~~detect~~ record and deter crime, to help [the City](#) safeguard against potential threats to the public, to help [the City](#) manage emergency response situations during natural and human-made disasters, ~~to assist City officials in providing services to the community~~, among other uses [specified in Section 351.3.1](#).

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 351.3 OPERATIONAL GUIDELINES

Only City Council-approved video surveillance equipment shall be utilized. [BPD](#) Members authorized to review video surveillance should only [record and](#) monitor public areas and public activities where no reasonable expectation of privacy exists [and pursuant to Section 351.3.1](#). The City Manager shall obtain Council approval for any proposed additional locations for the use of video surveillance technology.

#### 351.3.1 PLACEMENT, [REVIEW](#) AND MONITORING

Camera placement will be guided by [this policy and](#) the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City departments when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Camera placement includes, ~~but is not limited to~~: existing cameras such as those located at San Pablo Park, the Berkeley Marina, and cameras placed in Council identified and approved intersections throughout the City, and potential future camera locations as approved by City Council.

Current City Council approved locations:



- 6<sup>th</sup> Street at University Avenue
- San Pablo Avenue at University Avenue
- 7th Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62<sup>nd</sup> Street at King Street

The cameras shall only record video images and not sound. Recorded images [pursuant to Section 351.5](#) may be used for [specific and active City](#) criminal or [civil administrative](#) investigations. The video surveillance system may be ~~use~~[monitored by the City](#)~~ful strictly~~ for the following purposes:

- (a) ~~To [support specific and active criminal or administrative investigations](#) prevent, deter and identify criminal activity.~~
- (b) ~~To address identified areas of criminal activity.~~
- (e)(b) ~~To respond to critical incidents~~ [or natural disasters](#).
- (d) ~~To assist in identifying, apprehending and prosecuting offenders.~~
- (e) ~~To document officer conduct during interactions to safeguard the rights of the public and officers.~~
- (f) ~~To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.~~
- (g) ~~To document City of Berkeley employee, employer, and/or customer conduct during interactions to safeguard the City of Berkeley employee, employer, and customer from misconduct.~~

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

### **351.3.2 FIXED CAMERA MARKINGS**

All public areas monitored by video surveillance equipment shall be marked in a conspicuous manner with unobstructed signs to inform the public that the area is under police surveillance.

### 351.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department is prohibited from integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition and other video-based analytical systems.

### 351.4 VIDEO SUPERVISION

Access to video surveillance cameras data shall be limited to Berkeley Police Department (BPD) personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 351.6 or 1304.9 below. ~~BPD Members~~ members seeking access to the camera system shall seek the approval from the Investigations Division Captain, or their designee.

Supervisors should monitor camera access and usage to ensure BPD members are complying with ~~in~~ this policy, other applicable department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

#### 351.4.1 VIDEO LOG

No one without authorization will be allowed to login and view the recordings. Access to the data must be obtained through the Public Works Department. All system access including system login, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. Those who are authorized and login should automatically trigger the audit trail function to ensure compliance with the guidelines and policy. This is further outlined in 1304.4 of the Surveillance Use Policy.

#### 351.4.2 PROHIBITED ACTIVITY

Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

Video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

### 351.5 STORAGE AND RETENTION OF MEDIA

Video surveillance recordings are transient means to create potential government records, but are not government records in and of themselves. Except as otherwise permitted in this section, video surveillance recordings shall be purged within thirty (30) days. ~~The cameras should record minimally for one year as guided by Government Code 34090.~~

Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative ~~or~~ civil proceedings pursuant to this section shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention

---

policy, and any applicable orders from the court.

Any recordings needed as evidence in a criminal or [civil-administrative](#) proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

### **351.5.1 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as available and appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

### **351.6 RELEASE OF VIDEO IMAGES**

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law, also referenced in Policy 1304.8.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Requests for recorded [images-video](#) from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with [this policy](#) [and](#) a specific [and active and legitimate law enforcement purpose](#) [criminal investigation](#).

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

### **351.7 VIDEO SURVEILLANCE AUDIT**

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. System audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of the cameras pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., published on the City of Berkeley website in an appropriate location, and retained within [the](#) Professional Standards Bureau.

### **351.8 TRAINING**

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

### **351.9 MAINTENANCE**

It shall be the responsibility of the Public Works Department to facilitate and coordinate any updates and required maintenance.



Office of the City Manager

ACTION CALENDAR

June 13, 2023

*(Continued from May 23, 2023)*

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Jennifer Louis, Chief of Police  
Subject: Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)

RECOMMENDATION

Adopt a Resolution approving the Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS).

FISCAL IMPACTS OF RECOMMENDATION

There are no additional fiscal impacts associated with the acquisition of this equipment. There may be minimal fiscal impacts associated with training staff on the use of Fixed Surveillance Cameras.

INTRODUCTION

The City of Berkeley enacted the Surveillance Ordinance in 2018 with the stated purpose to establish a thoughtful process regarding the procurement and use of Surveillance Technology that carefully balances the City's interest in protecting public safety with its interest in protecting the privacy and civil rights of its community members. To ensure that our general policies maintained consistent format with other policies the Department decided to develop parallel equipment 'use' policies where appropriate so that the Surveillance Use Policy could directly follow all the requirements explicitly set forth in BMC 2.99.020(4). Both policies are equally important, and all members are required to abide by the legal parameters of both policies. Recognizing the important of the Surveillance Use Policies, the Department has a chapter in our Departmental Policies specifically dedicated to the Surveillance Use Policies.

CURRENT SITUATION AND ITS EFFECTS

There are two surveillance technologies that are undergoing the process of the Surveillance Ordinance in order to obtain City Council approval. These technologies are External Fixed Video Surveillance Cameras and Unmanned Aerial System (UAS). As part of the Surveillance Ordinance process the Department completed acquisition

and use policies which underwent review by the Police Accountability Board and Public Safety Policy Committee.

City owned fixed surveillance cameras are already in place in several locations in the City of Berkeley and Council has approved installation of fixed cameras at ten specific intersections in the City. Acquisition and Use Policies are being submitted through the Surveillance Ordinance process to ensure clear guidelines regarding the approved technologies and the manner in which they will be used.

The Berkeley Police Department has made several exigent uses of Unmanned Aerial System (UAS) technology and believes circumstances may arise in the future necessitating further use. The Surveillance Ordinance provides guidance to Temporary Acquisition and Use of Surveillance Equipment (BMC 2.99.040) which requires the following: notifications, and presumes that if the uses will continue beyond exigent circumstances that the Department bring forward an acquisition report and use policy.

Crime trends regionally and in the City of Berkeley indicate there has been a steady increase in shootings in the City the last five years and Part 1 Crimes reached their highest level in ten years in 2022. The Department has developed and submitted acquisition and use policies for these surveillance technologies as we believe that they support our mission to safeguard our diverse community through proactive law enforcement and problem solving, treating all people with dignity and respect. These law enforcement tools enhance policing practices and create greater safeguards toward fair and impartial policing and safer outcomes during law enforcement interactions.

The External Fixed Video Surveillance Camera Policies are covered by three policies:

1. Policy 351 – The policy that will establish guidelines for the Police Department on the use of External Fixed Video Surveillance Cameras
2. Policy 1304 - The Surveillance Use Policy related to Fixed Video Surveillance Cameras
3. Surveillance Acquisition Report – Citywide Report regarding Cameras

Each of the above External Fixed Video Surveillance Camera Policies received City Attorney Office review with Public Works staff being the primary author of the Acquisition Report and Berkeley Police Department staff being the primary author of Policies 351 and 1304.

The Unmanned Aerial System (UAS) policies are covered by the following policies:

1. Policy 611 – The policy that will establish guidelines for the Police Department on the use of an Unmanned Aerial System (UAS – commonly referred to as drones)
2. Policy 1303 - The Surveillance Use Policy related to UAS

3. An Acquisition Report related to UAS. The Department is not seeking to acquire UAS technology at this time but per the City Attorney's Office, the Surveillance Ordinance requires completion of an Acquisition Report as well.

Each of the above policies received City Attorney office review. Attached to this report are the revised versions of all the aforementioned policies considering feedback from the Police Accountability Board and Public Safety Policy Committee meetings. Track changes are included to show the revisions the Department made.

Pursuant to the Surveillance Ordinance, BMC Section 2.99.030.2, upon receipt of acquisition and use policies from the Police Department, the Police Accountability Board (PAB) has a 30-day deadline "to recommend approval of the policy, object to the proposal, recommend modifications, or take no action." The Department provided the PAB the acquisition and use policies for UnManned Aerial Systems on January 24, 2023 and Fixed Cameras on February 8, 2023. The PAB provided written recommendations to the Department and the PSPC. The Department provided information and solicited feedback on these policies from the Public Safety Policy Committee at the Committees March 20, 2023 and April 24, 2023 meetings.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

#### CONTACT PERSON

Captain Mike Durbin, Police, Professional Standards Division (510) 981-5760

#### ATTACHMENTS:

1. REVISED: Policy 351- External Fixed Video Surveillance Cameras
2. REVISED: 1304- Surveillance Use Policy External Fixed Video Surveillance Cameras
3. REVISED: Acquisition Report- External Fixed Video Surveillance Camera
4. REVISED: 611- Unmanned Aerial System (UAS)
5. REVISED: 1303-Surveillance Use Policy Unmanned Aerial System (UAS)
6. REVISED: Acquisition Report- Unmanned Aerial System (UAS)
7. RESOLUTION

## External Fixed Video Surveillance Cameras

### 351.1 PURPOSE AND SCOPE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department.

This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department. ~~This policy is intended to be the Use Policy, however all aspects of the Surveillance Use Policy, 1304 which corresponds with the External Fixed Video Surveillance Cameras is equally applicable. Department Personnel shall adhere to requirements for External Fixed Video Surveillance Cameras covered in this policy as well as the corresponding Surveillance Use Policy – 1304.~~

### 351.2 POLICY

The Berkeley Police Department utilizes a video surveillance system to enhance its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance safety and security in public areas and City property. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and human-made disasters, to assist City officials in providing services to the community, among other uses.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 351.3 OPERATIONAL GUIDELINES

Only City Council-approved video surveillance equipment shall be utilized. Members authorized to review video surveillance should only monitor public areas and public activities where no reasonable expectation of privacy exists. The City Manager shall obtain Council approval for any proposed additional locations for the use of video surveillance technology.

#### 351.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City departments when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Camera placement includes, but is not limited to: existing cameras such as those located at San Pablo Park, the Berkeley Marina, and cameras placed in Council identified and approved intersections throughout the City, and potential future camera locations as approved by City Council.

Current City Council approved locations:

REVISED-351 External Fixed Video Surveillance Cameras (Final).docx



- 6<sup>th</sup> Street at University Avenue
- San Pablo Avenue at University Avenue
- 7<sup>th</sup> Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62<sup>nd</sup> Street at King Street

The cameras shall only record video images and not sound. Recorded images may be used for ~~a variety of purposes, including~~ criminal or civil investigations. The video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer ~~and offender~~ conduct during interactions to safeguard the rights of the public and officers.
- ~~(f) To augment resources in a cost effective manner.~~
- ~~(g)~~(f) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- ~~(h)~~(g) To document City of Berkeley employee, employer, and/or customer conduct during interactions to safeguard the City of Berkeley employee, employer, and customer from misconduct.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

### 351.3.2 FIXED CAMERA MARKINGS

All public areas monitored by video surveillance equipment shall be marked in a conspicuous manner with unobstructed signs to inform the public that the area is under police surveillance.

### 351.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department is prohibited from integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition and other video-based analytical systems.

### 351.4 VIDEO SUPERVISION

Access to video surveillance cameras data shall be limited to Berkeley Police Department (BPD) personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 351.6 or 1304.9 below. Members seeking access to the camera system shall seek the approval from the Investigations Division Captain, or their designee.

Supervisors should monitor camera access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

#### 351.4.1 VIDEO LOG

No one without authorization will be allowed to login and view the recordings. Access to the data must be obtained through the Public Works Department. All system access including system login, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. Those who are authorized and login should automatically trigger the audit trail function to ensure compliance with the guidelines and policy. This is further outlined in 1304.4 of the Surveillance Use Policy.

#### 351.4.2 PROHIBITED ACTIVITY

Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

Video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

### 351.5 STORAGE AND RETENTION OF MEDIA

The cameras should record minimally for one year as guided by Government Code 34090. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or

civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

#### **351.5.1 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as available and appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### **351.6 RELEASE OF VIDEO IMAGES**

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law, also referenced in Policy 1304.8.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Requests for recorded images from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **351.7 VIDEO SURVEILLANCE AUDIT**

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. System audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of the cameras pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

**351.8 TRAINING**

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

**351.9 MAINTENANCE**

-It shall be the responsibilityies of the Public Works Department to facilitate and coordinate any updates and required maintenance.

# Surveillance Use Policy-External Fixed Video Surveillance Cameras

## 1304.1 PURPOSE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department (BPD). This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department. Department Personnel shall adhere to requirements for External Fixed Video Surveillance Cameras covered in this policy as well as the corresponding Use Policy – 351.

This Surveillance Use Policy is legally-enforceable pursuant to BMC 2.99.

## 1304.2 AUTHORIZED USE

Only BPD members who receive training on this policy, who are then granted access by an administrator may access the data from the video surveillance cameras. This data may only be accessed to further a legitimate law enforcement purpose. Members must follow the necessary logging mechanisms, such as case number and case type when querying the database.

Recorded images may be used for ~~a variety of purposes, including~~ criminal or civil investigations. The video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer ~~and offender~~ conduct during interactions to safeguard the rights of the public and officers.
- ~~(f) To augment resources in a cost effective manner.~~
- ~~(g)~~(f) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- ~~(h)~~(g) To document City of Berkeley employee, employer, and/or customer conduct during interactions to safeguard the City of Berkeley employee, employer, and customer from misconduct

The following are prohibited uses of the video surveillance system:

- (a) Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.
- (b) Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.
- (c) Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

- (d) Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.
- (e) Video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

### **1304.3 DATA COLLECTION**

The cameras will film and store video on City of Berkeley encrypted servers. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. The cameras and storage devices shall be wholly owned and operated/maintained by the City of Berkeley.

### **1304.4 DATA ACCESS**

Access to video surveillance cameras data shall be limited to Berkeley Police Department personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 1304.9 below. Members seeking access to the video surveillance system shall seek the approval from the Investigations Division Captain, or their designee.

