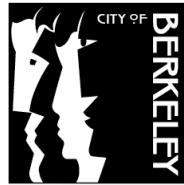


# AGENDA



## BERKELEY CITY COUNCIL MEETING

Tuesday, June 29, 2021

6:00 PM

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 – LORI DROSTE

### **PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

*Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/83147858591>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 831 4785 8591. 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 teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*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. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

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

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

**Public Comment on Non-Agenda Matters:** *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

## Consent Calendar

*The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent 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. FY 2022 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,765-N.S. setting the FY 2022 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0059%.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 2. FY 2022 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,766-N.S. setting the FY 2022 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 0.0135%.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 3. FY 2022 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,767-N.S. setting the FY 2022 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0088%.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 4. FY 2022 Tax Rate: Business License Tax on Large Non-Profits**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,768-N.S. setting the FY 2022 tax rate for Business License Tax on large non-profits at \$0.7041 (70.41 cents) per square foot of improvements.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

**5. FY 2022 Tax Rate: Fund Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF)**

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,769-N.S. setting the FY 2022 tax rate for funding Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF) in the City of Berkeley at an annual rate of \$0.1047 (10.47 cents) per square foot of improvements and \$0.15705 (15.705 cents) for the 18-month period from January 1, 2021 to June 30, 2022.

**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.

**Financial Implications:** See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300, Abe Roman, Fire, (510) 981-3473

**6. FY 2022 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,770-N.S. setting the FY 2022 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.1896 (18.96 cents) per square foot of improvements.

**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.

**Financial Implications:** See report

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

**7. FY 2022 Special Tax Rate: Fund the Provision of Library Services**

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,771-N.S. setting the FY 2022 tax rate for funding the provision of Library Services in the City of Berkeley at \$0.2402 (24.02 cents) per square foot for dwelling units and \$0.3632 (36.32 cents) per square foot for industrial, commercial, and institutional buildings.

**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.

**Financial Implications:** See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300, Tess Mayer, Director of Library Services, (510) 981-6195

## Consent Calendar

- 8. FY 2022 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,772-N.S. setting the FY 2022 tax rate for funding the provision of emergency services for the disabled at \$0.02378 (2.378 cents) per square foot of improvements.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 9. FY 2022 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,773-N.S. setting the FY 2022 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0170%.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 10. FY 2022 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 second reading of Ordinance No. 7,774-N.S. setting the FY 2022 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0077%.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 11. FY 2022 Tax Rate: Fund Fire Protection and Emergency Response and Preparedness (Measure GG)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,775-N.S. setting the FY 2022 tax rate for funding Fire Protection and Emergency Response and Preparedness in the City of Berkeley at the rate of \$0.05818 (5.818 cents) per square foot of improvements for dwelling units and setting the rate for all other property at \$0.08804 (8.804 cents) per square foot of improvements.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300, Abe Roman, Interim Fire Chief, (510) 981-5500

## Consent Calendar

- 12. FY 2022 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,776-N.S. setting the FY 2022 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0412 (4.12 cents) per square foot of improvements.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 13. Referral Response: Path to Permanence: Outdoor Dining and Commerce in the Public Right-of-Way**  
**From: City Manager**  
**Recommendation:**  
1. Adopt second reading of Ordinance No. 7,777-N.S. revising BMC Section 14.48.190 Parklets and BMC Section 16.18 Right of Way Encroachments and Encroachment Permits to simplify the permitting process for the conversion of temporary parklets and outdoor commerce installations after a declared local emergency.  
2. Adopt second reading of Ordinance No. 7,778-N.S. revising BMC Section 14.48.150 Sidewalk Seating to expand the areas and scope of activities that may be permitted via a sidewalk seating permit (a type of engineering permit) after a declared local health emergency, implement a new fee for the use of parking spaces for commercial activity.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – Harrison, Wengraf.  
**Financial Implications:** See Report  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
- 14. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the council meetings of May 11, 2021 (regular), May 13, 2021 (closed), May 18, 2021 (closed and special), May 20, 2021 (closed) and May 25, 2021 (closed and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900

## Consent Calendar

- 15. Contract No. 099148-1 Amendment: Code Publishing Company for Berkeley Municipal Code Publishing Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 099148-1 (FUND\$ Contract No. 9541A) with Code Publishing Company for online and printed code publishing services for the Berkeley Municipal Code, increasing the contract by \$40,000 for a total not to exceed amount of \$139,000, and extending the contract to December 21, 2024.  
**Financial Implications:** General Fund - \$40,000  
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 16. Appointment of Interim Director of Police Accountability**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution confirming the appointment of Katherine J. Lee to be Interim Director of Police Accountability and approving an employment contract to be effective July 1, 2021 at an annual salary of \$182,260.65.  
**Financial Implications:** See report  
Contact: Dave White, City Manager's Office, (510) 981-7000
- 17. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 29, 2021**  
**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:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 18. Appropriations Limit for FY 2022**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution establishing the appropriations limit at \$311,493,168 for FY 2022 pursuant to Article XIII B of the Constitution of the State of California based on the calculations for the appropriations limit.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 19. FY 2022 Revision to the Investment Policy and Designation of Investment Authority**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting the changes to the Investment Policy and to confirm the delegation of investment authority to the Director of Finance to make investments for FY 2022.  
**Financial Implications:** None  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

**20. Request for Proposal for Project Homekey**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing City Manager to: 1. Release a Request for Proposals (RFP) for a Homekey Project; and 2. Allocate HOME-ARP funding and General Fund collected pursuant to Measure P Measure P, and/or other funding source, to support a future Homekey project.

**Financial Implications:** See report

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

**21. Fiscal Year 2022 Community Development Block Grant Public Facility Improvement Program Funds for the West Berkeley Service Center**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: 1. Allocate all available Fiscal Year (FY) 2022 Community Development Block Grant funding (estimated at \$1,145,251) for one public facility improvement project at the City's West Berkeley Service Center; and 2. Allocate any additional FY 2021 CDBG program income to the West Berkeley Service Center renovation project, if needed, and in accordance with Resolution 69,830 –N.S.

**Financial Implications:** See report

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

**22. Contract No. 31900254 Amendment: Easy Does It to Provide Emergency Disability Services and Audit Recommendation Update for Fiscal Year 2022-2023**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving an amendment to Contract No. 31900254 to continue funding for Easy Does It (EDI) for Fiscal Year (FY) 2022 and FY 2023 in the amount of \$1,432,011 using Measure E funds to provide emergency disability services, as long as EDI continues to demonstrate progress towards resolving the audit findings.

**Financial Implications:** See report

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

**23. Fiscal Year 2022 and Fiscal Year 2023 Housing Retention Program Contract**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: 1. Allocate the Fiscal Year (FY) 2022 and FY 2023 City of Berkeley Housing Retention Program (HRP) contract to the Eviction Defense Center (EDC), which operates the COVID-19 HRP; and 2. Amend Contract No. 32100023 with EDC to use General Fund U1 HRP funds for utility arrears or other expenses that would enable applicants to retain or obtain housing and/or employment.

**Financial Implications:** See report

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



## Consent Calendar

**24. Adopt a Resolution to Upgrade Residential and Commercial Customers to East Bay Community Energy (EBCE) Renewable 100 Plan**

**From: Energy Commission**

**Recommendation:** Adopt a time-sensitive Resolution to upgrade all current and new Berkeley residential and commercial customer accounts from Bright Choice - 86% Green House Gas (GHG)-free including substantial hydroelectric and nuclear - to Renewable 100 (100% renewable energy from California solar and wind) for their default electricity service plan, excluding residential customers in low-income assistance programs. The Berkeley Energy Commission (Commission) recommends that the City Council adopt the resolution now to meet East Bay Community Energy's (EBCE) schedule of requiring an extensive lead time needed for the transition to be effective April 1, 2022 for residential customers and October 1, 2022 for commercial customers.

**Financial Implications:** See report

Contact: Billi Romain, Commission Secretary, (510) 981-7400

**25. Berkeley's Fleet Replacement: Fund Short by Millions**

**From: Auditor**

**Recommendation:** We recommend City Council request that the City Manager report back by the first City Council meeting in January 2022, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Public Works Department.

**Financial Implications:** See report

Contact: Jenny Wong, Auditor, (510) 981-6750

## Council Consent Items

**26. Resolution Supporting Freedom for Nasrin Sotoudeh**

**From: Councilmember Taplin (Author)**

**Recommendation:** Adopt a Resolution in Support of Freedom for Nasrin Sotoudeh and All Other Political Prisoners and Prisoners of Conscience in the Islamic Republic of Iran.

**Financial Implications:** None

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

## Council Consent Items

### 27. Resolution Urging the Metropolitan Transportation Commission to Program and Prioritize American Rescue Plan Act Funds

**From: Councilmember Harrison (Author)**

**Recommendation:**

1. Adopt a resolution directing the Metropolitan Transportation Commission (MTC) to program \$1.67 billion in American Rescue Plan Act (ARPA) funds immediately and prioritize them for immediate use to support Bay Area Transit riders and an equitable pandemic recovery.
2. Send a copy of the Resolution and an accompanying letter to the MTC Commissioners.

**Financial Implications:** None

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Action Calendar

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

*The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. 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 – Old Business

### 28. Police Accountability Board – Appointment of Members (Continued from June 1, 2021)

**From: City Manager**

**Recommendation:** Adopt a Resolution appointing nine members to the Police Accountability Board nominated by the Mayor and City Councilmembers, and appointing one alternate member. (Note: Appointment of the alternate member is continued from the June 1, 2021 meeting.)

**Financial Implications:** See report

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

## Action Calendar – New Business

### 29. FY 2022 Budget Adoption

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Adopting the FY 2022 Budget as contained in the City Manager’s FY 2022 Proposed Budget that includes the Proposed Capital Budget, presented to Council on May 25, 2021, and as amended by subsequent Council action.
2. Authorizing the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2022, as reflected in Attachment 2 to the report, and as amended by subsequent Council action.

**Financial Implications:** See report

Contact: Rama Murty, Budget Office, (510) 981-7000

### 30. FY 2022 Annual Appropriations Ordinance

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance adopting the FY 2022 Annual Appropriations Ordinance (AAO) in the amount of \$668,825,973 (gross appropriations) and \$581,303,702 (net appropriations).

**Financial Implications:** See report

Contact: Rama Murty, Budget Office, (510) 981-7000

### 31. Borrowing of Funds and the Sale and Issuance of FY 2021-22 Tax and Revenue Anticipation Notes

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the borrowing of \$45,000,000 and the sale and issuance of Fiscal Year 2021-22 Tax and Revenue Anticipation Notes.