### **1304.5 DATA PROTECTION**

All data transferred from the cameras and the servers shall be encrypted. Access to the data must be obtained through the Public Works Department. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

### **1304.6 CIVIL LIBERTIES AND RIGHTS PROTECTION**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. Provisions of this policy, including 1304.4 Data Access, 1304.5 Data Protection, 1304.7 Data Retention, 1304.8 Public Access and 1304.9 Third Party Data Sharing serve to protect against any unauthorized use of video surveillance camera data. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. These procedures ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

### **1304.7 DATA RETENTION**

The video surveillance camera system should record minimally for one year as guided by Government Code 34090. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court. All data will automatically delete after the aforementioned retention period by the System Administrator from Public Works.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

## *Surveillance Use Policy-External Fixed Video Surveillance Cameras*

---

### **1304.8 PUBLIC ACCESS**

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

### **1304.9 THIRD-PARTY DATA-SHARING**

Requests for recorded images from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with specific and legitimate law enforcement purposes.

Data collected from the video surveillance system may be shared with the following:

- (a) The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- (b) Other law enforcement personnel as part of an active criminal investigation;
- (c) Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process

### **1304.10 TRAINING**

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

### **1304.11 AUDITING AND OVERSIGHT**

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. Video surveillance system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of this policy pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

### **1304.12 MAINTENANCE**



It shall be the responsibility of the Public Works Department to facilitate and coordinate any updates and required maintenance.

**PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

---

**SURVEILLANCE CAMERAS****A. DESCRIPTION**

The Avigilon camera system consists of three main components: The camera, the server, and a remote information management system referred to as the Avigilon Control Center Client application (ACC).

The first component, the Avigilon camera, is a device that incorporates a video recording from an image. The cameras are affixed to City of Berkeley-owned infrastructure including utility poles on City streets and parks. The cameras provide protection to indoor and outdoor spaces with high-resolution images of up to 5 MP, a wide field of view, and efficient bandwidth management in a compact design without compromising building aesthetics. Although license plate and facial recognition hardware is available, neither was purchased or installed. Without the hardware, these features cannot be activated. Audio is a standard feature of the camera, but will remain deactivated by the authorized administrators of the system.



The second component of the system is the server. Once the Avigilon camera captures the imagery, a local device called a server, functions as a repository for the data. Servers are physically secured on City property and video recordings are protected within the City's network. Servers are designed to store recorded events in real time for secure retrieval and analysis. Recorded videos are transferred from the server's storage into an information management system, Avigilon Control Center (ACC) application. <sup>1</sup>.

---

<sup>1</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=200320040AB839](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200320040AB839)

## PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT



The third component is the Avigilon Control Center Client application (ACC) which streamlines data management and allows users to access videos on one secure platform. The ACC software provides various levels of analytics to sort stored videos faster and is a standard feature. These include pixel motion detection of vehicles and people. Vehicular characteristics are searchable by vehicle type and color. Personal characteristics are searchable by gender (gender is a binary search, female or male), hair color, age, and upper and lower body clothing color. Authorized users of the system can only access data stored on a server through the ACC application. The ACC application is located on the server and accessed solely through the City's secured intranet by protected login and password. The application does not allow the authorized administrator or system users to alter, manipulate, or edit any of the footage recorded by the server.

**B. PURPOSE**

Surveillance cameras will be utilized for the following business purposes:

- i. To prevent, deter and identify criminal activity.
- ii. To address identified areas of criminal activity.
- iii. To respond to critical incidents.
- iv. To assist in identifying, apprehending and prosecuting offenders.
- v. To document officer ~~and offender~~ conduct during interactions to safeguard the rights of the public and officers.
- ~~vi. To augment resources in a cost-effective manner.~~
- ~~vii-vi.~~ vii-vi. To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- ~~viii-vii.~~ viii-vii. To document City of Berkeley employee, employer, and/or customer conduct during interactions to safeguard the City of Berkeley employee, employer, and customer from misconduct

**C. LOCATION**

Surveillance cameras encompassed by this report, are located at, or will be installed at, the following locations.

**Future Projects:**

- 6<sup>th</sup> Street at University Avenue

## PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT

---

- San Pablo Avenue at University Avenue
- 7th Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62<sup>nd</sup> Street at King Street

### Completed Projects:

- San Pablo Park
- City of Berkeley Marina
- Transfer Station

### D. IMPACT

The primary intent of these cameras is to deter and address crime in the City of Berkeley. The Public Works Department will work to ensure that the video recordings are secured and only accessible to authorized personnel. The right to maintain someone's anonymity versus the need to collect information to maintain public safety is of paramount concern. The Department recognizes that all people have a right to privacy and is committed to protecting and safeguarding civil rights by adhering to the strictest requirements concerning the release of video recordings. There should not be any impact on anyone's civil liberties or civil rights. The camera system lacks the hardware to conduct license plate reader or facial recognition technology. Audio is a standard feature of the cameras, but will remain deactivated by the authorized administrators of the system. Staff is explicitly prohibited from using any facial recognition technology as outlined in BMC 2.99.

The Public Works Department will ensure responsible data management, transparency, and accountability including the posting of video surveillance notices.

**PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

---

**E. MITIGATION**

In order to minimize violations of privacy, data shall be maintained in a secure, non-public accessible location, such locations require specialized system access including a dedicated password and log in. Data will be obtained or released in accordance with the use policy. Data will not be used to unlawfully discriminate against people based on race, ethnicity, political opinions, religious or philosophical beliefs, trade union membership, gender identity, disability status, sexual orientation or activity, or genetic and/or biometric data. Additionally, the Department will not use the camera surveillance system to scan footage and identify individuals based on any of the categories listed in the preceding sentence.

Employees are prohibited from retaining, duplicating, or distributing video recordings except for departmental business purposes in accordance with the use policy.

**F. DATA TYPES AND SOURCES**

The surveillance camera system's use is limited to capturing non-audio, video recordings on affixed City buildings, including utility poles on streets and within park boundaries. The Camera Surveillance system collects video recordings in high-resolution imagery that is stored securely on a local server and accessible by authorized users on the ACC application. As video images are recorded, the ACC application automatically stamps the video with the current date/time and the camera's identity.

**G. DATA SECURITY**

External users will not have access to the ACC application. The authorized administrator and designated staff will have access to video recordings. To gain system access, staff must obtain approval from system management. Authorized users will access the ACC application via a single sign-on and password administered by Information Technology. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works authorized administrator. The application prohibits the authorized administrator and users from altering, manipulating, tampering, or editing video recordings.

The Public Works Director or his/her designee shall appoint a member of the department as the authorized administrator to coordinate the use and maintenance of the Surveillance Camera system and the storage of recordings, including:

1. Establishing a system for downloading, storing, and securing of recordings.
2. Designating persons responsible for downloading recorded data.
3. Establishing a maintenance system to ensure the working order of surveillance cameras.
4. Monitoring the system to prevent tampering, deleting, and copying recordings.

**PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

---

5. Working in alignment with the State of California record retention policy, AB 839 to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
6. Maintaining an audit trail record for all access to video recording files, wherein access information for each file is logged using a secure log-in system. The ACC application associates an audit trail record with each user access information, thereby logging the date, time, user name, and activity occurring during each video recording file access.

**H. FISCAL COST**

Costs for future projects listed in Section C of this report are unknown at this time. Future costs will depend on additional maintenance, equipment, and parts. Ongoing costs include associated staff time relative to the system administrator’s role of administering and maintaining the surveillance camera program. All cameras are purchased and wholly owned and operated by City of Berkeley.

Initial Purchase Costs:

San Pablo Park: \$64,829.46 – 1 server and 21 camera views

Zero Waste Transfer Station – Weigh Station: \$15,962.35 – 1 server and 10 camera views

Marina: \$106,620.14 – 2 servers and 45 camera views

Ongoing Costs:

Personnel, maintenance, and other ongoing costs, including compliance and other reporting and oversight requirements - \$13,443.20 per year.

**I. THIRD PARTY DEPENDENCE AND ACCESS**

All Camera Surveillance data is accessed by a secure network login and password and stored on servers maintained by the Department of Information Technology. There is no third-party dependence or external access to information other than the ACC is a proprietary technology which requires all the components to be Avigilon.

**J. ALTERNATIVES**

The City can decide to rely on traditional policing techniques as a method for addressing crime such as deploying sworn officers to patrol City buildings and parks.

There is a broad consensus – among the community– that surveillance cameras can be an important tool for deterring criminal activities.

**PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

---

**K. EXPERIENCE OF OTHER ENTITIES**

Neighboring cities including San Francisco, Oakland, and San Jose have adopted the use of Surveillance Cameras as a tool for reducing crime on city streets and parks. Many cities have developed their own usage policies which may include standards for use, data retention standards, and system controls.

Policy  
**611**

Berkeley Police Department  
Law Enforcement Services Manual

## Unmanned Aerial System (UAS) Operations

### 611.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS. This policy is intended to be the Use Policy, however all aspects of the Surveillance Use Policy – 1303 which corresponds with the Unmanned Aerial System is equally applicable. Department Personnel shall adhere to requirements for Unmanned Aerial Systems covered in this policy as well as the corresponding Surveillance Use Policy – 1303.

#### 611.1.1 DEFINITIONS

Definitions related to this policy include:

**Unmanned Aerial System (UAS)** - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

#### 611.2 POLICY

Unmanned aerial systems may be utilized for the purpose of enhancing the department's mission of protecting lives and property by enabling remote surveillance and monitoring in the situations specified in 611.5 below when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. All uses of the UAS shall be reported in compliance with the Surveillance Technology Ordinance, BMC 2.99.

All requests and deployments shall be reported annually in the Surveillance Technology Report as outlined in BMC 2.99.070. Additionally, the Department shall publish data regarding the specific requests and deployments on the Department's transparency portal within 14 days of use.

#### 611.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.



## *Unmanned Aerial System (UAS) Operations*

---

### **611.4 PROHIBITED USE**

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

### **611.5 AUTHORIZED USE**

The use of a UAS shall only occur as the result of a mutual assistance request, and no BPD personnel will be allowed to operate a UAS. UAS may only be requested for the purpose of remote surveillance and monitoring in the following specified situations:

- (a) Mass casualty incidents (e.g. large structure fires with numerous casualties, mass shootings involving multiple deaths or injuries);
- (b) Disaster management;
- (c) Missing or lost persons;
- (d) Hazardous material releases;
- (e) Sideshow events where many vehicles and reckless driving is present;
- (f) Rescue operations;
- (g) Training;
- (h) Hazardous situations which present a high risk to officer and/or public safety, to include:
  - i. Armed suicidal persons;
  - ii. Hostage situations;
  - iii. Barricaded suspects;
- (i) Arrest of armed and/or dangerous persons
- (j) Service of high-risk search and arrest warrants involving armed and/or dangerous persons
- (k) Other unforeseen exigent circumstances.

Unmanned Aerial Systems shall only be utilized for law enforcement purposes.

### **611.6 REQUEST PROCESS**

Pursuant to BMC 2.99, the Surveillance Technology Ordinance governing the use of drones, the following steps must occur to seek permission to temporarily use a drone. The requests shall be made to the City Manager via the Chain of Command, as follows:

*Unmanned Aerial System (UAS) Operations*

---

- (a) All requests shall be routed to the Watch Commander, if they are not available, the Duty Command Officer (DCO)
- (b) The Watch Commander or DCO should contact the Chief of Police, or the Acting Chief of Police in his/her absence.
- (c) The Chief of Police, Acting Chief of Police, or in exigent circumstances the DCO shall obtain approval from the City Manager authorizing the use of a Drone. The City Manager is responsible for logging the use and ensuring the notifications and reporting requirements are met pursuant to BMC 2.99.040.

**611.7 RETENTION OF UAS DATA**

If available, any data collected by the use of a UAS should be purged by BPD within 60 days if it doesn't contain any data of evidentiary value. If the data has evidentiary value, it should be uploaded into BPD's evidence database and kept pursuant to the established retention guidelines set forth in policy 804-Records Maintenance and Release.

## Surveillance Use Policy-Unmanned Aerial System (UAS)

### 1303.1 PURPOSE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS. Department Personnel shall adhere to requirements for Unmanned Aerial Systems covered in this policy as well as the corresponding Use Policy – 611.

### 1303.2 AUTHORIZED USE

The use of a UAS shall only occur as the result of a mutual assistance request, and no BPD personnel will be allowed to operate a UAS. UAS may only be requested for the purpose of remote surveillance and monitoring in the following specified situations:

- (a) Mass casualty incidents (e.g. large structure fires with numerous casualties, mass shootings involving multiple deaths or injuries);
- (b) Disaster management;
- (c) Missing or lost persons;
- (d) Hazardous material releases;
- (e) Sideshow events where many vehicles and reckless driving is present
- (f) Rescue operations;
- (g) Training;
- (h) Hazardous situations which present a high risk to officer and/or public safety, to include:
  - i. Armed suicidal persons;
  - ii. Hostage situations;
  - iii. Barricaded suspects;
- (i) Arrest of armed and/or dangerous persons
- (j) Service of high-risk search and arrest warrants involving armed and/or dangerous persons
- (k) Other unforeseen exigent circumstances

Unmanned Aerial Systems shall only be utilized for law enforcement purpose.

### 1303.3 DATA COLLECTION

If equipped, it shall be the request on all BPD deployments that the “video recording only” function of the UAS be activated whenever the UAS is deployed, and deactivated whenever the UAS deployment is completed. The UAS operator will rely on SD Cards for video recordings.

## *Surveillance Use Policy-Unmanned Aerial System (UAS)*

---

### **1303.4 DATA ACCESS**

Access to UAS data shall be limited to Berkeley Police Department (BPD) personnel and the mutual assistance agency, in connection with an active investigation. Information may be shared in accordance with 1303.9 below. It shall be at the discretion of the Commander or senior supervisor to discern which members have a need to know, and limit access to those members. BPD is prohibited from selling any data obtained from the UAS.

### **1303.5 DATA PROTECTION**

Whenever feasible, the data from the UAS should be encrypted by the vendor or operator. The data should only be accessible to BPD personnel who have been granted security access.

### **1303.6 CIVIL LIBERTIES AND RIGHTS PROTECTION**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third-Party Data Sharing) protect against the unauthorized use of Unmanned Aerial Systems (UAS). These procedures ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

### **1303.7 DATA RETENTION**

If available, any data collected by the use of a UAS should be purged by BPD within 60 days if it doesn't contain any data of evidentiary value. If the data has evidentiary value, it should be uploaded into BPD's evidence database and kept pursuant to the established retention guidelines set forth in policy 804-Records Maintenance and Release.