**Financial Implications:** See report

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

## Information Reports

### 32. Voluntary Time Off Program for FY 2022

**From: City Manager**

Contact: Rama Murty, Budget Office, (510) 981-7000

### 33. FY 2022 Civic Arts Grant Awards

**From: Civic Arts Commission**

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

### 34. FY 2021 Second Quarter Investment Report: Ended December 31, 2020

**From: City Manager**

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

### 35. FY 2021 Third Quarter Investment Report: Ended March 31, 2021

**From: City Manager**

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

## Information Reports

### 36. 2021 Commission on Aging Work Plan

**From: Commission on Aging**

Contact: Richard Castrillon, Commission Secretary, (510) 981-5190

## Public Comment – Items Not Listed on the Agenda

### Adjournment

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply:*

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

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil>

#### COMMUNICATION ACCESS INFORMATION:

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



Captioning services are provided at the meeting, on B-TV, and on the Internet.

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***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 17, 2021.***



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 through [Records Online](#).*

### **Item #26: Resolution Supporting Freedom for Nasrin Sotoudeh**

1. Nazila Tobaei
2. Riya Master
3. Kianna Imani
4. Sepideh Asgari

### **Berkeley Marina (BMASP) and Pier/Ferry Project from Marina Users**

5. Camille Antinori and David Fielder, on behalf of the marina users

### **Tenants Opportunity to Purchase Act (TOPA)**

6. Andrew Godar
7. Carol Wyatt
8. Sam Weng
9. Julie Saxe-Taller
10. Timothy Kim
11. Peter Schiller
12. Hayley Currier
13. Bethany Kaylor
14. Mary Telling
15. Cheryl Davila (2)
16. Alex Werth
17. Ann Harvey

### **Climate Equity Action**

18. Cate Leger, Berkeley Energy Commission
19. Ariella Granett
20. Lily Cohen
21. Janet Stromberg
22. Natalie Nussbaum
23. Mary Ann Furdary
24. Margot Smith
25. Christie Keith
26. Susan Kirsch
27. Andrea Mullarkey

### **Electrification**

28. Janet Stromberg

### **Berkeley Housing Authority (BHA) Negative Experiences**

29. BHA staff

**Grizzly Peak Problems**

30. Joshua Bloom (2)

**BART Housing**

31. The-Anh Cao

32. Reynaldo Santa Cruz

**Zoning Reform on Property Values**

33. Margot Smith

**Housing**

34. Madeleine Shearer (2)

**Affordable Housing Overlay Support**

35. Planning Students Association of Cal

**People's Park**

36. Russbumper

**Outdoor Shelter and Enforce No Sidewalk Camping**

37. Claudia Eyzaguirre

**Evictions**

38. Cadance Malone

**Measure FF: Update from the Fire Department**

39. David Peattie, on behalf of the Berkeley Disaster Prep Neighborhood Network

**Library Issues**

40. Barbara Gilbert

**Parking Meters**

41. Barbara Gilbert

**Berkeley's New Police Chief**

42. Friends of Adeline

**Employment Development Department**

43. Rodak Goa

**Skateboard Park**

44. Alex Gomez-Pendleton

**Daniel Hale Whistleblower**

45. Russbumper

**Speech to VTA**

46. Blair Beekman

**Live Music Is Back in Downtown Berkeley Plaza**

47. Downtown Berkeley Association

**Traffic Control Measures at Cragmont Elementary School**

48. Edward and Noelle Long

**CalPERS Response Letter to Resolution No. 69,829-N.S. of 4/27/2021**

49. California Public Employees' Retirement System

**URL's Only**

50. Vivian Warkentin (2)

51. Russbumper (4)

**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.





ORDINANCE NO. 7,765-N.S.

SETTING THE FY 2022 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 2022 tax rate for the debt service on the General Obligation Bonds is set at 0.0059%.

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 2022 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$1,350,000 needed to make the March 1, 2022 and September 1, 2022 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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.



ORDINANCE NO. 7,766-N.S.

SETTING THE FY 2022 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 2022 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 0.0135%.

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 2022 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$3,100,000 needed to make the March 1, 2022 and September 1, 2022 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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.



ORDINANCE NO. 7,767-N.S.

SETTING THE FISCAL YEAR 2022 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 2022 tax rate for debt service on the General Obligation Bonds is set at 0.0088%.

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 2022 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$2,000,000 needed to make the March 1, 2022 and September 1, 2022 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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.



ORDINANCE NO. 7,768-N.S.

SETTING THE FY 2022 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 2022 business license tax on large non-profits is as follows:

\$0.7041 per square foot of improvements over 120,000 square feet

Section 2. This tax rate will result in estimated total collections of \$514,008.

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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.





ORDINANCE NO. 7,769-N.S.

SETTING THE FISCAL YEAR 2022 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 rate of tax for FY 2022 (to cover an 18-month period of time), to provide for the costs incurred for the firefighting, emergency medical response and wildfire prevention (Measure FF) is hereby fixed and apportioned upon the square feet of improvements as defined in the Ordinance as follows:

\$0.15705 per square foot of improvements for 18 months (\$0.1047 annually)

| FY 2021 and FY 2022 Taxpayer Assessments |                                                     |                                   |                                     |
|------------------------------------------|-----------------------------------------------------|-----------------------------------|-------------------------------------|
| Square Feet                              | FY 2021                                             | FY 2022                           | Total                               |
|                                          | 01/01/21 to 06/30/21<br>@ \$0.05235 (\$0.1047 x .5) | 07/01/21 to 6/30/22<br>@ \$0.1047 | 01/01/21 to 06/30/22<br>@ \$0.15705 |
| 1,200                                    | \$ 62.82                                            | \$ 125.64                         | \$ 188.46                           |
| 1,500                                    | 78.52                                               | 157.05                            | 235.57                              |
| 1,900                                    | 99.46                                               | 198.93                            | 298.39                              |
| 3,000                                    | 157.05                                              | 314.10                            | 471.15                              |
| 3,900                                    | 204.16                                              | 408.33                            | 612.49                              |
| 10,000                                   | 523.50                                              | 1,047.00                          | 1,570.50                            |

Section 2. The cost to taxpayers during FY 2022 will be \$188.46 for a 1,200 square foot dwelling and \$471.15 for a 3,000 square foot dwelling.

Section 3. This tax rate will result in estimated total collections of \$12,750,000.

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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.

ORDINANCE NO. 7,770-N.S.

SETTING THE FISCAL YEAR 2022 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 2022 Tax Rate for the maintenance of parks, City trees and landscaping is set at \$0.1896 per square foot of taxable improvements.

Section 2. The cost to the taxpayer during FY 2022 will be \$227.52 for a 1,200 square foot home and \$568.80 for a 3,000 square foot home.

Section 3. This Tax Rate will result in estimated total collections of \$15,320,468.

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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.



ORDINANCE NO. 7,771-N.S.

SETTING THE FISCAL YEAR 2022 SPECIAL TAX RATE TO FUND LIBRARY SERVICES TAX IN THE CITY OF BERKELEY

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

Section 1. The FY 2022 Tax Rate to support usual and current expenses of operating library services is set at \$0.2402 per square foot for dwelling units and \$0.3632 per square foot for industrial, commercial and institutional buildings.

Section 2. The cost to taxpayers during FY 2022 will be \$360.30 for a 1,500 square foot dwelling and \$544.80 for all other property of similar size.

Section 3. This tax rate will result in estimated total collections of \$21,704,603.

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 Old City Hall, 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 June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.



ORDINANCE NO. 7,772-N.S.

SETTING THE FISCAL YEAR 2022 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 2022 Tax Rate to fund emergency services for severely disabled persons is set at \$0.02378 per square feet of improvements.

Section 2. The cost to taxpayers during FY 2022 will be \$28.54 for a 1,200 square foot home and \$71.34 for a 3,000 square foot home.

Section 3. This tax rate will result in estimated total collections of \$1,451,853.

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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.





ORDINANCE NO. 7,773-N.S.

SETTING THE FISCAL YEAR 2022 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 2022 tax rate for debt service on the General Obligation Bonds is set at 0.0170%.

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 2022 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$3,900,000 needed to make the March 1, 2022 and September 1, 2022 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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.



ORDINANCE NO. 7,774-N.S.

SETTING THE FISCAL YEAR 2022 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 2022 tax rate for debt service on the General Obligation Bonds is set at 0.0077%.

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 2022 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$1,750,000 needed to make the March 1, 2022 and September 1, 2022 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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.



ORDINANCE NO. 7,775-N.S.

SETTING THE FISCAL YEAR 2022 SPECIAL TAX RATE TO FUND FIRE PROTECTION AND EMERGENCY RESPONSE AND PREPAREDNESS (MEASURE GG) IN THE CITY OF BERKELEY

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

Section 1. The FY 2022 Tax Rate for the Fire Protection and Emergency Response and Preparedness (Measure GG) is set at:

- \$0.05818 per square foot of improvements for dwellings
- \$0.08804 per square foot of improvements for all other properties

Section 2. The cost to taxpayers during FY 2022 will be \$69.81 for a 1,200 square foot dwelling and \$174.54 for a 3,000 square foot dwelling.

Section 3. This tax rate will result in estimated total collections of \$5,258,335.

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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

- Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.
- Noes: None.
- Abstain: Harrison and Wengraf.
- Absent: None.



ORDINANCE NO. 7,776-N.S.

SETTING THE FISCAL YEAR 2022 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 2022 Tax Rate for Emergency Medical Services is set at \$0.0412 per square foot of taxable improvements.

Section 2. The cost to taxpayers during FY 2022 will be \$49.44 for a 1,200 square foot home and \$123.60 for a 3,000 square foot home.

Section 3. This tax rate will result in estimated total collections of \$3,330,634.

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.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.





## ORDINANCE NO. 7,777-N.S.

AMENDING CHAPTER 14.48 MISCELLANEOUS USE OF STREETS AND SIDEWALKS OF THE BERKELEY MUNICIPAL CODE SECTION 14.48.190 PARKLETS AND AMENDING CHAPTER 16.18 RIGHT-OF-WAY ENCROACHMENTS AND ENCROACHMENT PERMITS

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

Section 1. That Berkeley Municipal Code Section 14.48.190 is amended to read as follows:

**14.48.190 Parklets**

A. Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve Parklets, Benches and/or Planters in the public right of way (excluding Sidewalks alone, which are subject to and governed by Section 14.48.200) as set forth in, and in compliance with, this Section.

1. No permit may be issued under this Section for any right-of-way area in front of a single parcel if there are any current violations of this Chapter in that right-of-way area.
2. A permit for a Parklet may not be issued unless the parklet Host is in full compliance with all applicable requirements of Title 23 and any Permit issued thereunder.
3. A permit for a Parklet may only be issued adjacent to parcels in the following zoning districts: all Commercial (C-prefixed districts), Mixed-Use Light Industrial (MU-LI), Mixed-Use Residential (MU-R), and Mixed Manufacturing (MM).

B. For purposes of this Chapter, the following terms shall be defined as follows:

1. "Bench" means a seat designed for two or more persons.
2. "Bike Parking" means a location with bike racks intended for the secure parking of bicycles.
3. "Furniture" means amenities such as but not limited to tables, chairs, benches, and other equipment that facilitates the stationary use of public space.
4. "Parklet" means a platform or similar level surface extending into the public right of way with amenities such as but not limited to tables and/or chairs (including Benches), Bike Parking, and umbrellas, designated as public space, located in or on the public right-of-way or resting on, or projecting into, the sidewalk and parking area, which are not physically or structurally attached to a building, retaining wall or fence. Platforms that meet this definition but have received a Sidewalk Seating

Permit pursuant to BMC Section 14.48.150 shall not be considered Parklets.

5. "Planter" means a container that is designed or used for growing plants.

6. "Sidewalk" has the same meaning as set forth in Section 1.04.010(18).

7. "Sponsoring Business", "Host", "Permit Holder" or "Permittee" means, and is limited to, any establishment engaged in insuring and caring for the Parklet as set forth in the Parklet maintenance agreement.

8. "Transit Stop" means an AC Transit bus stop, UC Berkeley bus stop, a paratransit bus stop, Bay Area Rapid Transit station entrance, or another public transit provider.

C. Parklets, Benches and Planters shall fully conform to the following requirements of this subdivision:

1. Any object permitted under this Section shall leave a minimum of clear space as the Engineering Division finds necessary to protect and enhance pedestrian or vehicle traffic for public use in and around the Parklet area, as that space is determined by the City of Berkeley Engineering Division of the Department of Public Works, or its successor.

2. Parklets shall comply with applicable Americans with Disabilities Act (ADA) accessibility standards.

3. Objects permitted under this Section shall not:

a. Unduly interfere with access by public employees and utility workers to meters, fire hydrants or other objects (street hardware) in the right-of-way;

b. Block or obstruct the view of necessary authorized traffic devices;

c. Unduly interfere with pedestrian traffic in the right-of-way, including the Sidewalk, pedestrian safety, traffic circulation, and/or vehicular safety;

d. Be closer than 25 feet to any curb return or fire hydrant; except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, a parklet, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate;

e. Be affixed to any City or utility company-owned poles or appurtenances;

f. The width of the Parklet must not extend beyond six feet from the curb line, except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, a Parklet, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate.

4. All Parklets shall be subject to the following additional standards and requirements:

- a. Parklets must remain publicly accessible and must include signage posted on site to this effect;
- b. Parklet construction materials must be of high quality, durable, and suitable for public use;
- c. A visible edge to the Parklet is required, which may consist of Planters, railing, or cabling. The edges should be visually permeable;
- d. The Permittee shall regularly inspect and clean the Parklet and that portion of the public sidewalk adjacent to the Parklet;
- e. Access panels must be included in order to maintain the gutter and area underneath the Parklet and the design must allow for drainage along the gutter to pass underneath the Parklet;
- f. Safe hit posts and wheel stops, or approved equivalents, may be required. If Bike Parking is provided, the bike racks can be at street grade;

5. All Benches, Furniture, and Planters within the Parklet shall be subject to the following additional standards and requirements:

- a. All proposals shall comply with any design requirements adopted by the City for Benches, Planters and/or plant material;
- b. All non-secured Parklet components shall be stored in a secure location on private property when not in use;
- c. Any unsecured Furniture must be clearly different from the Furniture used by a Parklet Host in order to emphasize that the Parklet is public space, as determined by City staff;

D. All permits issued under this Section shall be subject to the following conditions:

1. The Permittee shall be responsible for, and exercise reasonable care in the inspection, maintenance, and cleanliness of the area affected by any object(s) permitted by this Section, including any design requirements hereafter enacted, from the building frontage to the right-of-way, including the Parklet area.
2. The Permittee shall restrict any objects permitted under this Section to the approved location(s) and configuration, ensure compliance with all applicable laws, and the number and configuration of Benches, Furniture and Planters and overall square footage of the Parklet shall not be modified without prior approval of the Public Works Department.

3. When any objects permitted under this Section are found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any existing or proposed City design plans, those objects shall, upon written demand of the City Manager or his or her designee, be removed or relocated in such a way as to eliminate the conflict, at the sole expense of the Permittee. Should the Permittee fail to comply with said written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the Permittee. Any such non-compliance shall also be a violation of this Section.

4. Permits issued under the Section, when under review prior to issuance shall be posted in plain view within the sponsoring establishment(s) for which the permit has been issued. Public notice, permitting, and appeal for Parklets are set forth in BMC Section 16.18.060 (Permit procedure for minor encroachment) of the Berkeley Municipal Code. Section D (4) is not applicable in cases of declared local emergency due to disease outbreak. Upon termination of a declared local emergency due to disease outbreak within 365 days, a permittee must:

- a. pay the permit fee for a minor encroachment and comply with all the requirements of this Section and Section 16.18.060, except that public notice requirements shall not be required; or
- b. apply for a Sidewalk Seating Permit pursuant to BMC Section 14.48.150, and pay initial annual outdoor commerce use fee (the application permit fee for transitioning permits will be waived); or
- c. remove the Parklet from the public right-of-way.

5. By accepting a permit under this Section, the Permittee explicitly agrees to hold the City, its officers and employees harmless from any liability, claims, suits or actions for any and all damages alleged to have been suffered by any person or property by reason of the Permittee's installation, operation, maintenance or removal of the Parklet, Benches and/or Planters.

6. Prior to permit approval, the Permittee shall demonstrate possession of liability insurance, in the amount not less than \$1,000,000, for the Parklet including any associated Benches, Planters and Furniture. Said insurance shall name the City of Berkeley as an additional insured and shall be in a form acceptable to the City Attorney.

7. The City Manager or their designee may require a performance bond to ensure Parklet removal in the event of a permit cancellation.

8. The Permittee shall monitor and control the use of the Parklet to prevent disturbance of the surrounding neighborhood.

9. A Sponsoring Business or other business is not permitted to perform table service at a Parklet or otherwise incorporate a Parklet into its business operations. Section D (9) is not applicable in cases of declared local emergency due to disease

outbreak.

10. Commercial signage, smoking, and advertising are prohibited at Parklets.

E. Parklets, Benches and/or Planters that are not permitted under this Section are prohibited encroachments under Chapter 16.18, and shall constitute public nuisances subject to the remedies in Chapter 1.26.

F. The City Council may by resolution establish or waive fees and guidelines for the implementation and administration of this Section.

Section 2. That Berkeley Municipal Code Section 16.18.010 is amended to read as follows:

**16.18.010 Definitions.**

A. "Encroach" means constructing or placing permanent structures or improvements over, upon, under, or using any public right-of-way or watercourse in any manner other than its intended use.

B. "Encroachment" shall include any of the following acts:

1. Erecting or maintaining any flag, banner, decoration, post, sign, pole, fence, guard-rail, wall, loading platform, mailbox, pipe, conduit, wire, or other structure on, over, or under a public right-of-way;

2. Constructing, placing, or maintaining, on, over, under, or within the public right-of-way any subsurface drainage structure or facility, any pipe, conduit, wire or cable;

C. "Major encroachment" means any permanent improvement attached to a structure or constructed in place so that it projects into the public right-of-way such as basement vaults, earth retaining structures over three feet above grade, structure connected planter boxes, ramps, or fences over six feet above grade Improvements identified in chapters 16.04, 16.24 and 17.16, and. any items conforming to the Berkeley Building Code, shall not be considered Major encroachments. Projections over any part of the public right-of-way that are not permitted by or which are in excess of the limitations specified in the Berkeley Building Code shall also be classified as major encroachments, including theatre marquees, signs suspended above the sidewalk, oriel windows, balconies, cornices and other architectural projections.

D. "Minor encroachment" means encroachment into the public right-of-way resting on or projecting into the sidewalk area such as: subsurface tiebacks and soil nails; concrete stairs; disabled Access Ramps where more than six feet of sidewalk area is preserved; subsurface foundations extending less than 2 feet from the property line; level landings for garages; landscape features less than two feet in height; conduit for privately owned phone and data lines connecting buildings owned by the permittee; flower pots; permanent planter boxes; clocks; bus shelters; phone booths; bike racks; fences less

than six feet above grade; earth retaining structures less than three feet above grade; benches; Parklets, as defined in Section 14.48.190; and curbs around planter areas. Any encroachment which is not a minor encroachment is a major encroachment. During a declared City emergency in response to a disease outbreak, a Parklet shall be considered a temporary structure not subject to the encroachment permit requirement and shall be permitted with an engineering permit.

E. "Assistant City Manager for Public Works" includes the Deputy City Manager, Public Works Director and/or his/her authorized delegate.

F. "Permittee" means any person(s) firm, company, corporation, association, public agency, public utility, or organization and the permittee's successors-in-interest which has been issued a permit for said encroachment by the Assistant City Manager for Public Works. All obligations, responsibilities, and other requirements of the permittee as herein described, shall be binding on successors in interest of the original permittee and subsequent owners of the property benefitted by the encroachment unless otherwise specified in the permit.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way within fifteen calendar 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 June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.

ORDINANCE NO. 7,778-N.S.

AMENDING CHAPTER 14.48 MISCELLANEOUS USE OF STREETS AND SIDEWALKS  
OF THE BERKELEY MUNICIPAL CODE

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

Section 1. Findings.

The Council of the City of Berkeley hereby finds and determines as follows:

A. During the declared local emergency due to the COVID-19 pandemic, the City permitted Sidewalk Seating in all parts of the public right-of-way in order to allow businesses to survive while also maintaining appropriate social distancing measures.

B. Following the termination of the local emergency, the City desires to continue allowing Sidewalk Seating in all parts of the public right-of-way, subject to conditions set forth in BMC 14.48.150.

C. The City expects that such outdoor commerce will result in a decrease in parking meter revenues, as parking spaces will be used for business operations rather than parking.

D. The City is obligated to maintain revenue from operation of its off-street parking enterprise and its parking meter enterprise sufficient to meet rate covenants in the Installment Sale Agreement, dated as of August 1, 2016 related to the \$33,970,000 Berkeley Joint Powers Financing Authority Parking Revenue Bonds, Series 2016.

E. In order to maintain sufficient parking meter revenue, the amended Berkeley Municipal Code Section 14.48.150 implements a new Outdoor Commerce Use Fee which shall be equivalent to the expected block face parking revenue from the parking spaces used by the Sidewalk Seating permittee, and shall be treated as Parking Meter Fund revenue.

F. By charging the Sidewalk Seating permittee the equivalent of the parking meter rate for the use of parking spaces, the Outdoor Commerce Use Fee is no more than necessary to cover the costs to the City of providing parking spaces for outdoor commerce, and bears a fair and reasonable relationship to the benefit received by the Sidewalk Seating permittee.