### **1303.8 PUBLIC ACCESS**

UAS data which is collected and retained under this policy is considered a "law enforcement investigatory file" pursuant to Government Code § 6254, and shall be exempt from public disclosure. UAS data which is retained pursuant to this policy shall be available via public records request pursuant to applicable law regarding Public Records Requests as soon as the criminal or administrative investigations has concluded and/or adjudicated.

All requests and deployments shall be reported annually in the Surveillance Technology Report as outlined in BMC 2.99.070. Additionally, the Department shall publish data regarding the specific requests and deployments on the Department's transparency portal within 14 days of use.

### **1303.9 THIRD-PARTY DATA-SHARING**

Data collected from the UAS may be shared with the following:

*Surveillance Use Policy-Unmanned Aerial System (UAS)*

---

- (a) The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- (b) Other law enforcement personnel as part of an active criminal investigation;
- (c) Other third parties, pursuant to a Court Order or Search Warrant.

## *Surveillance Use Policy-Unmanned Aerial System (UAS)*

---

### **1303.10 TRAINING**

The use of a UAS shall only occur as the result of a mutual assistance request, and no BPD personnel will be allowed to operate a UAS. All BPD personnel shall be provided with this Surveillance Use Policy. BPD recognizes that the assisting agency will need to satisfy their respective training requirements to operate the UAS, however BPD personnel shall follow this policy and all relevant policies, including Records Management, Policy 804 while access or retaining any of the captured data from the UAS.

### **1303.11 AUDITING AND OVERSIGHT**

Division Captains or their designee shall ensure compliance with this Surveillance Use Policy.

The security and integrity of the Surveillance Technology and collected information will be completed in the form of a random biennial audit of the uses from the Audit and Inspection's Sergeant. This audit will be routed to the Captain of Professional Standards Bureau and the Chief of Police for review.

Intentional violation of this policy may serve as grounds for disciplinary action pursuant to Policy 1010, Personnel Complaints.

### **1303.12 MAINTENANCE**

UAS's will only be used in a mutual assistance request, and thereby must be obtained from the City Manager via the Chain of Command. All UAS maintenance shall be conducted by the owner/operator of the device consistent with all other mutual assistance response agreements.

## 1303 APPENDIX A

## BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – UNMANNED AERIAL SYSTEM (UAS)

**UNMANNED AERIAL SYSTEM (UAS)****A. DESCRIPTION**

An Unmanned Aerial System (UAS) is an unmanned aircraft of any type that is capable of sustaining directed flight, whether pre-programmed or remotely controlled and all of the supporting or attached components designed for gathering information through imaging, recording, or any other means. Generally, a UAS consists of:

- An unmanned aircraft which consists of the chassis with several propellers for flight, radio frequency and antenna equipment to communicate with a remote-control unit, control propellers and other flight stabilization technology (e.g. accelerometer, a gyroscope), a computer chip for technology control, a camera for recording, and a digital image/video storage system for recording onto a secure digital card (SD card);
- A remote-control unit that communicates with the unmanned aircraft via radio frequency; and
- A battery charging equipment for the aircraft and remote control.

UAS are controlled from a remote-control unit (similar to a tablet computer). Wireless connectivity lets pilots view the UAS and its surroundings from a bird's-eye perspective. UAS have cameras so the UAS pilot can view the aerial perspective. UAS record image and video data onto a secure digital (SD) memory cards. SD cards can be removed from UAS after flights to input into a computer for evidence.

**B. PURPOSE**

UAS offer to significantly improve the capacity of law enforcement (LE) to provide a variety of foundational police services. This technology has already been used with many law enforcement agencies to save lives and help capture dangerous criminal suspects. UAS can support first responders in hazardous incidents that would benefit from an aerial perspective.

Responding to violent crime in Berkeley often requires officers to face risks to their safety – in addition to the clear risks faced by members of the public when violent crime is present. From 2018 to 2022, the yearly average number of shootings has doubled. In 2021 Berkeley had 265 robberies, 210 aggravated assaults, 57 sexual assaults, and 118 firearms recovered.

Technology such as UAS can play a vital role in mitigating these omnipresent dangers, by providing a greater view into the immediate surroundings of crime scenes and active pursuits. The use of a UAS is also in line with the Department's philosophy around de-escalation, as this tool can provide greater time and distance, which are the critical components in offering officers the greatest likelihood of a peaceful, or less violent resolution.

## 1303 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – UNMANNED AERIAL SYSTEM (UAS)

Searches for armed and dangerous suspects are more effective and controlled with UAS support; an armed suspect can be hiding in a tree or on a roof. LE can respond accordingly and more safely when provided with this critical information (see Section #10 below “Alternatives Considered” for more information on how UAS compares to alternatives for situational awareness). More informed responses also lead to less injury and less uses of force.

LE agencies have successfully used UAS to locate missing persons, especially in more remote areas – as well as for rescue missions. UAS is also being used during disasters and during any hazardous material releases. The situational awareness UAS provides has also become an important tool for large events (e.g. sport events, parades, and festivals); the aerial view provides information that would otherwise require a much larger deployment of LE personnel to maintain the same level of public safety support. Furthermore, smaller UAS can be equipped with a loud speaker to communicate (e.g. hostage situations/providing verbal commands and directions to the subject).

BPD must seek approval from the City Manager prior to any use. BPD may then make a mutual assistance request to ACSO for their UAS. This approval process could be rapid or take several hours depending if their resources are deployed elsewhere, and there is no guarantee that the equipment will be available.

**C. LOCATION**

BPD proposes to use UAS as outlined in policy 611- Unmanned Aerial System (UAS), and further guided by policy 1303-Surveillance Use Policy Unmanned Aerial System (UAS). Department Personnel shall adhere to requirements for Unmanned Aerial Systems covered in this policy as well as the corresponding Surveillance Use Policy – 1303. BPD proposes to only use UAS as the result of a mutual assistance request, and no BPD personnel will be allowed to operate a UAS.

UAS may only be requested for the following specified situations:

- a. Mass casualty incidents (e.g. large structure fires with numerous casualties, mass shootings involving multiple deaths or injuries);
- b. Disaster management;
- c. Missing or lost persons;
- d. Hazardous material releases;
- e. Sideshow events where many vehicles and reckless driving is present;
- f. Rescue operations;
- g. Training;
- h. Hazardous situations which present a high risk to officer and/or public safety, to include:



## 1303 APPENDIX A

**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – UNMANNED AERIAL SYSTEM (UAS)**

---

- i. Barricaded suspects;
- ii. Hostage situations;
- iii. Armed suicidal persons;
- i. Arrest of armed and/or dangerous persons
- j. Service of high-risk search and arrest warrants involving armed and/or dangerous persons
- k. Other unforeseen exigent circumstances

Unmanned Aerial Systems shall only be used for law enforcement purposes.

Potentially, UAS could be deployed in any location in the City of Berkeley where one or more of the above situations occur and where the proper authorizations are provided. Fortunately, several of these situations rarely occur – but some do occur regularly, such as arresting armed/dangerous person. BPD occasionally arrests individuals for violent homicides, shootings, robberies, violent sexual assaults, and other crimes– UAS can provide situational awareness in all of these critical incidents to provide a greater level of safety for officers, as well as for nearby civilians

**D. IMPACT**

BPD recognizes that the use of UAS raises privacy concerns. UAS are becoming ubiquitous in the United States, and there is a growing concern that people can be surveilled without notice or reason. There is concern that UAS can be utilized to observe people in places, public or private, where there is an expectation of privacy. The level of potential privacy impact depends upon factors such as flight elevation and camera zoom magnitude, as well as where the UAS is flown.

The results of the research study titled, "Mission-based citizen views on UAV usage and privacy: an affective perspective<sup>1</sup>," published in February 2016 found that people's perceptions of how UAS impacts privacy relate to use type. The researchers from College of Aeronautics, Florida Institute of Technology, and the Aeronautical Science at Embry-Riddle Aeronautical University (ERAU), College of Aviation UAS Lab found that people tend to be less concerned about police UAS use when the technology is only used for specific uses - "concerns for privacy were less in the condition where the UAV was only used for a specific mission than when it was operated continuously." Policy 611 and 1303 provide strict acceptable guidelines, and Authorized Uses which explains when BPD personnel can request the use of a UAS for specific missions.

**E. MITIGATION**


---

<sup>1</sup> <https://www.nrcresearchpress.com/doi/abs/10.1139/juvs-2015-0031#.XkHEAWhKIUI>

## 1303 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – UNMANNED AERIAL SYSTEM (UAS)

BPD's policy 611 restricts BPD's use of UAS in several ways to promote greater privacy protections.

BPD will only request use UAS for specific missions rather than operating continuously, mitigating concerns raised in the February 2016 study cited above.

Policy 611 and 1303. Authorized Use lists the only allowable uses of UAS (e.g. mass casualty incidents, disaster management, missing or lost persons, hazardous material releases, sideshow events where many vehicles and reckless driving is present, rescue operations, training, hazardous situations which present a high risk to officer and/or public safety to armed suicidal persons, hostage situations, barricaded suspects, arrest of armed and/or dangerous persons, service of high risk search and arrest warrants involving armed and/or dangerous persons, and other unforeseen exigent circumstances). Policy 611 also articulates the Request Process which indicates the approval must come from the City Manager via the Chain of Command for all use approvals.

All requests and deployments shall be reported annually in the Surveillance Technology Report as outlined in BMC 2.99.070. Additionally, the Department shall publish data regarding the specific requests and deployments on the Department's transparency portal within 14 days of use.

The Federal Aviation Administration (FAA) sets strict flight regulations for all UAS users, including for law enforcement. The FAA provides two law enforcement options for creating acceptable UAS under 14 Code of Federal Regulation (CFR) part 107, subpart E, Special Rule for Model Aircraft; the agency can designate individual members to earn FAA drone pilot certificates and fly under the rules for small UAS, or receive a FAA certificate to function as a "public aircraft operator" to self-certify agency drone pilots and drones. Either way, these options allow for BPD to use systems under 55 pounds, for flying at or below 400 feet above ground level. Absent an emergency situation warranting a FAA COA/Part 107 waiver- permitted law enforcement response, law enforcement is also restricted from using UAS to fly over or near the following locations:

- Stadiums and Sporting Events;
- Near Airports; and
- Emergency and Rescue Operations (wildfires and hurricanes).

Policy 611 "Privacy Considerations," outlines several other protocols for mitigating against privacy abuse:

BPD UAS mutual assistance personnel must adhere to FAA altitude guidelines – flying below 400 feet helps to ensure that UAS is not used for surveilling overly large geographic areas; BPD will use UAS to focus on specific areas.

1303 APPENDIX A

**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – UNMANNED AERIAL SYSTEM (UAS)**

---

BPD UAS operators shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g. residence, yard, enclosure, place of worship, medical provider's office).

Mutual assistance operators and observers shall take reasonable precautions, such as turning imaging devices away, to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.

Policy 611 "Prohibited Use" explains that:

UAS shall not be used for the following activities:

- To conduct random surveillance activities.
- To target a person based solely on individual characteristics, such as, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation when not connected to actual information about specific individuals related to criminal investigations;
- For the purpose of harassing, intimidating, or discriminating against any individual or group; or
- To conduct personal business of any type.

BPD is prohibited from weaponizing any UAS.

**F. DATA TYPES AND SOURCES**

UAS will record using industry standard file types such as (e.g. jpeg, mov, mp4, wav or RAW). Such files may contain standard color photograph, standard color video, or other imaging technology such as thermal. Although UAS can transmit one-way audio from the operator, the UAS technology available today does not currently record sound.

**G. DATA SECURITY**

BPD takes data security seriously and safeguards UAS data by both procedural and technological means. The video recording function of the UAS shall be activated whenever the UAS is deployed. Video data will be recorded onto Secure Digital (SD) Cards. Any data collected by the use of a UAS should be kept by BPD minimally for 60 days. The data should be uploaded into BPD's evidence database and kept pursuant to the established retention guidelines set forth in policy 804-Records Maintenance and Release.

**H. FISCAL COST**

The only costs will be staff time, since at this time BPD is only proposing this acquisition for the purposes of leveraging our neighboring agencies UAS during the proposed policy

## 1303 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – UNMANNED AERIAL SYSTEM (UAS)

guidelines. Use of UAS by neighboring agencies in a mutual assistance scenario will not result in additional costs to the City.

**I. THIRD-PARTY DEPENDENCE AND ACCESS**

BPD is primarily reliant upon the Alameda County Sheriff's Office (ACSO) and Oakland Police Department when exigent circumstances occur that warrant UAS requests. BPD requested and received UAS support from ACSO two times in 2021/2022.

BPD proposes that any data collected from the UAS may be shared with the following:

The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;

Other law enforcement personnel as part of an active criminal investigation;

Other third parties, pursuant to a Court Order or Search Warrant.

**J. ALTERNATIVES**

In some instances, BPD could rely on requesting the assistance of an outside agency's helicopter, which cause significant carbon emissions, especially when considering the footprint of a UAS.

Another alternative is the deployment of additional police resources. The inherent problem with this alternative is that this may be counterproductive to the Department's philosophy on de-escalation as it reduces the Department's ability to leverage time and distance to reduce the likeliness of a physical or violent confrontation.

**K. EXPERIENCE OF OTHER ENTITIES**

Currently, in Alameda County, the following cities have UAS programs, The Alameda County Sheriff's Office, the Oakland Police Department, Fremont Police Department, Hayward Police Department, and Newark Police Department. At the time of publication, the author had not received a response from Oakland and Fremont Police Departments.

Alameda County Sheriff's Office

An Alameda County Sheriff's Office representative indicated the only financial burden is the changing technology every 12-18 months, including improved batteries and cameras that require possible updates.

In 2015 when the Sheriff's Office proposed the use of UAS' to the Board of Supervisors, several community groups expressed opposition due to the fear of an invasion of privacy and spying on the public. Since the approval by the Board of Supervisors, ACSO created a website for the public to voice their complaints. As of January 2023, they have received one complaint from a community member in Alameda County. That specific complaint was deemed not relate to ACSO UAS.

1303 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – UNMANNED AERIAL SYSTEM (UAS)

No community costs. No unintended video was captured, and if it was, it would be deleted per their policy.

Successes in their program were described as follows:

- 1) Community and Officers are Safer
- 2) UAVs contributed to the arrest of fleeing suspects
- 3) Reported Missing Person suffering from a Health Condition (Alzheimer's) have been located
- 4) Documenting crime scenes are conducted more efficiently and conducted in a shorter time

No noted failures to date from the program that were reported to Berkeley Police Department.