Section 2. That Berkeley Municipal Code Section 14.48.150 is amended to read as follows:

**14.48.150 Sidewalk seating, benches and planters.**

A. Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve

Sidewalk Seating, Benches and/or Planters on sidewalks, parking lanes, street areas, and other public right of way locations as set forth in, and in compliance with, this Section.

1. No permit may be issued under this Section for any sidewalk area in front of a single parcel if there are any current violations of this Chapter in that sidewalk area.
2. A permit for Sidewalk Seating, Benches and/or Planters may not be issued unless the business for which the Sidewalk Seating, Benches and/or Planters is/are proposed is in full compliance with Title 23 and any Permit issued thereunder.
3. Sidewalk Seating and Outdoor Commerce shall require a Sidewalk Seating engineering permit, renewed annually.
4. Businesses conducting Outdoor Commerce in a parking lane shall additionally pay an annual Outdoor Commerce Use Fee in exchange for using public parking spaces for business operations.
5. Sidewalk Seating shall be permitted in any area of the public right-of-way if City Staff makes a finding that the use of the right-of-way for Sidewalk Seating purposes does not create a dangerous condition for customers, pedestrians, or bicycle or motor vehicle traffic. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate.
6. Upon termination of any declared City emergency, any Sidewalk Seating present in the public right-of-way and not on the sidewalk shall within (365) days of date of termination either obtain a valid Sidewalk Seating Engineering Permit and pay the Outdoor Commerce Use Fee or be removed from the public right-of-way.

B. For purposes of this Chapter, the following terms shall be defined as follows:

1. "Bench" means a seat designed for two or more persons.
2. "Block Face" means one side of one block, e.g., the north side of Center Street between Milvia Street and Shattuck Avenue.
3. "Bus Bench" means a bench installed and maintained under an agreement between the City, A.C. Transit and Lamar Transit Advertising or another public or semi-public transit provider.
4. "Commercial Establishment" means, but is not limited to, a place where Business Activity is established. Business activity is defined as any activity subject to BMC Chapter 9.04 and any economic activity which generates receipts but is exempt from BMC Chapter 9.04 by state or federal law.
5. "District-wide Sidewalk Bench/Planter Area Plan" means a City-approved plan



for a specific commercial district as defined in said plan that establishes area-specific regulations for benches, planters and/or plant material, and establishes general regulations for the placement of benches and planters in the public right-of-way, for the designated district.

6. "District-wide Sidewalk Seating Area Plan" means a City-approved plan for a specific commercial district as defined in said plan that establishes area-specific regulations for sidewalk seating, and establishes general regulations for the placement of sidewalk seating in the public right-of-way, for the designated district.

7. "Food Service Establishment" has the same meaning as set forth in BMC Chapter 23F.04.

8. "Furniture" means amenities such as but not limited to tables, chairs, benches, and other equipment that facilitates the stationary use of sidewalk, parking lanes, street area, and other public right of way spaces.

9. "Outdoor Commerce" means Sidewalk Seating in the public right of way.

10. "Outdoor Commerce Use Fee" means an annual fee for the use of the parking lane for Sidewalk Seating.

11. "Planter" means a container that is designed or used for growing plants.

12. "Parking Lane" and "Street Area" are considered to be part of the Public right-of-way (PROW), known as, "any public street, public way, public place or rights-of-way, now laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, owned, operated and/or controlled by the City or subject to an easement owned by City and any privately-owned area within City's jurisdiction which is not yet, but is designated as a proposed public place on a tentative subdivision map approved by City." as defined in BMC 23F.04.010.

13. "Sidewalk" has the same meaning as set forth in BMC 1.04.010(18).

14. Sidewalk Seating" means tables and/or chairs (including benches) and, umbrellas and other associated furniture with lawfully operating Food Service Establishments or other commercial establishments, in or on the sidewalk. "Sidewalk Seating" includes seating and associated furniture in the public right-of-way or resting on, or projecting into, the sidewalk, parking lane, or street area, or any combination thereof which are not physically or structurally attached to a building, retaining wall or fence.

15. "Transit Stop" means an AC Transit bus stop, UC Berkeley bus stop, a paratransit bus stop, Bay Area Rapid Transit station entrance, or another public transit provider.

16. "Window Box Planter" means a box, designed to hold soil for growing plants,

attached at or on a windowsill.

C. Sidewalk Seating, Benches and Planters shall fully conform to the following requirements of this subdivision:

1. Any object permitted under this Section shall leave a minimum horizontal clear space of six feet for ADA-compliant path of travel, (or reduce to 5 feet at a single point of contact) or such greater (or smaller) amount of clear space as the Engineering Division finds necessary to protect and enhance pedestrian and vehicle traffic for public use in the sidewalk area, as that space is determined by the City of Berkeley Engineering Division of the Department of Public Works, or its successor.

2. Objects permitted under this Section shall not:

a. Unduly interfere with access by public employees and utility workers to meters, fire hydrants or other objects (street hardware) in the right-of-way;

b. Block or obstruct the view of necessary authorized traffic devices;

c. Unduly interfere with pedestrian traffic in the public ROW/sidewalk, pedestrian safety, access to public or private parking, traffic circulation, and/or vehicular safety;

d. Be closer than 25 feet to any curb return or fire hydrant; except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, Sidewalk Seating, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshal as appropriate;

e. Be affixed to any City or utility company-owned poles or appurtenances;

3. All sidewalk seating shall be subject to the following additional standards and requirements:

a. All Sidewalk Seating configurations shall comply with applicable Americans with Disabilities Act (ADA) accessibility standards.

b. All Sidewalk Seating components shall be stored in a secure location when not in use.

c. The permittee shall regularly inspect and clean the Sidewalk Seating and that portion of the public sidewalk adjacent to the establishment. A waste receptacle shall be provided.

4. All benches and planters shall be subject to the following additional standards and requirements:

a. All proposals shall comply to the greatest extent possible with any design requirements adopted by the City for benches, planters and/or plant material.

D. All permits issued under this Section shall be subject to the following conditions:

1. The permittee shall be responsible for, and exercise reasonable care in the inspection, maintenance, and cleanliness of the area affected by any object(s) permitted by this Section, including any design requirements hereafter enacted, from the building frontage to the curb, parking lane, or street area.

2. The permittee shall restrict any objects permitted under this Section to the approved location(s) and configuration, and ensure compliance with all applicable laws, and the number of tables and chairs shall not be increased without prior approval of the Public Works or Public Health Department.

3. When any objects permitted under this Section are found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any existing or proposed City design plans, those objects shall, upon written demand of the City Manager or their designee, be removed or relocated in such a way as to eliminate the conflict. Should the permittee fail to comply with said written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the permittee. Any such non-compliance shall also be a violation of this Section.

4. Permits issued under the Section shall be posted in plain view within the commercial establishment for which the permit has been issued along with any other relevant permits that support health and safety of patrons and the general public.

5. By accepting a permit under this Section, the permittee explicitly agrees to hold the City, its officers and employees harmless from any liability, claims, suits or actions for any and all damages alleged to have been suffered by any person or property by reason of the permittee's installation, operation, maintenance or removal of Sidewalk Seating, Furniture, Benches and/or Planters.

6. Prior to permit approval, the permittee shall demonstrate possession of liability insurance in the amount of \$1,000,000 for Benches and Planters, and related Sidewalk Seating furniture. Said insurance shall name the City of Berkeley as additionally insured and shall be in a form acceptable to the City Attorney.

7. The permittee shall monitor and control the use of the Sidewalk Seating so as to prevent disturbance of the surrounding neighborhood.

8. A food service establishment that proposes to serve alcoholic beverages within an outdoor dining area shall comply with the standards established by the State of California Department of Alcoholic Beverage Control. The dining area shall be:

a. Physically defined and clearly part of the commercial establishment it serves; and

b. Supervised by a commercial establishment employee to ensure compliance with laws regarding the on-site consumption of alcoholic beverages.

E. Permits under this Section are not transferable, and must be renewed annually.

F. Sidewalk Seating, Benches, Furniture, and/or Planters that are not permitted under this Section are prohibited encroachments under Chapter 16.18, and shall constitute public nuisances subject to the remedies in Chapter 1.26.

G. The City Council may by resolution establish or waive fees for the implementation and administration of this Section. Outdoor Commerce Use Fees shall be equivalent to the expected block face parking revenue from the parking spaces used by the permittee, and shall be treated as Parking Meter Fund revenue.

Section 3. 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 fifteen calendar days of adoption, copies of this Ordinance shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 15, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Robinson, Taplin and Arreguin.

Noes: None.

Abstain: Harrison and Wengraf.

Absent: None.



Office of the City Manager

CONSENT CALENDAR  
June 29, 2021

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Mark Numainville, City Clerk  
Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the council meetings of May 11, 2021 (regular), May 13, 2021 (closed), May 18, 2021 (closed and special), May 20, 2021 (closed) and May 25, 2021 (closed and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. May 11, 2021 – Regular City Council Meeting
2. May 13, 2021 – Closed City Council Meeting
3. May 18, 2021 – Closed City Council Meeting
4. May 18, 2021 – Special City Council Meeting
5. May 20, 2021 – Closed City Council Meeting
6. May 25, 2021 – Closed City Council Meeting
7. May 25, 2021 – Regular City Council Meeting

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, May 11, 2021**  
**6:00 PM**

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 – LORI DROSTE

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

*Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/84138848278>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **841 3884 8278**. 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 teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*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. 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:** 6:02 p.m.

**Present:** Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Taplin

Councilmember Taplin present at 6:07 p.m.

### Ceremonial Matters:

1. Recognition of Affordable Housing Week
2. Recognition of Former Board of Library Trustees Member Judy Hunt
3. Adjourned in Memory of Elizabeth Valoma, Cheeseboard Collective Founder
4. Adjourned in Memory of Two Victims of a Fatal Vehicle Accident on Marin Avenue

### City Manager Comments:

The City Manager gave a presentation on the process for selecting the next Chief of Police.

**Public Comment on Non-Agenda Matters:** 6 speakers.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 9 speakers.

**Action:** M/S/C (Arreguin/Hahn) to accept revised materials from councilmember Harrison on Item 23.

**Vote:** Ayes: Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin;  
Noes – None; Abstain – None; Absent – Kesarwani.

Councilmember Kesarwani absent 6:40 p.m. – 6:43 p.m.

**Action:** M/S/C (Droste/Hahn) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

## Consent Calendar

- 1. Adopt an Ordinance Adding Chapter 2.100 to the Berkeley Municipal Code Regulating Police Acquisition and Use of Controlled Equipment** *(Reviewed by the Public Safety Policy Committee)*  
**From: Councilmember Harrison (Author), Councilmember Bartlett (Author), Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Adopt second reading of Ordinance No. 7,760-N.S. adding Chapter 2.100 to the Berkeley Municipal Code to Regulate Police Acquisition and Use of Controlled Equipment.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** Staff time  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Adopted second reading of Ordinance No. 7,760-N.S.
- 2. Amendment: FY 2021 Annual Appropriations Ordinance**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance amending the FY 2021 Annual Appropriations Ordinance No. 7,748-N.S. for fiscal year 2021 based upon recommended re-appropriation of committed FY 2020 funding and other adjustments in the amount of \$76,221,382 (gross) and \$51,227,368 (net).  
**Financial Implications:** See report  
Contact: Rama Murty, Budget Office, (510) 981-7000  
**Action:** Adopted first reading of Ordinance No. 7,761-N.S. Second reading scheduled for May 25, 2021.
- 3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on May 11, 2021**  
**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 - \$1,800,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.
- 4. Contract: The Wright Institute for Mental Health Counseling for Older Adults**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to enter into an expenditure contract and any amendments or extensions thereto with The Wright Institute for the term July 1, 2021 to June 30, 2022 with two additional one (1)-year renewal options, for an expenditure not to exceed \$300,000 to fund the cost of providing mental health counseling services to older adults in the Berkeley community.  
**Financial Implications:** See report  
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 69,834-N.S.



## Consent Calendar

- 5. Contract No. 110062 Amendment: Pacific Site Management for Landscaping Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 110062 with Pacific Site Management for landscaping services adding \$146,304 for a total not to exceed amount of \$355,822 ending June 30, 2022.  
**Financial Implications:** Various Funds - \$146,304  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,835–N.S.
- 6. Contract No. 32000240 Amendment: Berkeley Unified School District for Mental Health MHSA-Funded Programs**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32000240 with Berkeley Unified School District (BUSD) to provide Mental Health Services Act (MHSA) funded programs in local schools through June 30, 2021 in an amount not to exceed \$637,778. This amendment will add one year to the contract term and \$245,000 in funding.  
**Financial Implications:** Mental Health Services Act Fund - \$245,000  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,836–N.S.
- 7. Contract No. 32000236 Amendment: GoGoGrandparent Technologies for Provision of Transportation Services for Seniors and the Disabled**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32000236 with GoGoGrandparent Technologies to add \$55,000 to the original amount for a total not to exceed amount of \$90,000 for the period of July 1, 2021 through June 30, 2022 for the provision of a 24/7 call center to arrange rides with Uber and Lyft for customers of Aging Services Division’s Berkeley Rides for Seniors & the Disabled program.  
**Financial Implications:** Measure BB Direct Local Distribution Fund - \$55,000  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,837–N.S.

## Consent Calendar

### 8. Revenue Grant Agreements: Funding Support from Alameda County to Conduct Public Health Services

**From: City Manager**

**Recommendation:** Adopt four Resolutions authorizing the City Manager or her designee to submit grant agreements to Alameda County, to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the following four revenue agreements:

1. Foster Care Program in the projected amount of \$93,187 for FY 2022.
2. Berkeley High School and Berkeley Technology Academy Health Center Programs in the projected amount of \$178,778 for FY 2022.
3. School Linked Health Services Program (Measure A Funding) in the projected amount of \$193,175 for FY 2022.
4. Tobacco Prevention Program in the projected amount of \$76,290 for FY 2022.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 69,838–N.S. (Foster); Resolution No. 69,839–N.S. (BHS/BTAHC); Resolution No. 69,840–N.S. (Linked); and Resolution No. 69,841–N.S. (Tobacco).

### 9. Revenue Grant Agreements: Funding Support from Essential Access Health to Conduct Public Health Services

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to Essential Access Health, to accept the grant, execute any resultant revenue agreement and amendment, and implement the projects and appropriation of funding for related expenses to conduct public health promotion, protection, and prevention services for the Essential Access Health revenue agreement in the projected amount of \$180,000 for April 1, 2021 to March 30, 2022.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 69,842–N.S.

### 10. Salary: Accountant II Internal Alignment

**From: City Manager**

**Recommendation:** Adopt a Resolution amending Resolution No. 68,626 N.S. Classification and Salary Resolution for Service Employees International Union Local 1021 Community Services and Part-Time Recreation Leaders Association, to increase the salary range for Accountant II, 6.8%, to an hourly salary range of \$45.6375 - \$54.1916 effective March 30, 2021.

**Financial Implications:** See report.

Contact: LaTanya Bellow, Human Resources, (510) 981-6800

**Action:** Adopted Resolution No. 69,843–N.S.

## Consent Calendar

11. **Contract: Digital Hands for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a contract and subsequent amendments with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM) services, increasing the previously authorized contract amount by \$209,980 for a revised not to exceed amount of \$614,980, and a term from May 14, 2021 to June 30, 2024.  
**Financial Implications:** Various Funds - \$209,980  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,844–N.S.
12. **Mills Act Contract – 1 Orchard Lane**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Gregory LeBlanc for the City Landmark property at 1 Orchard Lane.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 69,845–N.S.
13. **Mills Act Contract – 1581 Le Roy Avenue**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Samuli Seppälä for the City Landmark property at 1581 Le Roy Avenue.  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** Adopted Resolution No. 69,846–N.S.
14. **Amending the 1956 Maintenance Agreement with Caltrans and Transfer of Property for I-80 Gilman Interchange Project**  
**From: City Manager**  
**Recommendation:** Adopt two resolutions authorizing the City Manager to:  
1. Negotiate and execute an amendment to the 1956 Freeway Maintenance Agreement between City of Berkeley and Caltrans to include planned new I-80/Gilman Interchange facilities; and  
2. Transfer two portions of the City’s right of way on Gilman Street to Caltrans under Section 83 of Streets and Highway Code.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,847–N.S. (Agreement); and Resolution No. 69,848–N.S. (Transfer).

## Council Consent Items

- 15. Support of AB 550 – Speed Safety Cameras**  
**From: Mayor Arreguin (Author), Councilmember Droste (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Councilmember Robinson (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of AB 550 (Chiu), which would establish guidelines to pilot speed safety programs on dangerous local streets and active state or local work zones, and requesting that Berkeley be included as one of the pilot cities in the bill. Send a copy of the Resolution to Assemblymembers David Chiu and Buffy Wicks, State Senator Nancy Skinner and Governor Gavin Newsom.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 69,849–N.S.
- 16. Support of AB 43 – Safe Streets and Work Zones Act of 2021**  
**From: Mayor Arreguin (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of AB 43 (Friedman), which gives local jurisdictions more flexibility in reducing speed limits on streets with a high rate of injuries and fatalities. Send a copy of the Resolution to Assemblymembers Laura Friedman and Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 69,850–N.S.
- 17. Support of AB 629 - Seamless and Resilient Transit Act**  
**From: Mayor Arreguin (Author), Councilmember Kesarwani (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of AB 629 (Chiu), which would require the Metropolitan Transportation Commission to designate transit priority corridors to support fast and reliable transit service and to create a pilot of a multi-operator transit fare pass. Send a copy of the Resolution to Assemblymembers David Chiu and Buffy Wicks, State Senator Nancy Skinner and Governor Gavin Newsom.  
**Financial Implications:** None.  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Councilmember Harrison added as a co-sponsor. Adopted Resolution No. 69,851–N.S.

## Council Consent Items

- 18. Amending COVID-19 Emergency Response Ordinance Relating to Commercial Leases**  
**From: Mayor Arreguin (Author)**  
**Recommendation:** Adopt an urgency ordinance amending Berkeley Municipal Code Section 13.110.050 (COVID-19 Emergency Response Ordinance) to exempt from the provisions of the ordinance commercial leases where the lease term has expired and the City has issued a permit for the demolition or substantial alternation of the commercial unit.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Urgency Ordinance No. 7,762–N.S.
- 19. Commit to C40 Race to Zero Campaign**  
**From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution committing the City of Berkeley to the C40 Race to Zero Campaign.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Councilmember Bartlett added as a co-sponsor. Adopted Resolution No. 69,852–N.S.
- 20. Proclaiming May 2021 as Mental Health Month**  
**From: Councilmember Taplin (Author), Mental Health Commission**  
**Recommendation:** Adopt a Resolution proclaiming May 2021 as Mental Health Month in the City of Berkeley.  
**Financial Implications:** None.  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120; Jamie Works-Wright, Commission Secretary, (510) 981-5400  
**Action:** Adopted Resolution No. 69,853–N.S.
- 21. Resolution in Support of Green New Deal for Cities Act of 2021**  
**From: Councilmember Taplin (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a resolution in support of the Green New Deal for Cities, Counties, States, Tribes, and Territories by Reps. Cori Bush (D-MO) and Alexandria Ocasio-Cortez (D-NY), cosponsored by California’s 13th Congressional District Rep. Barbara Lee (D-CA), representing Berkeley.  
**Financial Implications:** None.  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Councilmember Harrison and Mayor Arreguin added as co-sponsors. Adopted Resolution No. 69,854–N.S.

## Council Consent Items

**22. Budget Referral: Traffic Calming of West Berkeley Pedestrian and Cyclist Crossings**

**From: Councilmember Taplin (Author)**

**Recommendation:** That the City Council refers to the budget process the funding of traffic calming improvements as follows: Rectangular Rapid Flashing Beacons: Ashby Way and California Street; Sacramento Street and Channing Way; Cedar Street and Ninth Street; Sixth Street and Channing Way. Pedestrian Hybrid Beacons: Sacramento Street and Russell Street; Channing Way and San Pablo Avenue.

**Financial Implications:** See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

**Action:** Approved recommendation as revised in Supplemental Communications Packet #2 from Councilmember Taplin.

**23. Support for Roadmap Home 2030 Plan**

**From: Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)**

**Recommendation:** Adopt a resolution affirming the importance of a multifaceted approach to addressing the housing crisis by endorsing the Roadmap Home 2030 plan and sending a letter to state lawmakers urging them to adopt the recommendations of the plan.

**Financial Implications:** None

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

**Action:** Councilmembers Bartlett and Hahn added as co-sponsors. Adopted Resolution No. 69,855–N.S. as revised in the supplemental material submitted at the meeting by Councilmember Harrison.

**24. Resolution in support of AB 1289, Smart Climate Agriculture Program and AB 558, California School Plant-based Food and Beverage Program**

**From: Councilmember Hahn (Author), Councilmember Harrison (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**

**Recommendation:** Adopt a resolution in support of Assembly Bill 1289, Smart Climate Agriculture Program and Assembly Bill 558, California Plant-based Food and Beverage Program.

**Financial Implications:** None

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

**Action:** Adopted Resolution No. 69,856–N.S.

## Council Consent Items

**25. Support for SB-15**

**From: Councilmember Wengraf (Author), Councilmember Kesarwani (Co-Sponsor), Councilmember Harrison (Co-Sponsor)**

**Recommendation:** Send a letter of support for SB 15 (Portantino) Housing development: incentives: rezoning of idle retail sites, to Senators Portantino and Skinner, Assemblymember Wicks and Governor Newsom. SB 15 would incentivize affordable housing creation by providing grants to local governments who rezone idle retail sites to allow for affordable housing development.