Hayward Police Department

Hayward Police Department did not have any unintended financial burdens. Their initial drone purchase (4 drones) was budgeted, and they also have a CIP (Capitol Improvement Budget) item where every three years they get \$50,000 to purchase new drones as new equipment becomes available or just as a replacement plan.

Hayward Police Department did not report any unintended community costs or backlash. Hayward Police Department reported that since the program began, it's paid dividends past what they thought it would. For instance, a lieutenant with Hayward Police Department stated that several drone deployments have resulted in a significant risk reduction when trying to stabilize potentially critical incidents.

Hayward Police Department held two community meetings (separate from the council sessions) and had an outside agency bring a done, and they included an educational training for all persons who attended. This is believed to have mitigated many issues (and educated the city council members as well), which addressed many of the initial concerns. Hayward Police Department also worked closely with ACSO to craft their policy and create their program. Hayward Police Department has deployed their UAS approximately 75 times since March of 2022 with 0 citizen complaints.

Newark Police Department

Newark Police Department reported no unintended financial burdens associated with the UAS. Newark Police Department spent \$1,200 to purchase a drone from BestBuy, which

1303 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – UNMANNED AERIAL SYSTEM (UAS)

came from their organization's operating funds. Newark Police Department obtained a grant which funded the purchase of three additional drones at a cost of \$30,000.

Newark Police Department has not had any unintended community costs or backlash. Newark Police Department has a community academy in which the Department provides training on the program and the uses associated with the UAS.

Newark Police Department reported that the program had the unintended benefit of working more closely with ACSO and Fremont, garnering a better working relationship which was unanticipated.

Newark Police Department used many of the processes that ACSO used in creating their UAS program. Newark Police Department relied heavily on the policies and practices developed by Alameda County Sheriff's Office due to their very robust input from various stakeholders. This helped create a solid foundation they could build upon. From this, they have succeeded in the creation and implementation of their UAS program.

DRAFT

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

SURVEILLANCE ORDINANCE ITEMS: FIXED SURVEILLANCE CAMERAS  
AND UNMANNED AERIAL SYSTEMS

WHEREAS, the Berkeley City Council adopted Ordinance NO. 7,592-N.S., the Surveillance Technology Use and Community Safety Ordinance on March 13, 2018; and

WHEREAS, BMC section 2.99.020 (4) mandates a Surveillance Use Policy for use of Surveillance Technology; and

WHEREAS, External Fixed Video Surveillance Cameras and Unmanned Aerial System are considered Surveillance Technology per BMC section 2.99.020 (1); and

WHEREAS, per BMC section 2.99.030 (1)(b), requires the City Manager to obtain City Council approval for the acquisition of new Surveillance Technology, Fixed Video Surveillance Cameras, by placing an item on the Action Calendar; and

WHEREAS, per BMC section 2.99.030 (1)(c), requires the City Manager to obtain City Council approval for the use of new Surveillance Technology, Unmanned Aerial System by placing an item on the Action Calendar.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the acquisition and Use Policies for the External Fixed Video Surveillance Cameras and for the Unmanned Aerial System.







Office of the City Manager

ACTION CALENDAR  
June 13, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
Sharon Friedrichsen, Budget Manager  
Liam Garland, Director, Public Works

Subject: Provide Direction on Closing the Funding Gap to Complete Remaining Measure T1 Projects

RECOMMENDATION

Identify up to \$9.062M to cover the Measure T1 funding gap in order to complete the current remaining T1 projects.

FISCAL IMPACTS OF RECOMMENDATION

An additional \$5.362M to \$9.062M is needed to complete Measure T1 Phase 2 projects. This additional need is comprised of:

- \$3.15M (4,000 sq. ft.) to \$6.85M (6,000 sq. ft.) in construction cost increases and mitigation for unforeseen structural issues at the current building slated to be converted into the African American Holistic Resource Center (AAHRC);
- \$981,750 in construction cost increases across eight T1 Phase 2 projects for which scope cannot be reduced and budgets cannot be made whole with other funding sources;
- \$880,000 for the Civic Center Upper Plaza Improvements/Turtle Island Monument project to cover construction cost increases and the recent scope changes; and
- \$350,000 in North Berkeley Senior Center final project costs and legal fees.

If new funding cannot be identified to cover these costs, T1 projects will need to be reduced in phase (e.g. from construction to design or conceptual design only) or deleted from the T1 list.

CURRENT SITUATION AND ITS EFFECTS**City Council Direction from January 31, 2023 Meeting**

Staff made City Council aware of this gap on [January 31, 2023](#) and City Council referred it to the Budget and Finance Commission with the following action:

Provide Direction on Closing Funding Gap  
to Complete Measure T1P2 Projects

ACTION CALENDAR  
June 13, 2023

The City Manager was directed to:

1. Fully fund the African American Holistic Resource Center as a replacement project instead of a renovation project.
2. Fully fund the Civic Center Upper Plaza Improvements/Turtle Island Monument project.
3. Use the following three criteria and return to the City Council with options for how to close the project funding gap: a. Prioritize projects that are public facing and public serving; b. Prioritize projects that have matching funds; and c. Prioritize projects that are in significant progress in the planning stage.
4. Look at all funding options including grants, General Fund excess equity, and any additional funding sources to close the funding gap, including potentially deferring projects that do not meet the three criteria described above.
5. Present the funding recommendations, and provide an update on the City's capital improvement projects, to the Budget & Finance Committee for consideration prior to returning to the full City Council.
6. Provide recommendations for the replacement of the African American Holistic Resource Center that reflect a 4,000 square foot project and a 6,000 square foot project.

### **City Council Budget and Finance Committee Direction from April 20, 2023**

Staff presented a report on [April 20, 2023](#) to respond to the City Council direction from January 31, 2023. The Budget and Finance Committee asked questions about potential funding sources and existing projects and directed staff to come back to the Budget and Finance Committee with more information on May 4, 2023.

### **City Council Budget and Finance Committee Direction from May 4, 2023**

Staff presented a report on [May 4, 2023](#) to answer questions from the April 20, 2023 meeting. The Budget and Finance Committee took the following action to identify \$9,060,000 to fund the T1 gap, inclusive of the 6,000 square foot African American Holistic Resource Center project:

- Use \$4,050,000 from the Workers Compensation Fund;
- Use \$2,800,000 of \$6,750,000 allocated for the Hopkins Bike/Pedestrian T1 Project;
- Use \$500,000 from the North Berkeley Senior Center (NBSC) Solar Battery Storage T1 Project;
- Use \$643,899 of \$1,293,889 from the Street/ Intersection Security Camera Project (General Fund (GF)); and
- Use \$666,101 of \$1,300,000 from Fire Station 6 T1 Project.

## DISCUSSION

### **T1 General Information**

The \$100M T1 Infrastructure Bond measure was passed by voters in November of 2016. Initially, the projects associated with the bond measure were to be completed in

Provide Direction on Closing Funding Gap  
to Complete Measure T1P2 Projects

ACTION CALENDAR  
June 13, 2023

12 years, but will now be completed in 8 years (FY18-FY26). \$103M of bond proceeds and interest combined with over \$50M in leveraged funds will complete 76 different projects. The public process to determine T1 projects included over 60 public meetings. All T1 projects were approved by City Council and recommended by the Public Works Commission and the Parks, Recreation, and Waterfront Commission. All T1 expenditures are limited to direct project costs and are audited every 2 years.

Per the Measure [T1 Operations Manual](#) (Section 4.5), changes to the list of T1 projects require consultation with the two Measure T1 lead commissions and action by City Council. After discussing this gap in their March 2023 meeting, the Parks, Recreation and Waterfront Commission took action during the April 12, 2023 meeting to suggest options for alternative funding (see Attachment 1). The Transportation and Infrastructure Commission discussed this item at their January and February 2023 meetings and did not take action.

In 2018, a similar funding gap arose during Phase 1 of the Measure T1 program because extra projects were added to the original T1 list and there was a similar surge in construction costs. The T1 lead commissions both recommended that City Council proceed with the projects and allocate the needed \$5.3M to finish all projects. Ultimately, this gap was borrowed from unallocated Phase 2 T1 Bond funds (Resolution No. 68,802-N.S.) A similar solution for the current gap is not possible because all Measure T1 bond funding has now been fully allocated.

### **T1 Funding Gap**

This T1 funding gap exists because of significant construction cost increases over the last two years (2020- 2022) and unanticipated costs to three projects: the African American Holistic Resource Center (AAHRC), the Civic Center Upper Plaza Improvements – Turtle Island Monument (TIM), and the North Berkeley Senior Center (NBSC) project (see Attachment 2). These increases and unanticipated costs are discussed below:

#### Construction Cost Increases: (\$981,750)

Construction costs have increased 26% over the last two years (2020 – 2022). These increases have required staff to reduce design and construction scopes and identify other funding sources where possible in order to complete many T1 phase 2 (T1P2) projects. Examples of these issues can be seen in the Willard Clubhouse replacement project and the new Ohlone ages 2-5 and 5-12 Playgrounds and Mural Garden project. Less than 16 months ago, the Willard Clubhouse preferred conceptual design was reduced by more than 30% in order to complete the total project with the original T1 budget allocation of \$7M. The construction contract at Ohlone Park, which was recently awarded at City Council in December of 2022, needed an additional \$200,000 (or 10% additional project funding) from PRW CIP funds in order to proceed.

Unfortunately, eight T1P2 projects cannot be reduced in scope, and in fact, need an additional 15% in funding in order to produce a baseline project. This list includes four public restrooms, Marina Docks D&E Replacement, the 1947 Center St. building

Provide Direction on Closing Funding Gap  
to Complete Measure T1P2 Projects

ACTION CALENDAR  
June 13, 2023

improvements, and two projects at the Corporation Yard. In total, an additional \$981,750 is needed to complete these projects.

North Berkeley Senior Center (NBSC): (\$350,000)

This \$11.086M project is currently in the close-out phase and has approximately \$350,000 of existing costs that are over and above the existing project budget (funded by T1, FEMA grant, and CIP funds). These costs include final construction and legal fees incurred to-date.

Civic Center Park Upper Plaza Improvements - Turtle Island Monument: (\$880,000)

In March of 2023, this project received approval from the Landmarks Preservation Commission. This approval will result in the issuance of a Structural Alteration Permit and construction in FY24. With construction cost increases and the recent scope changes that include additional indigenous art and water and lighting elements, the cost of the overall project budget has increased to \$2.5M, without the artwork. It is anticipated that the artwork, which is estimated to be in the \$500,000 range, will be funded by the Civic Arts program. This project is funded by T1, a Clean California grant, the Civic Arts, and the Parks Tax. This project could be reduced by \$300,000 if the broken flagstone replacement work in the upper plaza was reduced significantly.

African American Holistic Service Center (AAHRC): (\$3.15M- \$6.85M)

The AAHRC currently has \$8.25M in total project funding (comprised of \$7M T1, \$225K GF and \$1M from a federal earmark). Until last year, this funding would have been enough to complete the renovation of the 4,000 square foot city-owned building at 1890 Alcatraz Street. With increasing construction costs and the completion of a recent engineering assessment of the building and site (structural and geotechnical) which found significant structural problems<sup>1</sup>, City staff recommended that this building be replaced. At the January 31, 2023 meeting, City Council acted to eliminate the option of renovating the existing structure at 1890 Adeline, leaving only the size of building to be determined. A 4,000 square foot building will cost an additional \$3.15M and a 6,000 square foot building will cost an additional \$6.85M.

The 6,000 square foot building will allow for a new community room, additional therapy rooms, and a new youth space. The project architect cannot proceed with the design phase until direction on this issue can be provided.

**Discussion of May 4, 2023 Reductions Recommended by Budget and Finance Committee**

Use of Worker's Compensation Fund :\$4.05M

The City began its self-insured workers' compensation program on March 1, 1975. The City's self-insured retention (SIR) has varied between \$100,000 and \$1,000,000 prior to

---

<sup>1</sup>Problems include inadequate shear capacity, diaphragm discontinuities, insufficient anchorage and cross ties, and expansive and unknown subsurface soils.

Provide Direction on Closing Funding Gap  
to Complete Measure T1P2 Projects

ACTION CALENDAR  
June 13, 2023

2004/05 and is currently unlimited. Every two years, the City has an actuarial review conducted to determine the outstanding liabilities and determine the rates to use for budgeting and payroll purposes to fund the program annually. The recent actuarial study by Bickmore Actuarial showed the City's estimated outstanding liabilities, as of June 30, 2023, at an 80% confidence level to be at \$46.3 million for the workers' compensation program. The City's Workers' Compensation Fund ended FY 2022 with a fund balance of \$51.7, meaning that the City is currently able to fund its estimated liabilities in its Workers' Compensation Program. However, just in 2021, the City's estimated liabilities were \$42.4 million and the fund balance was \$41.5 million, falling short of covering liabilities. This also illustrates that liabilities increased by \$9.3 million within 2 years.

While currently the City's Workers Compensation liabilities do not exceed fund assets, this is a relatively recent accomplishment for this Fund, and a trend that would be advisable to strive to maintain moving forward. Currently the City has 374 workers compensation claims, which remain to be settled or will continue to require funds for claims with future medical expenses. Further, similar to general liability claims, it is very difficult to predict future settlement amounts. For these reasons, it is not advisable to borrow from this Fund. However, the City has previously borrowed from this Fund (there is an outstanding loan balance of \$813,779 from the Premier Cru purchase) and the Budget and Finance Policy Committee recommends using just over \$4 million to cover the T1 shortfall. This action would decrease the Fund balance to approximately \$46.836 million, with \$0.536 million in excess of current liabilities.

#### Reduce Paperless Contract System Project by \$400,000

The FY 23-24 Adopted Budget included \$400,000 in General Fund for the paperless contract workflow system, a collaborative project between the City Clerk and Finance to automate the contracting process, resulting in efficiencies in processing contracts and increasing sustainability by reducing the amount of paper involved in the current process. The Budget and Finance Policy Committee recommended reallocating the funding for this project to the T1 project shortfall based on the criteria identified by City Council, primarily that the project is neither public-facing or public-serving and that the project has not commenced.

#### Reduce T1 Street Improvements by \$2.8M:

The estimated total budget for the Hopkins Street project is \$11.5M. All of the T1 streets allocation of \$6.75M had been allocated to this project, which would cover a large portion of that project's paving cost. This project has been put on hold per the City Manager's [April 4 off agenda memo](#). Staff are incorporating the remainder of the project's T1 funding into development of the FY24-FY28 Five Year Paving Plan, which is currently being vetted by a subcommittee of Transportation and Infrastructure Commission and will return to City Council for approval in the Fall. The Hopkins project's non-T1 funding could remain in the project for future improvements approved by City Council.