**Financial Implications:** None

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

**Action:** Approved recommendation.

**26. Support for Senator Warren’s Student Loan Debt Relief Act (S.2235)**

**From: Councilmember Robinson (Author), Councilmember Hahn (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**

**Recommendation:** Refer to the Council to adopt a resolution in support of Senator Elizabeth Warren’s Student Loan Debt Relief Act, which would cancel student loan debt to promote economic growth and reduce wealth gaps.

**Financial Implications:** None

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

**Action:** Councilmember Taplin added as a co-sponsor. Adopted Resolution No. 69,857–N.S.

**27. Support for AB 1238 and AB 122**

**From: Councilmember Robinson (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Droste (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**

**Recommendation:** Send letters to Senator Nancy Skinner, Assemblymember Buffy Wicks, and the bills’ authors in support of AB 1238 and AB 122, which would repeal jaywalking laws and allow bicyclists to treat stop signs as yield signs.

**Financial Implications:** None

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

**Action:** Approved Recommendation.

## Action Calendar – Public Hearings

**28. Published Charges: Mental Health Clinical Services**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution establishing Published Charges for Mental Health Clinical Services for FY 2021. Published Charges are effective July 1, 2020.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.

M/S/C (Arreguin/Wengraf) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Harrison) to adopt Resolution No. 69,858–N.S.

**Vote:** All Ayes.

## Action Calendar – New Business

**29. Audit Report: Data Analysis of the City of Berkeley's Police Response**

**From: Auditor**

**Recommendation:** We recommend City Council request that the City Manager report back by November 16, 2021, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Police Department.

**Financial Implications:** None

Contact: Jenny Wong, Auditor, (510) 981-6750

**Action:** 19 speakers. Presentation made and discussion held. The Auditor will release an updated version of the Audit Report with revised information.

## Information Reports

**30. Berkeley Energy Commission Work Plan for 2021-2022**

**From: Energy Commission**

Contact: Billi Romain, Commission Secretary, (510) 981-7400

**Action:** Received and filed.

**31. Streets Audit Report Wins National Recognition**

**From: Auditor**

Contact: Jenny Wong, Auditor, (510) 981-6750

**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda – 6 speakers.**



## Adjournment

**Action:** M/S/C (Robinson/Harrison) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin;  
Noes – None; Abstain – None; Absent – Droste.

Councilmember Droste absent 9:09 p.m. – 9:12 p.m.

Adjourned at 9:12 p.m.

I hereby certify that the foregoing is a true and correct record of the regular session meeting held on May 11, 2021.

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Mark Numainville  
City Clerk

## Communications

### **Referral to the City Manager to Streamline Accessory Dwelling Unit (ADU) Permit Review and Approval**

1. Disaster and Fire Safety Commission

### **Budget and Policy Meeting**

2. Maria Yates (2)

### **Alta Bates Closure**

3. Mary Behm-Steinberg

### **Street Closure Request**

4. Teal Major

### **Police Funding**

5. Madeleine Surh

### **Hopkins Street Parking**

6. Councilmember Hahn

### **Understaffing of the Mobile Crisis Unit**

7. Mental Health Commission

**Arts Funding Budget**

- 8. Lise Quintana
- 9. Carol Lashof

**Parking Tickets**

- 10. Dawn Howard

**Civilians Making Traffic Stops**

- 11. Stephen Williams

**New Political Party**

- 12. Christopher Johnson

**Hiring Freeze – Politicians Using My Ideas**

- 13. Christopher Johnson

**Oppose FAA Route Change**

- 14. Verona Fonte
- 15. Ardys D.

**Facebook Money is Taking Over Our State**

- 16. Margot Smith

**Support for Legislative Aides**

- 17. Igor Tregub

**Linkedin Account Hacked**

- 18. Chimey Lee

**Black Lives Matter**

- 19. Thing4762@

**War Weapons**

- 20. George Killingsworth

**Agenda and Rules Committee**

- 21. Chimey Lee
- 22. Thomas Lord

**Tenant Opportunity Purchase Act (TOPA)**

- 23. Human Welfare and Community Action Commission
- 24. Todd Darling
- 25. Anna Iglitzin
- 26. Gen Fujioka
- 27. Igor Tregub, on behalf of the Sierra Club Northern Alameda County Group
- 28. Alex Bush

- 29. Kathleen Crandall
- 30. Alison Hamaji
- 31. Kira Findling
- 32. Giancarlo Tucci-Berube
- 33. Merrie Sennett
- 34. S. Omowale Fowles
- 35. Adam Krause
- 36. Glen Bell
- 37. 7 similarly-worded form letters

### **Supplemental Communications and Reports 1**

#### **Item #22: Budget Referral: Traffic Calming of West Berkeley Pedestrian and Cyclist Crossings**

- 38. West Berkeley Artisans & Industrial Companies

### **Supplemental Communications and Reports 2**

#### **Item #22: Budget Referral: Traffic Calming of West Berkeley Pedestrian and Cyclist Crossings**

- 39. Supplemental material, submitted by Councilmember Taplin

#### **Item #23: Support for Roadmap Home 2030 Plan**

- 40. Supplemental material, submitted by Councilmember Harrison
- 41. Supplemental material #2, submitted by Councilmember Harrison

#### **Item #29: Audit Report: Data Analysis of the City of Berkeley's Police Response**

- 42. Presentation, submitted by the Berkeley City Auditor
- 43. Janice Schroeder

### **Supplemental Communications and Reports 3**

#### **Item #22: Budget Referral: Traffic Calming of West Berkeley Pedestrian and Cyclist Crossings**

- 44. Chimey Lee

#### **Item #23: Support for Roadmap Home 2030 Plan**

- 45. Tony Corman

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING**

**THURSDAY, MAY 13, 2021**

**3:00 P.M.**

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 – LORI DROSTE

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this closed session meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/89118687489>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)**; enter Meeting ID: **891 1868 7489**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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## Preliminary Matters

**Roll Call:** 3:02 p.m.

**Present:** Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Kesarwani, Taplin, Bartlett

Councilmember Taplin present at 3:08 p.m.

Councilmember Bartlett present at 3:15 p.m.

Councilmember Kesarwani present at 3:21 p.m.

**Action:** M/S/C (Arreguin/Droste) to adopt a temporary rule to allow for one minute per speaker for public comment.

**Vote:** Ayes - Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent - Kesarwani, Taplin, Bartlett.

**Public Comment - Limited to items on this agenda only – 57 speakers**

## CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

### 1. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator, Burke Dunphy, Labor Negotiator, Jen Louis, Interim Chief of Police, Abe Roman, Interim Fire Chief.

Employee Organizations: International Brotherhood of Electrical Workers (IBEW), Local 1245, SEIU 1021 Community Services and Part-time Recreation Activity Leaders, Berkeley Fire Fighters Association Local 1227, Berkeley Police Association, Service Employees International Union, Local 1021 Maintenance and Clerical Chapters, Berkeley Fire Fighters Association, Local 1227 I.A.F.F./Berkeley Chief Fire Officers Association, Public Employees Union Local 1.

**Action:** No reportable action.

## OPEN SESSION:

No reportable action.

## Adjournment

**Action:** M/S/C (Arreguin/Droste) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Bartlett, Hahn, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Taplin, Harrison, Wengraf, Droste.

Adjourned at 6:16 p.m.

Councilmembers Taplin, Harrison, and Droste absent 6:14 p.m. – 6:16 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on May 13, 2021.

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Mark Numainville  
City Clerk

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL CLOSED MEETING**

**TUESDAY, MAY 18, 2021**

**5:00 P.M.**

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 – LORI DROSTE

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free); enter Meeting ID: 837 2379 5637. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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## Preliminary Matters

**Roll Call:** 5:03 p.m.

**Present:** Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Kesarwani, Taplin, Harrison

Councilmember Kesarwani present at 5:06 p.m.

Councilmember Taplin present at 5:10 p.m.

**Public Comment - Limited to items on this agenda only – No Speakers**

## CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

### 1. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(a) and 54956.9(d)(1)

*a. WCAB Case Number: #ADJ9183953.*

**Action:** M/S/C (Arreguin/Hahn) to provide direction to outside counsel to offer a settlement by Stipulated Award for 60% permanent disability (\$92,609.91) with an award of future medical care for bilateral shoulders, as to workers' compensation matter WCAB Case Number #ADJ9183953.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison.

*b. WCAB Case Numbers: # ADJ11329423 and ADJ11329404*

**Action:** M/S/C (Arreguin/Hahn) to provide direction to outside counsel to offer a settlement with a Compromise and Release up to \$165,000.00 to include these two cases, as well as future medical awards on 3 prior WCAB Cases # ADJ9324007, ADJ2132619, and ADJ110339 or to settle stipulations at \$48,140.00 with open future medical to psyche, cervical spine and Lumbar spine for DOI: 11/22/17, as to workers' compensation matters WCAB Case #s: ADJ11329423 & ADJ11329404.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison.

## OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1.

City Council gave direction as follows:

- a. City Council met in closed section Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a settlement by Stipulated Award for 60% permanent disability (\$92,609.91) with an award of future medical care for bilateral shoulders, as to workers' compensation matter WCAB Case Number #ADJ9183953.



- b. City Council met in closed section Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a settlement with a Compromise and Release up to \$165,000.00 to include these two cases, as well as future medical awards on 3 prior WCAB Cases # ADJ9324007, ADJ2132619, and ADJ110339 or to settle stipulations at \$48,140.00 with open future medical to psyche, cervical spine and Lumbar spine for DOI: 11/22/17, as to workers' compensation matters WCAB Case #: ADJ11329423 & ADJ11329404

## Adjournment

**Action:** M/S/C (Arreguin/Wengraf) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison.

Adjourned at 5:23 p.m.

This is to certify that the foregoing is a true and correct record of the closed session meeting on May 18, 2021.

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Michael MacDonald, Assistant City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

- None

## Supplemental Communications and Reports 3

- None

**MINUTES  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**Tuesday, May 18, 2021  
6:00 PM**

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 – LORI DROSTE

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 864 4947 9164. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

## Preliminary Matters

**Roll Call:** 6:03 p.m.

**Present:** Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** None

## Report from Closed Session

Item a) City Council met in closed session on May 18, 2021 Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a stipulated settlement of permanent disability with an award of lifetime future medical care, as to a workers' compensation matter WCAB Case Number: #ADJ9183953.

Item b) City Council met in closed session on May 18, 2021 Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a stipulated settlement of permanent disability with an award of lifetime future medical care, or in the alternative, by Compromise and Release with a release of future medical care, as to a workers' compensation matter WCAB Case Number: # ADJ11329423 and ADJ11329404.

## Action Calendar

### 1. Systems Alignment Proposal

**From:** City Manager

**Recommendation:** Direct the City Manager to bring back a resolution for adoption of the Systems Alignment proposal as described in this document and incorporating direction and input received from City Council during the worksession.