Provide Direction on Closing Funding Gap  
to Complete Measure T1P2 Projects

ACTION CALENDAR  
June 13, 2023

Reduce Emergency Power Supply Solar Batteries by \$500,000:

This T1 project involves the installation of a battery to store the electric energy produced by solar panels at North Berkeley Senior Center. This project has not started, but was scheduled to begin in the spring of 2023. This reduction halts this project until further funding can be identified.

Reduce Street Intersection Security Camera Project by \$643,899

The initial General Fund allocation for this project was \$1,293,889 for ten locations identified by City Council. Public Works is scheduled to install the first set of cameras at 1 of the 10 intersections within the next several months. A revised budget of \$650,000 may be sufficient funding for cameras at all 10 locations given current cost estimates, but staff will be in a better position to assess this after the completion of the first intersection in September of 2023.

Reduction in Fire Station 6 Project by \$666,101

This project involves upgrades to windows, mechanical, electrical, and HVAC systems to make the building more energy efficient. The project is currently in the design phase. Most recently, an ADA design was added after discussions with the Building Department and Fire Department. The next deliverable is a 30% drawing set, list of specifications, and cost estimate. This reduction in funding will limit this project to Design Development, and construction will not be possible.

**Possible Options to reduce T1 Funding Gap presented by staff on April 20 and May 4, 2023 Budget and Finance Committee Meetings**

Measure T1 project staff have worked hard to reduce scope or find additional funding from existing Public Works (PW) and Parks, Recreation and Waterfront (PRW) Capital funds in FY23 - FY25, but staff have determined that 11 projects cannot be completed without additional funding, (see Attachment 2). The funding needed for “construction cost-only increases (8 projects)”, the NBSC project, and the Civic Center Park Upper Plaza Improvements – Turtle Island Monument totals \$2,211,750 and is needed in FY24. The remaining funding for the AAHRC (\$3.15M or \$6.85M) is not needed until FY25.

In order for City Council to evaluate all current projects, staff have produced 2 additional documents. Attachment 3 details all T1 Phase 2 project funding and current expenditures to-date and Attachment 4 is a list of all currently funding PRW and PW capital projects including their status and expenditures to-date. In the below possible options, staff describe reductions for funding needed in FY24 (option 1), the funding needed for all T1 projects including a 6,000 square foot AAHRC (option 2), and the funding needed for all T1 projects including a 4,000 square foot AAHRC (option 3). The projects chosen to fill these options are examples for discussion purposes.

Provide Direction on Closing Funding Gap  
to Complete Measure T1P2 Projects

ACTION CALENDAR  
June 13, 2023

### Option 1

Identify the \$2,211,750 needed for FY24; and then commit to either the 4,000 or 6,000 square foot AAHRC and allocate the needed funding (\$3.15M or \$6.85M) in FY25. The design phase of the project cannot proceed if the size of the AAHRC has not been determined. If design work were to proceed and project dollars were to be spent, a change in the building size later on would render the design work not applicable and those project dollars would be wasted.

Option 1 can be accomplished by doing one of the following:

- a. Use funding from FY22 Excess Equity (\$240K), reassign \$400K of T1 street funds, and defer the following example projects (totaling \$1.58M) to the FY25 budget process:
  - \$400K of PRW FY24 GF CIP for Cedar Rose Playgrounds;
  - \$680K of T1 for the Ohlone Park Lighting; and
  - \$500K of T1 for the NBSC Solar Battery Storage Project;
  - Or...
- b. Reassign \$2,211,750 of the T1 Street Fund Allocation.

### Option 2

Identify all \$9,062,000 in funding needed for the shortfall in all 11 T1 projects, including the 6,000 square foot AAHRC. Option 2 can be accomplished by doing the following:

- a. Use funding from FY22 Excess Equity (\$240K), reassign \$6.75M of T1 street funds, and defer the following projects (totaling \$2.072M) to the FY25 budget process:
  - \$400K of PRW FY24 GF CIP for Cedar Rose Playgrounds;
  - \$522K of FY23 GF for Cameras in the Public Right of Way (reduce scope by 40%);
  - \$300K of FY23 CIP Funds for 62<sup>nd</sup> Street Conversion to Cul De Sac;
  - \$350k of FY23 CIP Fund Allocation for Dredging of South Sailing Basin;
  - and
  - \$500K of T1 funding for the NBSC Solar Battery Storage Project;
  - Or...
- b. Use FY22 Excess Equity (\$240K), reassign \$1.197M of T1 street funds and defer the following projects (totaling \$7.625M) to the FY25 budget process:
  - \$2.8M of T1 funding for the Tom Bates Fieldhouse and Restroom Project;
  - \$1.5M of T1 funding for the 1947 Center Street HVAC Improvements;
  - \$400K of PRW FY24 GF CIP for Cedar Rose Playgrounds;
  - \$650K of FY23 GF for Cameras in the Public Right of Way (reduce scope by 50%);
  - \$300K of FY23 CIP Funds for 62<sup>nd</sup> Street Conversion to Cul De Sac;
  - \$350K of FY23 CIP Fund Allocation for Dredging of South Sailing Basin;
  - \$500K of T1 funding for the NBSC Solar Battery Storage Project;
  - \$680K of T1 Funding for the Ohlone Lighting Project; and
  - \$445K of T1 Funding for the Cesar Chavez Park Restroom Project.



Provide Direction on Closing Funding Gap  
to Complete Measure T1P2 Projects

ACTION CALENDAR  
June 13, 2023

### Option 3

Identify all \$5,361,750 in funding needed for the shortfall in all 11 T1 projects, including the 4,000 square foot AAHRC. Option 3 can be accomplished by doing the following:

- a. Reassign \$5.361M of T1 street funds;  
*Or...*
- b. Use FY22 Excess Equity (\$240K), reallocate \$321,750 of T1 Streets funds, and defer the following projects (totaling \$4.8M) to the FY25 budget process:
  - \$2.8M of T1 funding for Tom Bates Fieldhouse and Restroom Project;
  - \$1.5M of T1 funding for the 1947 Center Street Improvements Project;
  - \$500K of T1 funding for the NBSC Solar Battery Storage Project.

The solutions to the Measure T1 Phase Two (T1P2) funding gap could involve finding new funding, or reducing phase of a project (e.g., funding design but not construction), or deleting certain projects from the [T1P2 list](#).

### BACKGROUND

In November 2016, Berkeley voters approved Measure T1 – a \$100 million dollar general obligation bond to repair, renovate, replace or reconstruct the City’s aging existing infrastructure, including facilities, streets, sidewalks, storm drains, and parks. Measure T1 passed with 86.5% of the vote.

From December 2016 through June 2017, the City undertook a public process to gather input on the proposed projects. In addition to three Measure T1 Workshops for the general public, the Parks & Waterfront and Public Works Commissions solicited input from the public and other City Commissions. The two lead commissions submitted a joint report to Council in June 2017 detailing their recommendations. The City Manager incorporated this input and submitted a final recommended list of projects. Council adopted this list and proposed plan for implementing Phase 1 of the T1 bond program on June 27, 2017.

For Phase 2, staff and the Commissions engaged in a much larger public process. This process consisted of over 45 community meetings to determine the next list of projects. This list was approved by the City Council on December 15, 2020, Resolution No. 69,657-N.S. For a full list of projects and more details of the projects in Phase 1 and Phase 2, click here to view the [Measure T1 Update Brochure](#).

### ENVIRONMENTAL SUSTAINABILITY

Measure T1 projects include environmentally sustainable elements, such as electrification for facilities projects, permeable pavers or bioswales for street projects, and energy saving lighting in parks.

### RATIONALE FOR RECOMMENDATION

In order to complete the current list of T1P2 projects by the bond program deadline, Council direction is needed to determine which projects will be reduced in scope or deleted, or funded by other funds.



Provide Direction on Closing Funding Gap  
to Complete Measure T1P2 Projects

ACTION CALENDAR  
June 13, 2023

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Parks, Recreation & Waterfront, 510-981-6700  
Sharon Friedrichsen, Budget Manager, 510-981-  
Liam Garland, Public Works, 510-981-6300

Attachments:

- 1: PRW Commission Recommendation
- 2: Measure T1 projects needing additional funding
- 3: Measure T1 Phase 2 Project Status Matrix
- 4: List of all currently funded projects

## MEMORANDUM

**Date:** April 12, 2023  
**To:** Honorable Mayor and Members of the Berkeley City Council, and  
the Budget & Finance Committee  
**From:** Parks, Recreation and Waterfront Commission  
**Subject:** Measure T1 Phase 2 Shortfall Solution

Dear Mayor and Council Members,

The Parks, Recreation and Waterfront Commission (PRW) is committed to ensuring the success of the T1 Bond effort. We write now to share our recommendations on the current funding gap in Phase 2 T1 projects. These recommendations were an action item at the regular meeting of the PRW on April 12, 2023 and approved unanimously.

### BACKGROUND

Working with the Public Works Commission we successfully advocated for the passage of the T1 Bond in 2016 and now want to ensure the best use of those funds, to address critical infrastructure needs, promote transparency, support the community, address inequities, and, of critical importance, **build long-lasting trust with Berkeley residents**. For example, to ensure the optimal allocation of T1 funds our commissions developed criteria on which to base selections for T1 projects. The original list of 7 criteria was defined in 2017 and used to prioritize Phase 1 projects. In 2020 those criteria were updated to include:

- Greatest Benefit
- Equity
- Health, Safety and Resilience
- Environmental Sustainability/Durability

Very importantly, we wanted to provide our residents with additional improvements in the areas of the city that have fewer parks, and in areas that have received less funding over the past decades. Addressing racial equity played a major part in formulating our final recommendations and we request that our focus on equity and our original project list remain a priority.

Those decisions were made before Covid-19, long before we witnessed the increased importance of our parks, open space, and a functioning infrastructure for the health and safety of our community. Providing our residents access to clean, accessible, and available facilities and open space is one of the most important duties we have before us.

### CURRENT SITUATION

Staff have now identified a funding gap of \$4.5 to \$8.2M for the Phase 2 T1 projects. The City has faced T1 budgetary deficits in the past and found elegant solutions.

In 2019, the City faced a \$6.8 million funding gap between the cost of the approved T1 Phase 1 Projects and the available Phase 1 bond funds. This was caused by “an increase in energy upgrades included in the facility projects, and soaring escalation in construction costs.”

Because delay would increase the project costs and the importance of leveraging the voter approved T1 funds, the Council approved

- \* \$1.5 million in interest income and
- \* the transfer of \$5.3 million from the General Fund (GF) to the T1 fund to close the funding gap.

With this additional funding, all of the Phase 1 projects were fully funded.

In 2023, the City again faces a large gap of \$4 – \$8M between the estimated cost of the approved Phase 2 Projects and the available bond funding. While some of the shortfall is caused by large increases in construction costs, requiring the T1 fund to pay back the \$5.3M GF transfer significantly decreased the bond funding available for Phase 2 T1 projects.

The Parks, Recreation and Waterfront Commission believes that all the approved T1 Phase 2 projects should be completed as they were recommended by both the Parks and Waterfront Commission and the Public Works Commission and approved by the City Council on Dec. 15, 2020. As discussed above, the projects in Phase 2 attempted to provide a more equitable distribution of facilities in the City, whereas Phase 1 projects were selected from existing shovel ready projects to meet the three-year bond spending requirement.

To solve the FY2023 funding cap, we ask the Council to come up with creative solutions that allow all approved projects to be complete. To facilitate finding a creative solution, we list several options for Council consideration.

**Option 1.** Over the next five years, allocate the increase in General Fund interest income over the 2022 baseline to the T1 Fund. The recent FY 2023 Mid-Year Budget Update presented to the Council reported that the increase in interest income over the 2022 baseline was \$0.9M for the first six months. Due to the significantly higher interest rates in 2023, the annual increase in interest income for the full year is likely to be ~\$2M/yr. Since interest rates are projected to remain high for some time, the excess interest income over 5 years would fund all of the T1 Phase 2 projects, including the preferred 6,000 ft<sup>2</sup> AAHRC.

**Option 2.** Forgive the 2019 General Fund loan and transfer \$5.3 million back to the T1 account. As of June 30, 2022, the “unassigned” portion of the GF balance in the City’s Investment Portfolio was \$75 million. Transfer of 7% of the “unassigned” funds to the T1 fund would allow the completion of all of the Phase 2 projects and the construction of new 4,000 ft<sup>2</sup> African American Holistic Research Center (AAHRC).

**Option 3.** To get us to the preferred 6,000 ft<sup>2</sup> AAHRC, in addition to Option 2, borrow an additional \$3.7M from the Workers Compensation Fund (WC), à la the Premier Cru building purchase of \$6.6M, and pay back the loan from the ten annual contributions from the GF capital equipment funds. This would allow all Phase 2 Projects to be completed and the construction of a 6,000 ft<sup>2</sup> AAHRC. In FY 22, the WC fund revenues exceeded expenses by \$3M, increasing its “cash and cash equivalents, as of June 30, 2022, to over \$49M.

**Option 4.** Assign the cost of connecting the proposed three public restrooms in the ROW at (a) Telegraph/Channing, (b) San Pablo/University, and (c) Alcatraz/Adeline to the City's Sanitary Sewer Fund. These three projects are estimated to cost \$1.35M of which 50% is due to connecting the public toilets to the City's sewer lines. In 2022 the City's Sanitary Sewer Fund had revenues of \$25.5M and expenses of \$16.7M, generating a surplus of \$8.8M, which increased its fund balance to \$35M. Since these public toilets will address a great scarcity of public toilets in Berkeley and the Sewer funds has ample monies, they should pay the \$0.7M cost of connecting the three new public restrooms to the sanitary sewer system. Implementing this policy of sharing the costs will facilitate the creation of more public restrooms.\*

**Option 4a.** If the Sewer Fund is legally restricted from contributing to the cost of making a public restroom operational, then the City should consider using some of the interest revenue from the Sewer Fund's large balance to fund these costs.

**Option 5.** Consider assigning the Hopkins Corridor Project T1 funds to help close the T1 Phase 2 funding gap, if these funds cannot be spent within the three-year window specified by the bond covenants. Since the Hopkins Corridor Project has been indefinitely postponed, it may not be possible to reserve assigned T1 funds, since such funds have to be spent within 3 years of the bond tranche issue date. If the Hopkins project is delayed sufficiently, such that T1 funds cannot be used, the surplus funds could be used to close the T1 Phase 2 funding gap.

Authors: Gordon Wozniak, Erin Diehm and Claudia Kawczynska

Noted:

*\*We reached our conclusions after listening carefully to the public and other Commission commentary, that identified restrooms and play equipment as high priorities. As part of Phase 1 funding the City conducted a [Citywide Restroom Study](#) that helped to direct our selection of eight restrooms, three of which are located in the ROW requiring an additional expensive of sewer line hookups. [Public restrooms](#) are a vital community resource and a basic necessity.*

Citywide Restroom Study: **Berkeley Wash Assessment**, Hyphae Design Laboratory (2020)

<https://berkeleyca.gov/sites/default/files/documents/Citywide%20Restroom%20Study%20and%20Executive%20Summary%20-%202020-10-06%20-%20Final.pdf>

Public Restrooms a vital resource: "Why Are Public Restrooms Still So Rare", NY Times (March 22, 2023)

<https://www.nytimes.com/2023/03/22/business/public-restrooms-bathrooms-us-city.html>

Measure T1 Funding Gap  
April 2023

ATTACHMENT 2

Projects Requiring Additional Escalation

| Category   | Project Name/Description   | Budgeted            | Leverages other funds                       | Completed / Bidding / Encumbered | In Design | Apply Escalation? | Add 15% Escalation | Possible to Reduce Scope? | Additional Funding Required | Public-Facing              | Matching Funds | Significant Planning has Occurred | Notes  |
|--|--|---------------------|---|----------------------------------|-----------|-------------------|--------------------|---------------------------|-----------------------------|----------------------------|----------------|-----------------------------------|--|
| Care and Shelter and Non- Departmental Citywide Facilities | Restrooms in the ROW San Pablo/University  | 450,000             |   |                                  | x         | Yes               | 67,500             | No                        | 67,500                      | x                          |                | x                                 | At 50% design, location being identified.                                  |
|  | Restrooms in the ROW Alcatraz/Adeline  | 450,000             |   |                                  | x         | Yes               | 67,500             | No                        | 67,500                      | x                          |                | x                                 | At 50% design, location being identified.                                  |
| Buildings in Parks   | Harrison Park - Restroom Renovation  | 450,000             |   |                                  | x         | Yes               | 67,500             | No                        | 67,500                      | x                          |                | x                                 | In conceptual design   |
|  | Ohlone Park - New Restroom   | 500,000             |   |                                  | x         | Yes               | 75,000             | No                        | 75,000                      | x                          |                | x                                 | At 35% design, location and model determined.                              |
| Waterfront   | Marina D and E Dock Replacement  | 595,000             | \$5.5M DBAW loan (MF); \$1.5M State earmark |                                  | x         | Yes               | 89,250             | No                        | 89,250                      |                            | x              | x                                 | At 60% design.   |
| Facilities   | 1947 Center Street Improvements  | 1,800,000           |   |                                  | x         | Yes               | 270,000            | No                        | 270,000                     | x                          |                | x                                 | HVAC component is at 35% design; seismic assessment to start by June 2023. |
|  | Corporation Yard - Green Room Lockers, Bathroom, Training Room, Floor, Cabinets - Building B | 1,700,000           |   | x                                | x         | Yes               | 255,000            | No                        | 255,000                     |                            |                | x                                 | Design completed, project bidding.   |
|  | Corporation Yard - Storage Room - Roof Repair Bldg H   | 600,000             |   |                                  | x         | Yes               | 90,000             | No                        | 90,000                      |                            |                | x                                 | At 50% design.   |
| <b>Totals</b>  |  | <b>\$ 6,545,000</b> |   |                                  |           |                   |                    |                           | <b>\$ 981,750</b>           | <b>Escalation Min Need</b> |                |                                   |  |

Projects Requiring Additional Escalation and Unanticipated Costs

| Category   | Project Name/Description  | Budgeted  | Leverages other funds   | Completed / Bidding / Encumbered | In Design | Possible to Reduce Scope? | Additional Funding Required | Public-Facing   | Matching Funds | Significant Planning has Occurred | Notes  |  |
|--|---|-----------|---|----------------------------------|-----------|---------------------------|-----------------------------|---|----------------|-----------------------------------|--|--|
| Care and Shelter and Non- Departmental Citywide Facilities | North Berkeley Senior Center  | 8,848,332 | \$363k PW CIP Fund FY23; \$1.875M FEMA grant                              | x                                |           | N/A                       | 350,000                     | x   | x              | x                                 | This \$350K is needed over and above allocated funding |  |
|  | African American Holistic Resource Center (4,000 sq ft)**           | 7,000,000 | \$1M federal earmark; \$250k GF   |                                  | x         | No                        | 3,150,000                   | x   | x              |                                   | 4K sq ft building require additional \$3.15M to        |  |
|  | African American Holistic Resource Center (6,000 sq ft)***          | 7,000,000 | \$1M federal earmark; \$250k GF   |                                  | x         | No                        | 6,850,000                   | x   | x              |                                   | 6K sq ft building require additional \$6.85M to        |  |
| Parks  | Civic Center Park Upper Plaza Improvements - Turtle Island Monument | 300,000   | \$596k Clean CA grant; \$750K Parks Tax; Art Funding from Civic Arts Fund |                                  | x         | No                        | 880,000                     | x   | x              | x                                 | Landmark Commission approval received in March 2023    |  |
|  |   |           |   |                                  |           |                           | <b>\$ 4,380,000</b>         | <b>**Additional Funding Needed (AAHRC-4,000 sq ft)</b>  |                |                                   |  |  |
|  |   |           |   |                                  |           |                           | <b>\$ 8,080,000</b>         | <b>***Additional Funding Needed (AAHRC-6,000 sq ft)</b> |                |                                   |  |  |

|                               |                     |   |
|-------------------------------|---------------------|---|
| <b>Total Funding Required</b> | <b>\$ 5,361,750</b> | <b>Total Funding Needed (AAHRC-4,000 sq ft)</b> |
|                               | <b>\$ 9,061,750</b> | <b>Total Funding Needed (AAHRC-6,000 sq ft)</b> |

Measure T1 Phase 2 Project Status Matrix  
Updated:04/13/2023

| Category   | Project Name/Description  | Budgeted  | Leverages other funds   | Completed / Bidding / Encumbered | In Design | Apply Escalation? | Add 15% Escalation | Possible to Reduce Scope? | Additional Funding Required | Public-Facing | Matching Funds | Significant Planning has Occurred | Notes   |
|--|---|-----------|---|----------------------------------|-----------|-------------------|--------------------|---------------------------|-----------------------------|---------------|----------------|-----------------------------------|---|
| Care and Shelter and Non- Departmental Citywide Facilities | MLK Jr. Youth Services Center                                       | 7,000,000 | \$1.2M FEMA grant; \$750k federal earmark                                 |                                  | x         | Yes               | 1,050,000          | Yes                       | -                           | x             | x              | x                                 | Conceptual design complete, headed to ZAB in late Summer. Additional funding available in PRW CIP FY25. |
|  | South Berkeley Senior Center  | 3,000,000 | \$1.5M FEMA grant   |                                  | x         | Yes               | 450,000            | Yes                       | -                           | x             | x              |                                   | Finalizing FEMA grant before design.  |
|  | African American Holistic Resource Center **                        | 7,000,000 | \$1M federal earmark; \$250k GF   |                                  | x         | Yes               | 1,050,000          | No                        | See note*                   | x             | x              |                                   | 4K and 6K sq ft building require additional \$3.15M and \$6.85M to complete.                            |
|  | Restrooms in the ROW Telegraph/Channing                             | 450,000   | \$260k UC settlement  | x                                |           | No                |                    | No                        | -                           | x             | x              | x                                 | Project bidding.  |
|  | Restrooms in the ROW San Pablo/University                           | 450,000   |   |                                  | x         | Yes               | 67,500             | No                        | 67,500                      | x             |                | x                                 | At 50% design, location being identified.   |
|  | Restrooms in the ROW Alcatraz/Adeline                               | 450,000   |   |                                  | x         | Yes               | 67,500             | No                        | 67,500                      | x             |                | x                                 | At 50% design, location being identified.   |
| Camps  | Cazadero Dining Hall & ADA Improvements                             | 400,000   | \$800k from nonprofit tenant  | x                                |           | No                |                    |                           | -                           | -             | -              | -                                 | Required by lease.  |
| Buildings in Parks   | Willard Clubhouse/Restroom Replacement                              | 7,000,000 | \$500k of PRW CIP FY24; \$175K Parks Tax                                  |                                  | x         | Yes               | 1,050,000          | No                        |                             | x             | x              | x                                 | Scope already reduced. ZAB hearing scheduled in April.  |
|  | Tom Bates Restroom, Community Space, Soccer Field and PB Courts     | 2,900,000 | \$1.5M of PRW CIP FY24; \$175K Parks Tax                                  |                                  | x         | Yes               | 435,000            | Yes                       | -                           | x             | x              | x                                 | At 35% design. \$3M Grant application pending for parking lot and other amenities                       |
|  | Harrison Park - Restroom Renovation                                 | 450,000   |   |                                  | x         | Yes               | 67,500             | No                        | 67,500                      | x             |                | x                                 | In conceptual design  |
|  | Ohlone Park - New Restroom  | 500,000   |   |                                  | x         | Yes               | 75,000             | No                        | 75,000                      | x             |                | x                                 | At 35% design, location and model determined.   |
| Parks - Play structures                                    | Ohlone (Milvia) Ages 2-5, 5-12, Garden Mural, Exercise              | 500,000   | \$558k Parks Tax  | x                                |           | Yes               | 75,000             | No                        | -                           | -             | -              | -                                 | Contract awarded; gap covered by FY23 PRW CIP.  |
|  | John Hinkel Lower Ages 2-12, picnic, parking                        | 408,510   | \$565k Parks Tax + \$11k GF CIP   | x                                |           | No                |                    |                           | -                           | -             | -              | -                                 | Completed   |
|  | Grove Park Ages play structures 2-5, 5-12 yrs old                   | 700,000   | \$762k Parks Tax; \$392k GF CIP; \$503k Prop 68                           | x                                |           | Yes               | 105,000            | No                        | -                           | -             | -              | -                                 | Contract awarded; Gap covered by FY23 PRW CIP   |
| Parks  | Aquatic Park Tide Tubes Clean out, Phase 1B                         | 206,490   |   | x                                |           | No                |                    |                           | -                           | -             | -              | -                                 | Completed   |
|  | Ohlone Park - Lighting  | 700,000   |   |                                  | x         | Yes               | 105,000            | Yes                       |                             | x             |                | x                                 | At 35% design. In public process.   |
|  | Civic Center Park Upper Plaza Improvements - Turtle Island Monument | 300,000   | \$596k Clean CA grant; \$750K Parks Tax; Art Funding from Civic Arts Fund |                                  | x         | Yes               | 45,000             | No                        | See note*                   | x             | x              | x                                 | LPC approval received March 2023. \$880k needed to complete additional scope.                           |
| Pools  | King Pool Tile and Plaster Replacement                              | 350,000   | \$178k GF CIP   | x                                |           | No                |                    |                           | -                           | -             | -              | -                                 | Completed   |
| Waterfront   | Marina Timber Piling Replacements                                   | 1,200,000 | \$300k MF; \$1.7M GF  | x                                |           | Yes               | 180,000            | Yes                       |                             | x             | x              | x                                 | Project bidding.  |
|  | Marina D and E Dock Replacement                                     | 595,000   | \$5.5M DBAW loan (MF); \$1.5M State earmark                               |                                  | x         | Yes               | 89,250             | No                        | 89,250                      |               | x              | x                                 | At 60% design.  |
|  | Marina K Dock Restroom Renovation                                   | 495,000   |   |                                  | x         | Yes               | 74,250             | No                        |                             | x             |                |                                   | In pre-design phase.  |
|  | Cesar Chavez Park - New Restroom (on Spinnaker)                     | 445,000   |   |                                  | x         | Yes               | 66,750             | No                        |                             | x             |                |                                   | In pre-design phase.  |
| Streets  | T1 Streets Contribution to Annual Street Paving Improvements        | 6,750,000 |   |                                  | x         | Yes               | 1,012,500          | Yes                       | -                           | x             | x              | x                                 | At 65% design.  |
|  | Bollard Conversion to Landscaping                                   | 150,000   | Stormwater Fund, Parks Tax Fund   |                                  | x         | Yes               | 22,500             | Yes                       | -                           | x             |                |                                   | Not yet started-finding locations   |
| Sidewalks  | Sidewalks Maintenance & Safety Repairs                              | 1,850,000 | \$250k (Multiple sources)   | x                                |           | No                |                    | No                        | -                           | -             | -              | -                                 | Project in construction.  |
| Pathways   | Pathway Repairs/Improvements  | 200,000   | \$50k Annual Sidewalk Prg   |                                  | x         | No                | 30,000             | No                        |                             | x             | x              | x                                 | At 35% design.  |
| Storm Facilities   | Storm Drain Imprv - Marin/Virginia/Spruce/Hinkel                    | 600,000   |   | x                                |           | No                |                    |                           | -                           | -             | -              | -                                 | Completed   |
|  | 1947 Center Street Improvements                                     | 1,800,000 |   |                                  | x         | Yes               | 270,000            | No                        | 270,000                     | x             |                | x                                 | HVAC component is at 35% design; seismic assessment to start by June 2023.                              |