**Financial Implications:** See report

Contact: Dave White, City Manager's Office, (510) 981-7000

**Action:** M/S/C (Arreguin/Robinson) to accept supplemental materials from Councilmember Droste on Item 1.

**Vote:** All Ayes.

**Action:** 11 speakers. M/S/C (Arreguin/Hahn) to continue the item to the June 15, 2021 regular meeting to allow Councilmembers to submit written comments for the public record.

**Vote:** All Ayes.

Recess 8:02 p.m. – 8:13 p.m.

## Worksession

### 2. Updating Citywide Affordable Housing Requirements

**From: City Manager**

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:30 p.m.

**Vote:** All Ayes.

**Action:** 20 speakers. Presentation made and discussion held.

## Adjournment

Adjourned at 11:30 p.m.

I hereby certify that the foregoing is a true and correct record of the special session meeting held on May 18, 2021.

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Mark Numainville  
City Clerk

## Communications

- None

### Supplemental Communications and Reports 1

- None

### Supplemental Communications and Reports 2

- None

### Supplemental Communications and Reports 3

#### Item #1: System Alignment Proposal

1. Supplemental material, submitted by Councilmember Droste
2. Presentation, submitted by the City Manager

**MINUTES  
BERKELEY CITY COUNCIL  
CLOSED MEETING**

**THURSDAY, MAY 20, 2021**

**1:00 P.M.**

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 – LORI DROSTE

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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## Preliminary Matters

**Roll Call:** 1:37 p.m.

**Present:** Taplin, Bartlett, Harrison, Wengraf, Arreguin

**Absent:** Kesarwani, Hahn, Robinson, Droste

Councilmember Hahn present at 1:56 p.m.

Councilmember Robinson present at 1:56 p.m.

Councilmember Droste present at 2:19 p.m.

**Public Comment - Limited to items on this agenda only – 5 speakers**

## CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

### 1. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(a) and 54956.9(d)(1)

a. *Ruegg & Ellsworth v. City of Berkeley (Alameda Superior Court Case No. RG 18930003)*

**Action:** M/S/C (Arreguin/Hahn) to direct the City Attorney to file a petition for review with the California Supreme Court with respect to the case of Ruegg & Ellsworth v. City of Berkeley, Alameda County Superior Court Case No. RG18930003; First District Court of Appeal Case No. A159218.

**Vote:** All Ayes.

### 2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8

Property address: 199 Seawall Drive, Berkeley, CA 94710  
 Agency Negotiators: Dee Williams-Ridley, City Manager; Paul Buddenhagen, Deputy City Manager; Scott Ferris, Director, Parks Recreation and Waterfront; Christina Erickson, Deputy Director, Parks, Recreation, and Waterfront  
 Negotiating parties: City of Berkeley and Innovation Properties Group (IPG)  
 Property owner: City of Berkeley  
 Under negotiation: Price and terms

**Action:** Item continued to June 3, 2021.

### 3. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator, Burke Dunphy, Labor Negotiator, Jen Louis, Interim Chief of Police, Abe Roman, Interim Fire Chief.

Employee Organizations: International Brotherhood of Electrical Workers (IBEW), Local 1245, SEIU 1021 Community Services and Part-time Recreation Activity Leaders, Berkeley Fire Fighters Association Local 1227, Berkeley Police Association, Service Employees International Union, Local 1021 Maintenance and Clerical Chapters, Berkeley Fire Fighters

Association, Local 1227 I.A.F.F./Berkeley Chief Fire Officers Association, Public Employees Union Local 1.

**Action:** No reportable action taken.

## **OPEN SESSION:**

Public Reports of actions taken pursuant to Government Code section 54957.1.

The City Council met in closed session with respect to the case of Ruegg & Ellsworth v. City of Berkeley, Alameda County Superior Court Case No. RG18930003; First District Court of Appeal Case No. A159218 and directed the City Attorney to file a petition for review with the California Supreme Court.

## **Adjournment**

**Action:** M/S/C (Arreguin/Harrison) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Arreguin;  
Noes – None; Abstain – None; Absent – Wengraf, Robinson, Droste.

Adjourned at 3:58 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on May 20, 2021.

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Mark Numainville  
City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL SPECIAL MEETING**  
**TUESDAY, MAY 25, 2021**  
**3:30 P.M.**

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 – LORI DROSTE

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this closed session meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

*Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/89583335567>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free); enter Meeting ID: 895 8333 5567. 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 teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*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).*



## Preliminary Matters

**Roll Call:** 3:31 p.m.

**Present:** Bartlett, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, Arreguin

**Absent:** Droste

Councilmember Droste present at 4:00 p.m.

**Public Comment - Limited to items on this agenda only – 23 speakers.**

## CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

### 1. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator, Burke Dunphy, Labor Negotiator.

Employee Organizations: International Brotherhood of Electrical Workers (IBEW), Local 1245, SEIU 1021 Community Services and Part-time Recreation Activity Leaders, Berkeley Fire Fighters Association Local 1227, Berkeley Police Association, Service Employees International Union, Local 1021 Maintenance and Clerical Chapters, Berkeley Fire Fighters Association, Local 1227 I.A.F.F./Berkeley Chief Fire Officers Association, Public Employees Union Local 1.

**Action:** No reportable action taken.

### 2. PUBLIC EMPLOYEE APPOINTMENTS PURSUANT TO GOVERNMENT CODE SECTION 54957(b):

**a. Title of position to be filled:** Interim Director of the Police Accountability Board

**Action:** No reportable action taken.

## OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1.

No reportable action taken.

## Adjournment

**Action:** M/S/C (Arreguin/Robinson) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 7:36 p.m.

I hereby certify that the forgoing is a true and correct record of the special closed meeting of May 25, 2021 as approved by the Berkeley City Council.

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Rose Thomsen, Deputy City Clerk

**Communications**

- None

**Supplemental Communications and Reports 1**

- None

**Supplemental Communications and Reports 2**

- None

**Supplemental Communications and Reports 3**

**Item #1: CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE**

**SECTION 54957.6**

1. Nathan Dahl
2. Jose Rios
3. JC "Tino" Ratliff
4. Julia Wiswell
5. Sierra Gribble
6. Alberto Flores
7. Kong Chung
8. Gordon Hansen
9. Ammon Reagan
10. Lisa Cronin
11. Jim Frank
12. Veena Channon
13. Merlin Edwards II
14. Hyojung Yoo
15. Franziska Gehrmann
16. Mike Uberti
17. Jef Findley
18. Sharon Gong
19. Rodolfo Tapia, Jr.
20. Rebecca Milliken
21. Marna Schwartz
22. Danielle Linsy
23. Glenn Ingersoll
24. Amanda Montez
25. David Montez
26. Juan Castille
27. Mark Sproat

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, May 25, 2021**  
**6:00 PM**

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 – LORI DROSTE

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

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*To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and enter Meeting ID: **890 7453 3623** If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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*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. 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:** 7:51 p.m.

**Present:** Kesarwani, Taplin, Bartlett, Harrison, Wengraf, Robinson, Droste, Arreguin

**Absent:** Hahn

Councilmember Hahn present at 7:52 p.m.

## Report from Closed Session

The City Council met in closed session with respect to the case of Ruegg & Ellsworth v. City of Berkeley, Alameda County Superior Court Case No. RG18930003; First District Court of Appeal Case No. A159218 and directed the City Attorney to file a petition for review with the California Supreme Court.

## Ceremonial Matters:

1. Recognition of AAPI Youth Rising
2. Recognition of Elder Abuse Awareness Month
3. Adjourned in Memory of Tim Wallace, Local Activist
4. Adjourned in Memory of Anthony Rollins and Ruby Edwards, Berkeley Residents
5. Adjourned in Memory of George Floyd

## City Manager Comments:

The City Manager provided an update on the Reimagining Public Safety Process.

**Public Comment on Non-Agenda Matters:** 10 speakers.

## Consent Calendar

**Action:** M/S/C (Arreguin/Wengraf) to accept an urgency item from Councilmember Wengraf pursuant to Government Code Section 54954.2(b)(2) entitled Budget Referral: Funding for Traffic Control Mitigations to Protect Pedestrian Access to Cragmont Elementary School.

**Vote:** All Ayes.

**Public Comment on Consent Calendar and Information Items Only:** 13 speakers.

**Action:** M/S/C (Arreguin/Robinson) to adopt Item 6 - Assessments: North Shattuck Property Based Business Improvement District.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison (Recused – Leaseholder within 500 feet of BID boundary)

## Consent Calendar

**Action:** M/S/C (Arreguin/Hahn) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

**Urgency Item: Budget Referral: Funding for Traffic Control Mitigations to Protect Pedestrian Access to Cragmont Elementary School**

**From: Councilmember Wengraf (Author), Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor) Mayor Arreguin (Co-Sponsor)**

**Recommendation:** Refer to the Fiscal Year 2022/2023 Budget Process an allocation of \$150,000 for traffic control measures on streets surrounding Cragmont Elementary School, with an emphasis on Marin Avenue, and Spruce Ave to provide as much protection as possible to children, parents, teachers, staff and neighbors accessing the school.

**Financial Implications:** \$150,000

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

**Action:** Approved recommendation.

**1. Amendment: FY 2021 Annual Appropriations Ordinance**

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,761-N.S. amending the FY 2021 Annual Appropriations Ordinance No. 7,748-N.S. for fiscal year 2021 based upon recommended re-appropriation of committed FY 2020 funding and other adjustments in the amount of \$76,221,382 (gross) and \$51,227,368 (net).

**First Reading Vote:** All Ayes.

**Financial Implications:** See report

Contact: Rama Murty, Budget Office, (510) 981-7000

**Action:** Adopted second reading of Ordinance No. 7,761–N.S.

**2. Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**

**From: City Manager**

**Recommendation:** Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021 and March 30, 2021.

**Financial Implications:** See report.

Contact: Farimah Brown, City Attorney, (510) 981-6950

**Action:** Adopted Resolution No. 69,859–N.S.

## Consent Calendar

### 3. Minutes for Approval

**From: City Manager**

**Recommendation:** Approve the minutes for the council meetings of April 13, 2021 (special), April 20, 2021 (special and regular), April 27, 2021 (regular) and April 29, 2021 (closed).

**Financial Implications:** None

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

**Action:** Approved the minutes as submitted.

### 4. Assessments: Berkeley Tourism Business Improvement District

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the Annual Report of FY21 and preliminary budget for FY22 for the Berkeley Tourism Business Improvement District (BTBID) as recommended by the BTBID Owners' Association.

**Financial Implications:** See report.

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

**Action:** Adopted Resolution No. 69,860–N.S.

### 5. Assessments: Downtown Berkeley Property Based Business Improvement District

**From: City Manager**

**Recommendation:** Adopt two Resolutions:

1. Approving the Downtown Berkeley Property Based Business Improvement District (DPBID) Annual Report of Fiscal Year (FY) 2021 and proposed budget for FY 2022, and declaring Council's intention to levy an annual assessment for the DPBID for FY 2022.