Measure T1 Phase 2 Project Status Matrix  
 Updated:04/13/2023

| Category | Project Name/Description   | Budgeted          | Leverages other funds | Completed / Bidding / Encumbered | In Design | Apply Escalation? | Add 15% Escalation | Possible to Reduce Scope? | Additional Funding Required | Public-Facing | Matching Funds | Significant Planning has Occurred | Notes   |
|----------|--|-------------------|-----------------------|----------------------------------|-----------|-------------------|--------------------|---------------------------|-----------------------------|---------------|----------------|-----------------------------------|---|
|          | Fire Station #2  | 1,536,765         | FY24 PW ADA funds     |                                  | x         | Yes               | 217,500            | No                        |                             |               | x              | x                                 | At 50% design. PW CIP funding will fill gap   |
|          | Fire Station #6  | 1,213,235         | FY24 PW ADA funds     |                                  | x         | Yes               | 181,985            | No                        |                             |               | x              | x                                 | At 35% design. PW CIP funding will fill gap   |
|          | Corporation Yard -Gate, Paving, Parking, Fuel Island   | 350,000           |                       |                                  | x         | Yes               | 52,500             | Yes                       |                             |               |                |                                   | Not yet started.                              |
|          | Corporation Yard - Wash Station Compliance   | 200,000           |                       |                                  | x         | Yes               | 30,000             | No                        |                             |               |                |                                   | Not yet started.                              |
|          | Corporation Yard - Green Room Lockers, Bathroom, Training Room, Floor, Cabinets - Building B | 1,700,000         |                       | x                                | x         | Yes               | 255,000            | No                        | 255,000                     |               |                | x                                 | Design completed, project bidding.            |
|          | Corporation Yard - Storage Room - Roof Repair Bldg H   | 600,000           |                       |                                  | x         | Yes               | 90,000             | No                        | 90,000                      |               |                | x                                 | At 50% design.                                |
|          | Telegraph Channing Garage Restroom   | 300,000           |                       |                                  | x         | No                |                    | No                        |                             | x             |                | x                                 | At 90% Design. Additional funding not needed. |
|          | NBSC-Emergency Power Supply Solar Batteries  | 500,000           |                       |                                  | x         | No                |                    | No                        |                             |               |                |                                   | Additional funding not needed.                |
|          | <b>Totals</b>  | <b>53,250,000</b> |                       |                                  |           |                   |                    |                           | <b>981,750</b>              |               |                |                                   | <b>Additional Funding Required</b>            |
|          | Art  | 650,000           |                       |                                  |           |                   |                    |                           |                             |               |                |                                   |   |
|          | Staffing / FESS  | 7,100,000         |                       |                                  |           |                   |                    |                           |                             |               |                |                                   |   |
|          | <b>Total Phase 2 Budget</b>  | <b>61,000,000</b> |                       |                                  |           |                   |                    |                           |                             |               |                |                                   |   |
|          | <b>COLOR KEY</b>   |                   |                       |                                  |           |                   |                    |                           |                             |               |                |                                   |   |
|          | ● Projects that are completed or bidding or encumbered                                       |                   |                       |                                  |           |                   |                    |                           |                             |               |                |                                   |   |
|          | ● Projects that need escalation to complete  |                   |                       |                                  |           |                   |                    |                           |                             |               |                |                                   |   |

| *Note:    |  |  |                                   |
|-----------|--|--|-----------------------------------|
| 880,000   |  |  | Gap - CC Turtle Island            |
| 350,000   |  |  | Gap-NBSC                          |
| 3,150,000 |  |  | Gap-AAHRC 4,000 sq ft replacement |
| 5,361,750 |  |  | Gap- Includes Escalation          |

|         |  |  |                        |
|---------|--|--|------------------------|
| 880,000 |  |  | Gap - CC Turtle Island |
| 350,000 |  |  | Gap-NBSC               |

| Project Status                                       | Capital Projects   | Budget*                                  | Construction |  |  |  |
|--|--|--|--------------|--|--|--|
| Projects in Construction or have been awarded        | Grove Park 2-5 and 5-12 Playgrounds and Sport Field                  | T1- \$1.125M, Grant- \$503K, CIP- \$603K | Now          |  |  |  |
|  | King Pool Tile, Electrical and Plaster                               | T1- \$350K, CIP- \$190K                  | Now          |  |  |  |
|  | Ohlone 2-5, 5-12 Playgrounds, Mural Garden                           | T1- \$500K, CIP- \$391K                  | Now          |  |  |  |
|  | Waterfront: Marina Finger Docks- Phase 4                             | MF- \$550K                               | Now          |  |  |  |
|  | Waterfront: Marina O and K Electrical Replacement                    | CIP- \$870K, MF- \$883K                  | Now          |  |  |  |
|  | Waterfront: Key Fob System   | MF- \$100K                               | Now          |  |  |  |
| Projects Bidding /Construction in Spring-Summer 2023 | Aquatic Park Dock Access/Parking Lot                                 | PT- \$640K                               | Spring 2023  |  |  |  |
|  | Aquatic Park – West Side Irrigation and Tree Planting                | Grant- \$100K, Bayer- \$260K             | Summer 2023  |  |  |  |
|  | Aquatic Park – Street and Landscaping renovation: Addison- Dreamland | PT- \$357K CIP- \$55k                    | Spring 2023  |  |  |  |
|  | Echo Lake Camp ADA- Phase 1  | CIP- \$200K, Camps Fund- \$705K          | Summer 2023  |  |  |  |
|  | Solano- Peralta Play Equipment/ Furniture                            | GF- \$50K, CIP- \$80K                    | Summer 2023  |  |  |  |
|  | Tuolumne Camp EV Charging Stations                                   | Cat Res- \$350K                          | Spring 2023  |  |  |  |
| Waterfront: Marina Pilling Replacements              | T1- \$1.2M, CIP- \$1.85M, MF- \$575K                                 | Summer 2023                              |              |  |  |  |

| Project Status                           | Capital Projects   | Budget  | Amount Spent to date Feb 2023                | Amount Remaining                                | Anticipated Construction | Public-Facing | Public-Serving | Other Funding Besides T1 | Significant Planning has Occurred |
|--|--|---|--|---|--------------------------|---------------|----------------|--------------------------|-----------------------------------|
| Construction Projects in Design/Planning | African American Holistic Resource Center                    | T1- \$7M<br>GF- \$250K<br>Grant- \$1M         | T1- \$48K<br>GF- \$133K<br>Grant- \$0        | T1- \$6.95M<br>GF- \$117K<br>Grant- \$1M        | FY25                     | x             | x              | x                        |                                   |
|  | Cedar Rose 2-5, 5-12 Play Structures                         | CIP- \$400K<br>PT- \$875K                     | CIP- \$0<br>PT- \$0                          | CIP- \$400K<br>PT- \$875K                       | FY24                     | x             | x              | x                        |                                   |
|  | Civic Center Upper Plaza -Turtle Island Project Improvements | T1- \$300K<br>Grant- \$592K                   | T1- \$84K<br>Grant- \$0                      | T1- \$216K<br>Grant- \$592K                     | FY24                     | x             | x              | x                        | x                                 |
|  | Harrison Park Restroom Renovation                            | T1- \$450K                                    | T1 \$0                                       | T1- \$450K                                      | FY24                     | x             | x              |                          | x                                 |
|  | MLK Jr. Youth Services Center/YAP Renovation                 | T1- \$7M<br>Grant- \$1.2M<br>Earmark- \$750k  | T1- \$208K<br>Grants- \$47K<br>Earmark- \$0K | T1- \$6.8M<br>Grants- \$1.9M<br>Earmark- \$750K | FY25                     | x             | x              | x                        | x                                 |
|  | Ohlone Park Lighting   | T1- \$700k                                    | T1- \$20K                                    | T1- \$680k                                      | FY25                     | x             | x              |                          | x                                 |
|  | Ohlone Park Restroom   | T1- \$500k                                    | T1- \$20K                                    | T1- \$480k                                      | FY25                     | x             | x              |                          | x                                 |
|  | Santa Fe ROW: Convert 4 blocks to New Park                   | Grant- \$5M                                   | Grant- \$278K                                | Grant- \$4.7M                                   | FY25                     | x             | x              | x                        | x                                 |
|  | Tom Bates Restroom, Soccer Field, PB Courts                  | T1- \$3.2M<br>CIP- \$1.5M                     | T1- \$390K<br>CIP- \$0                       | T1- \$2.8M<br>CIP- \$1.5M                       | FY24-FY25                | x             | x              | x                        | x                                 |
|  | Waterfront: Cesar Chavez Park Restroom                       | T1- \$445K                                    | T1- \$0                                      | T1- \$445K                                      | FY25                     | x             | x              |                          |                                   |
|  | Waterfront: Cesar Chavez Perimeter Pathway                   | SCC Grant- \$2.1M                             | SCC Grant- \$0                               | SCC Grant- \$2.1M                               | FY26                     | x             | x              | x                        |                                   |
|  | Waterfront: DE Dock Replacement                              | T1- \$595K<br>MF- \$5.5M<br>SCC Grant- \$1.6M | T1- \$222K<br>MF- \$0<br>SCC Grant- \$0      | T1- \$373K<br>MF- \$5.5M<br>SCC Grant- \$1.6M   | FY25                     |               | x              | x                        | x                                 |
|  | Waterfront: K Dock Restroom Renovation                       | T1- \$495K                                    | T1- \$0                                      | T1- \$495K                                      | FY25                     | x             | x              |                          |                                   |
|  | Waterfront- Dredging Main Channel                            | MF- \$300K<br>SSC Grant- \$7.4M               | MF- \$42K<br>SSC Grant- \$0                  | MF- \$258K<br>SSC Grant- \$7.4M                 | FY25                     | x             | x              | x                        | x                                 |
|  | Waterfront- South Cove West Parking Lot                      | SCC Grant - \$1M                              | SCC Grant- \$0                               | SCC Grant- \$1M                                 | FY25                     | x             | x              | x                        | x                                 |
|  | Willard Clubhouse and Restroom                               | T1- \$7M<br>CIP- \$500K                       | T1- \$535K<br>CIP- \$0                       | T1- \$6.46M<br>CIP- \$500K                      | FY24-FY25                | x             | x              | x                        | x                                 |

|  |  |                        |                        |                        |  |   |   |   |   |
|--|--|------------------------|------------------------|------------------------|--|---|---|---|---|
| Design/Planning Only Projects -Construction Not Funded | Aquatic Park Dreamland-2-12 Play Structure***          | <del>CIP \$300k</del>  |                        |                        |  |   |   |   |   |
|  | Codomices Park 2-5 and 5-12 Play Structures***         | <del>PT \$200k</del>   |                        |                        |  |   |   |   |   |
|  | Glendale - Laloma Park 2-5 and 5-12 Play Structures*** | <del>CIP \$175k</del>  |                        |                        |  |   |   |   |   |
|  | James Kenney Park Skate Area                           | PT- \$7K<br>CIP- \$40K | PT- \$1K<br>CIP- \$17K | PT- \$6K<br>CIP- \$23K |  | x | x | x | x |
|  | John Hinkel Park Hut- Conceptual Design Only           | PT- \$151K             | PT- \$39K              | PT- \$112K             |  | x | x | x | x |
|  | Waterfront: Shorebird Park 2-12 Play Structure***      | <del>CIP \$200k</del>  |                        |                        |  |   |   |   |   |
|  | Waterfront: Bike Park - Conceptual Design              | CIP- \$100K            | CIP- \$51K             | CIP- \$49K             |  | x | x |   | x |
|  | Waterfront- South Sailing Basin Dredging               | CIP- \$350K            | CIP- \$0               | CIP- \$350K            |  | x | x |   |   |
|  | Waterfront: Waterfront Specific Plan-BMASP             | CIP- \$1.05MMF- \$2K   | CIP- \$678K MF-\$2K    | CIP- \$372K MF- \$0    |  | x | x | x | x |
|  | Waterfront: Pier-Water Transportation EIR/Design       | SCC Grant- \$2.9M      | SCC Grant- \$0         | SCC Grant- \$2.9M      |  | x | x | x |   |

\*Funding Sources  
 Cat Res- Catastrophic Reserve  
 CIP- Capital Improvement Fund  
 GF- General Fund  
 MF- Marina Fund  
 PT- Parks Tax  
 SCC Grant- State Coast Conservancy Grant  
 T1- Measure T1, Phase 1 and 2

\*\*in-kind contribution of \$4M from Berkeley Commons Project.

\*\*\*funding re-allocated because of increase in construction costs for existing projects.