2. Authorizing the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA or "the Association") not to exceed \$7,285,257 of DPBID funds to support the Downtown area for the period July 1, 2021 to December 31, 2026, through the expiration of the DPBID.

**Financial Implications:** See report.

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

**Action:** Adopted Resolution No. 69,861–N.S. (DPBID Annual Report & Budget); Resolution No. 69,862–N.S. (Contract).

### 6. Assessments: North Shattuck Property Based Business Improvement District

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the North Shattuck Property Based Business Improvement District (NSBID) Annual Report of Fiscal Years (FYs) 2021 & 20 and proposed budget for FY 2022, and declaring Council's intention to levy an annual assessment for the NSBID for FY 2022.

**Financial Implications:** See report.

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

**Action:** Adopted Resolution No. 69,863–N.S.

## Consent Calendar

7. **Assessments: Telegraph Property Based Business Improvement District**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the Telegraph Property Based Business Improvement District (TBID) Annual Report of FY 2021 and proposed budget for FY 2022, and declaring Council's intention to levy an annual assessment for the TBID for FY 2022.  
**Financial Implications:** See report.  
 Contact: Eleanor Hollander, Economic Development, (510) 981-7530  
**Action:** Adopted Resolution No. 69,864–N.S.
  
8. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on May 25, 2020**  
**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:** \$250,000  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.
  
9. **Memorandum of Agreement with the City of Oakland for the National Urban Search and Rescue Response System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a Memorandum of Agreement and any amendments with the City of Oakland, as the "Sponsoring Agency" for the National Urban Search and Rescue Response System, operated by the United States Department of Homeland Security, acting through the Federal Emergency Management Agency (FEMA), along with the State of California and local governments.  
**Financial Implications:** None  
 Contact: Abe Roman, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 69,865–N.S.
  
10. **Contract: Multicultural Institute for COVID -19 Outreach and Health Education Activities**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an expenditure contract and any amendments or extensions thereto with Multicultural Institute in the amount not to exceed \$100,000 for the period June 1, 2021 through June 30, 2022 for COVID-19 outreach services to the Latinx community; particularly the day laborer and domestic worker community.  
**Financial Implications:** See report.  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,866–N.S.

## Consent Calendar

- 11. Revenue Grant Agreement: Funding Support from State of California Board of State and Community Corrections Proposition 64 Public Health and Safety Funding**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to The State of California Board of State and Community Corrections, to accept the grant, execute any resultant revenue agreement and amendment, and implement the projects and appropriation of funding for related expenses to address public health and safety related to the implementation of the Control, Regulate, and Tax Adult Use of Marijuana Act, to conduct public health promotion, protection, and prevention services for the State of California Board of State and Community Corrections revenue agreement in the projected amount of \$1,000,000 for May 1, 2021 to April 30, 2024.  
**Financial Implications:** See report.  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,867–N.S.
- 12. Revenue Grant Agreements: Funding Support from the State of California to Conduct Public Health Services**  
**From: City Manager**  
**Recommendation:** Adopt five Resolutions authorizing the City Manager or her designee to submit grant agreements to the State of California, to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the following eleven revenue agreements:
1. Child Health and Disability Prevention (CHDP) Program, which includes Early Periodic Screening, Diagnosis, and Treatment (EPSDT) and Health Care Program for Children in Foster Care (HCPCFC), in the projected amount of \$353,395 for FY 2022.
  2. Maternal, Child and Adolescent Health (MCAH) Program, in the projected amount of \$332,000 for FY 2022.
  3. Tobacco Trust Fund: There is no match required and this contract is expected to be for \$300,000 in FY 2022.
  4. Immunization Program: In the projected amount of \$42,204 for FY 2022.
  5. Public Health Emergency Preparedness/Pandemic Flu/Cities Readiness Initiative (CRI) Program in the projected allocation of \$257,000 for FY 2022.
- Financial Implications:** See report.  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,868–N.S. (CHDP Program); Resolution No. 69,869–N.S. (MCAH Program), Resolution No. 69,870–N.S. (Tobacco Trust Fund); Resolution No. 69,871–N.S. (Immunization Program); Resolution No. 69,872–N.S. (Public Health Program).



## Consent Calendar

- 13. Accept a Donation from the California Office of Emergency Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a donation of cash and gift cards totaling approximately \$9,000 from CalOES, the Governor’s Office of Emergency Services.  
**Financial Implications:** See report.  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,873–N.S.
- 14. Classification and Salary: Establish Director of Police Accountability**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Resolution No. 69,538-N.S. Classification and Salary Resolution, to establish the Unrepresented classification of Director of Police Accountability with a monthly salary range of \$11,862.93 - \$17,794.40 effective May 25, 2021.  
**Financial Implications:** See report.  
Contact: David White, City Manager, (510) 981-7012  
**Action:** Adopted Resolution No. 69,874–N.S. with an amendment to the job description in #2 under “Knowledge of:” to read, “Best practices in, and principles and practices of civilian oversight of law enforcement, and reducing impacts of implicit bias against marginalized groups;”
- 15. Protiviti Government Services: Using General Services Administration (GSA) Vehicle for Professional Services Purchase Orders**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to issue purchase orders with Protiviti Government Services for the purchase of professional services using the General Services Agency’s (GSA) purchasing vehicle no. GS-35F-0280X for an amount not to exceed \$137,000 through June 30, 2022.  
**Financial Implications:** See report.  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,875–N.S.
- 16. Grant Application: the Surrendered and Abandoned Vessel Exchange (SAVE) grant program of the California Division of Boating & Waterways**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to 1) submit a grant application to the California Division of Boating and Waterways 2021 SAVE grant program for \$42,000; 2) accept any grants; 3) execute any resulting grant agreements and any amendments; and authorizing the implementation of the projects and appropriation of funding for related expenses, including \$4,200 in local match from the Marina Fund.  
**Financial Implications:** See report.  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,876–N.S.

## Consent Calendar

- 17. Purchase Order: Altec Industries, Inc. for One Aerial Bucket Truck**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell contract bid procedures, and authorizing the City Manager to execute a purchase order for one (1) Aerial Bucket Truck with Altec Industries, Inc. in an amount not to exceed \$206,180.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,877–N.S.
- 18. Purchase Order: Braun Northwest for One (1) 2021 North Star 155-1 Type 1 Ambulance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in HGACBuy contract bid procedures, and authorizing the City Manager to execute a purchase order for one (1) 2021 North Star 155-1 Type 1 Ambulance with Braun Northwest, Inc. in an amount not to exceed \$245,000.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,878–N.S.
- 19. Purchase Order: Cal-Line Equipment Inc. for Three (3) Bandit 250XP Brush Chippers**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (formerly NJPA) bid procedures, and authorizing the City Manager to execute a purchase order for three (3) Brush Chippers with Cal-Line Equipment Inc. in an amount not to exceed \$206,200.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,879–N.S.
- 20. Purchase Order: Golden State Fire Apparatus, Inc. for One Pierce Quantum 1500 GPM Pumper**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in HGACBuy bid procedures, and authorizing the City Manager to execute a purchase order for one (1) Pierce Quantum 1500 GPM Pumper with Golden State Fire Apparatus, Inc. in an amount not to exceed \$866,000.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,880–N.S.

## Consent Calendar

**21. Contract No. 108563-1 Amendment: Stanley Access Technologies for On-Call and Emergency Repair Services for Automatic Doors**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract 108563-1 with Stanley Access Technologies, to increase spending authority by \$50,000.00 for a total not to exceed amount of \$100,000.00 and to extend contract terms for one year, to June 30, 2023, for continued on-call and emergency repair services to maintain the commercial automatic doors in City-owned facilities.

**Financial Implications:** See report.

Contact: Liam Garland, Public Works, (510) 981-6300

**Action:** Adopted Resolution No. 69,881–N.S.

**22. Declaration of Intent – Fiscal Year 2022 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 15, 2021 meeting; and authorize the City Clerk to publish Notice of the Public Hearing for Fiscal Year 2022 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:** Adopted Resolution No. 69,882–N.S. (District No. 1982-1); Resolution No. 69,883–N.S. (District No. 2018).

## Consent Calendar

### 23. **FY 2021/2022 Transportation Development Act Article 3 Fund Allocation**

**From: City Manager**

**Recommendation:** Adopt Resolutions:

1. Authorizing the City Manager to: submit an allocation request to the Metropolitan Transportation Commission (MTC) prior to the May 28, 2021 deadline for \$450,000 of FY 21/22 Transportation Development Act (TDA) Article 3 funds for the Berkeley Bicycle Plan Update and Vision Zero Quick Build Program; accept the funds; execute any resultant agreements and amendments; and authorize the implementation of the project, subject to securing the funds; and
2. Declaring that: the City of Berkeley is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code; there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Berkeley to carry out the project; the project has been reviewed by the Bicycle Advisory Committee (BAC) of the City of Berkeley; the City of Berkeley attests to the accuracy of and approves the statements in Attachment A to this resolution; and a certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded to the congestion management agency, countywide transportation planning agency, or county association of governments, as the case may be, of Alameda County for submission to MTC as part of the countywide coordinated TDA Article 3 claim.

**Financial Implications:** See report.

Contact: Liam Garland, Public Works, (510) 981-6300

**Action:** Adopted Resolution No. 69,884–N.S. (Berkeley Bicycle Plan Update); Resolution No. 69,885–N.S. (Vision Zero).

### 24. **Agreement with AC Transit for Operation and Maintenance of Transit Signal Priority Equipment**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to negotiate and approve a Cooperative Agreement to enable Alameda-Contra Costa County Transit District and its contractor(s) to perform all operation and maintenance activities to Transit Signal Priority (TSP) equipment deployed by the Rapid Corridors Project within the City.

**Financial Implications:** See report.

Contact: Liam Garland, Public Works, (510) 981-6300

**Action:** Adopted Resolution No. 69,886–N.S.

## Consent Calendar

- 25. Surplus Lands Act**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution to comply with the terms of the Surplus Lands Act (California Government Code § 54220, Et Seq.), as exists now or may be amended in the future, including, but not limited to, AB 1255 (Rivas, 2019), which requires jurisdictions to compile and report annually an inventory of surplus lands to the California Department of Housing and Community Development.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,887–N.S.
- 26. Lease Agreement: 2010 Addison Street at Center Street Garage with Vito Loconte and Alexie LeCount d.b.a Lexie’s Frozen Custard**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement for 2010 Addison Street at the Center Street Garage with Vito Loconte and Alexie LeCount d.b.a Lexie’s Frozen Custard, a sole proprietorship, for an initial term of ten (10) years with one optional five-year lease extension AND approve payment of a commission of \$9,331.23 to Colliers International for commercial brokerage fees for locating a tenant for the premises