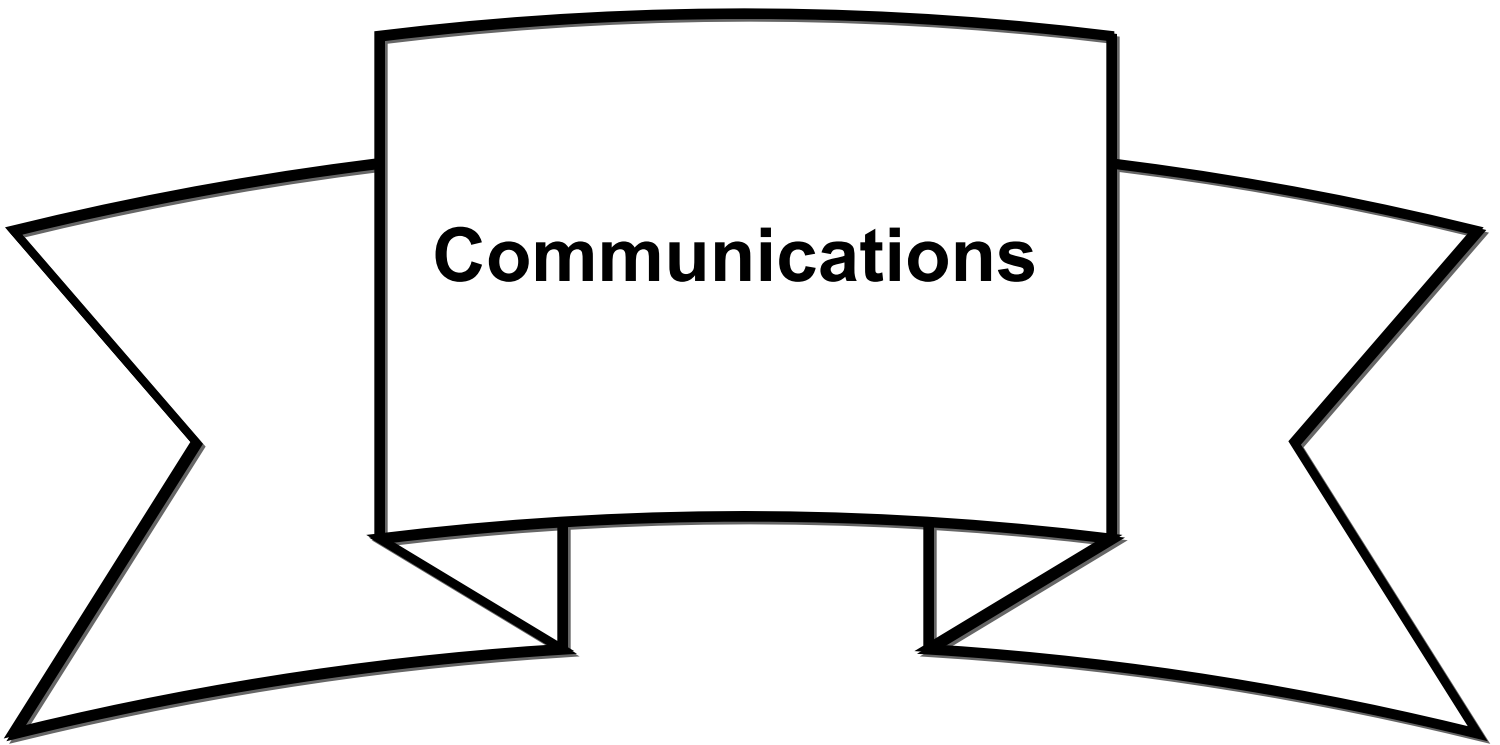
| Project Status                                  | Capital Projects                               | Budget                                 | Anticipated Construction                  | Public-Facing                              | Public-Serving | Matching Funds | Significant Planning has |   |
|---|--|--|---|--|----------------|----------------|--------------------------|---|
| Projects in Construction or have been awarded   | Fire Station # Roof Upgrades                   | CIP-\$422,245                          | now                                       | .  | X              | .              | X                        |   |
|   | Corp Yard Lift Pits- Building G                | CIP-\$380,000                          | complete                                  | .  | X              | .              | X                        |   |
|   | Fire Station #7 Fire Alarm CP Replacement      | CIP-\$27,452                           | FY23                                      | .  | X              | .              | X                        |   |
|   | Old City Hall & Veteran's Building Leak Repair | GF-\$68,000                            | complete                                  | X  | X              | .              | X                        |   |
|   | WBSC HVAC Evaluation                           | CIP-\$16,698                           | complete                                  | .  | X              | .              | X                        |   |
|   | MHSC Roof Repair                               | CIP-\$44,744                           | FY24                                      | .  | X              | .              | X                        |   |
|   | 1947 Center Street Bottle Fill Stations        | CIP-\$27,661                           | complete                                  | .  | X              | .              | X                        |   |
|   | 2180 Milvia Carpet Replacement-CCB Phase 2     | CIP-\$185,283                          | complete                                  | .  | X              | .              | X                        |   |
|   | Civic Center Door Card Readers                 | CIP-\$82,569                           | complete                                  | .  | X              | .              | X                        |   |
|   | On Call HVAC Services                          | CIP-\$42,186                           | complete                                  | .  | X              | .              | X                        |   |
|   | Retaining Wall- 1322 Glendale Ave              | CIP-\$436,510                          | now                                       | X  | X              | .              | X                        |   |
|   | Street Rehab FY 2021                           | CIP-\$1,881,875<br>Meas BB-\$2,300.00  | Meas F-\$155,000<br>Meas B-\$1,000,000    | SB1-\$2,195,303                            | now            | X              | X                        | X |
|   | Street Rehab FY 2022                           | CIP-\$2,130,920<br>Meas BB-\$2,700,000 | Meas F-\$155,000                          | SB1-\$2,195,303                            | now            | X              | X                        | X |
|   | Wildcat Canyon Emergency Repairs               | CIP-\$148,919                          |   |  | X              | X              | X                        | X |
|   | Street Rehab FY 2023                           | CIP-\$2,131,875<br>Meas BB-\$2,980,000 | Meas F-\$155,000 (PAVING FUNDS)-          | CIP SB1-\$2,195,303                        | now            | X              | X                        | X |
|   | FY20 Sidewalk Repair Program                   | CIP-\$974,402<br>Meas F-\$220,200      | Meas BB-\$1,279,800                       | Private Party-\$250,000                    | now            | X              | X                        | X |
|   | Sidewalk Shaving- FY2020                       | CIP-\$1,253,571<br>Meas F-\$47,548     | SB1-\$399,800                             | Meas BB-\$420,000                          | now            | X              | X                        | X |
|   | UUD Grizzly Peak #48                           | CIP-\$274,911                          | Streetlight-\$47,342                      | GF-\$949,256                               | now            | X              | X                        | X |
|   | MLK Jr. Way Vision Zero Quick Build            | CIP-\$385,140                          | Meas F-\$215,000<br>Streetlight-\$129,000 | Meas BB-\$567,000<br>Meas BB-B&P-\$162,000 | now            | X              | X                        | X |
|   | University Ave Bus Stop Improvements           | CIP-\$200,000                          | Capital Grants-State-\$500,285            |  | now            | X              | X                        | X |
|   | Ashby/San Pablo Traffic Improvements           | CIP-\$242,080                          | Meas F-\$27,198                           | Meas BB-\$825,422                          | now            | X              | X                        | X |
|   | 7th/ Anthony Traffic Signal Project            | CIP-\$82,559                           | Meas BB-\$334,500                         |  | now            | X              | X                        | X |
|   | Hopkins Street Corridor Project                | CIP-\$150,000-Tier 1                   |   |  | now            | X              | X                        | X |
| BerkDOT   | GF-\$184,283                                   |  |   | now  | .              | X              | X                        |   |
| Dwight and California Intersection Improvements | GF-\$399,998                                   | Meas BB-\$348,478                      | CIP-\$50,000                              | now  | X              | X              | X                        |   |

| Project Status                                       | Capital Projects                                   | Budget   | Anticipated Construction | Public-Facing | Public-Serving | Matching Funds | Significant Planning has |
|--|--|--|--------------------------|---------------|----------------|----------------|--------------------------|
|  | Woolsey Street and Eton Ave Traffic Calming        | CIP-\$38,743<br>Meas B-\$187,270   | now                      | X             | X              | X              | X                        |
|  | Ashby-Newbury Traffic Calming                      | CIP-\$50,000   | now                      | X             | X              | .              | X                        |
|  | Southside Complete Streets                         | GF-\$1,000,000<br>CIP- (paving funds) \$4,987,860<br>Meas BB-\$1,082,800<br>UC-\$2,254,548<br>Capital Grants-Fed-\$9,335,000 | now                      | X             | X              | X              | X                        |
|  | T1 PH2 Pathway Repairs                             | GF-\$99,897<br>CIP-\$50,000<br>T1-\$200,000  | now                      | X             | X              | X              | X                        |
|  | 1947 Center Street                                 | T1-\$1,800,000   | now                      | X             | X              | X              | X                        |
|  | PW Corp Yard Improvements-Green Building           | T1-\$1,700,000   | FY24                     | .             | X              | X              | X                        |
|  | PW Corp Yard Improvements-Deferred Maintenance     | T1-\$350,000   | FY25                     | .             | X              | X              | X                        |
|  | PW Corp Yard Improvements-Building H               | T1-\$600,000   | FY24                     | .             | X              | X              | X                        |
|  | Storm Drain Improvements-Marin/Spruce              | T1-\$600,000   | now                      | X             | X              | X              | X                        |
|  | T1 PH2 Sidewalks Maintenance and Safety Repair     | T1-\$1,850,000   | now                      | X             | X              | X              | X                        |
| Projects Bidding /Construction in Spring-Summer 2023 | NBSC Upgrades- Kitchen & Data                      | CIP-\$202,683  | FY24                     | X             | X              | .              | X                        |
|  | EV Charge Station                                  | CIP-\$600,000<br>GF-\$1,750,000  | FY 24                    | .             | X              | X              | X                        |
|  | Purchase of Electric Bikes                         | GF-\$25,000  | FY 23                    | .             | X              | .              | X                        |
|  | Street Rehabilitation PCI Improvement Project-FY23 | CIP-\$5,000,000  | now                      | X             | X              | .              | X                        |
|  | Street Rehabilitation PCI Improvement Project-FY24 | CIP-\$9,100,000  | Start of FY24            | X             | X              | .              | X                        |
|  | Piedmont/Channing Traffic Circle                   | UC Settlement-\$250,000  | end of FY23              | X             | X              | .              | X                        |
|  | T1 Phase 2--Hopkins Corridor Improvements          | T1-\$6,750,000<br>Meas BB-\$2,160,000<br>Meas F-\$625,000<br>CIP (Tier 1)-\$150,000<br>CIP (Paving Funds)-\$2,977,000        | TBD                      | X             | X              | X              | X                        |
|  | Oxford & Telegraph/Channing Garage Restroom        | T1-\$406,350   | FY24                     | X             | X              | X              | X                        |
|  | Restrooms in the ROW                               | T1-\$1,610,000   | FY23-FY25                | X             | X              | X              | X                        |
|  | PW Corp Yard Improvements-Wash Station             | T1-\$200,000   | FY24                     | .             | X              | X              | X                        |

| Project Status | Capital Projects   | Budget  | Amount Spent to date Feb 2023                          | Amount Remaining  |      | Public-Facing | Public-Serving | Matching Funds | Significant Planning has Occurred |
|----------------|--|---|--|---|------|---------------|----------------|----------------|-----------------------------------|
|                | Retaining Wall & Storm Drain Repair  | CIP- \$335,000<br>Clean Storm-\$322,791<br>SB1- \$290,000 | CIP- \$48,790<br>Clean Storm-\$30,000<br>SB1- \$12,175 | CIP- \$286,210<br>Clean Storm-\$292,791<br>SB1- \$277,825 | FY24 | X             | X              | X              | X                                 |
|                | Cameras in Public Right of Way   | GF-\$1,293,889  | GF-\$0.00  | GF-\$1,293,889  | FY24 | X             | X              | .              | .                                 |
|                | Bus Canopies/Bulbouts-Durant Complete Streets  | GF-\$336,000  |  |   | FY24 | X             | X              | .              | .                                 |
|                | Convert 62nd Street Between King Street, and Adeline Street into a cul de sac          | CIP-\$300,000   |  |   | FY24 | X             | X              | .              | .                                 |
|                | Semi-Divert traffic bollards at the intersection of Newbury Street and Ashby Street    | CIP-\$50,000  |  |   | FY24 | X             | X              | .              | .                                 |
|                | Implement State Law AB 43 for Reduced Speed Limits on High-Injury Commercial Corridors | CIP-\$50,000  |  |   | FY24 | X             | X              | .              | .                                 |

| Project Status                    | Capital Projects   | Budget           | Anticipated Construction         | Public-Facing | Public-Serving | Matching Funds | Significant Planning has |   |
|-----------------------------------|--|------------------|----------------------------------|---------------|----------------|----------------|--------------------------|---|
| Projects in Design/Planning       | ADA Transposition Plan Update Implementation - FY 23 Allocation                      | CIP-\$250,000    | FY24                             | X             | X              | .              | X                        |   |
|                                   | ADA Transposition Plan Update Implementation - FY 24 Allocation                      | CIP-\$500,000    | FY25                             | X             | X              | .              | X                        |   |
|                                   | Facilities Deferred Maintenance Investment (Increase in baseline) - FY 23 Allocation | CIP-\$250,000    | FY24                             | X             | X              | .              | X                        |   |
|                                   | Facilities Deferred Maintenance Investment (Increase in baseline) - FY 24 Allocation | CIP-\$500,000    | FY25                             | X             | X              | .              | X                        |   |
|                                   | Building Assessment  | CIP-\$77,175     | FY24                             | .             | X              | .              | X                        |   |
|                                   | Carpet Replacement   | CIP-\$150,000    | FY24                             | .             | X              | .              | X                        |   |
|                                   | Evidence Storage   | CIP-\$36,750     | FY24                             | .             | X              | .              | X                        |   |
|                                   | Public Safety Projects   | CIP-\$150,000    | FY24                             | .             | X              | .              | X                        |   |
|                                   | Roof Replacement   | CIP-\$180,000    | FY24                             | .             | X              | .              | X                        |   |
|                                   | Telegraph/Channing Elevator Upgrade  | CIP-\$3,600,000  | Off Street Parking-\$804,959     | FY24          | X              | X              | X                        | X |
|                                   | EBCE Solar & Storage at Fire Station #3  | CIP-\$600,000    |                                  | FY24-FY25     | .              | X              | .                        | X |
|                                   | Old City Hall Temporary Fire Sprinklers  | CIP-\$73,207     |                                  | FY24          | .              | X              | .                        | X |
|                                   | PSB Cooling Redundancy   | GF-\$209,190     |                                  | FY25          | .              | X              | .                        | X |
|                                   | STAIR Center ADA   | CIP-\$412,640    |                                  | FY24          | X              | X              | .                        | X |
|                                   | Civic Center Vision & Imp Plan Phase 2   | GF-\$200,000     |                                  | FY23          | X              | X              | .                        | X |
|                                   | Corp Yard Comprehensive Plan   | CIP-\$447,344    |                                  | FY24          | .              | X              | .                        | X |
|                                   | PSB Bicycle Bunker Roof Repair   | CIP-\$179,962    |                                  | FY24          | .              | X              | .                        | X |
|                                   | Street Rehab FY 2024   | CIP-\$2,127,562  | Meas BB-\$2,980,000              | FY24          | X              | X              | X                        | X |
|                                   | Emergency Power Supply Solar Batteries   | T1-\$400,000     | Meas F-\$155,000 SB1-\$2,195,303 | FY25          | .              | X              |                          | X |
|                                   | South Berkeley Senior Center   | T1-\$3,000,000   |                                  | FY25-26       | X              | X              |                          | X |
|                                   | Fire Station #2 Improvements   | T1-\$1,536,765   |                                  | FY24-25       | .              | X              |                          | X |
|                                   | Fire Station #6 Improvements   | T1-\$1,213,235   |                                  | FY24-25       | .              | X              |                          | X |
| Bollard Conversion to Landscaping | T1-\$150,000   |                  | FY24                             | .             | X              |                | X                        |   |
| Strawberry Creek Culverts Repairs | CIP-\$250,000  | Meas M-\$926,720 | FY24                             | X             | X              | X              | X                        |   |

| Project Status                           | Capital Projects                           | Budget       | Amount Spent to date Feb 2023 | Amount Remaining | Anticipated Construction/ Implementation | Public-Facing | Public-Serving | Other Funding Besides T1 and GF | Significant Planning has Occurred |
|--|--|--------------|-------------------------------|------------------|--|---------------|----------------|---------------------------------|-----------------------------------|
| Construction Projects in Design/Planning | Business Licensing System Replacement      | CIP - \$500k | \$0                           | CIP - \$500k     |  | X             | X              |                                 |                                   |
|  | Jail Control Panel Replacement             | CIP - \$500k | \$0                           | CIP - \$500k     | FY 2024                                  | X             | X              |                                 | X                                 |
|  | Paperless Contract Workflow System         | CIP - \$400k | \$0                           | CIP - \$400k     | FY 2024                                  |               | X              |                                 | X                                 |
|  | Property Tax Assessment System Replacement | CIP - \$450k | \$0                           | CIP - \$450k     |  | X             | X              |                                 |                                   |



All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

**City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**Records Online**

<https://records.cityofberkeley.info/>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF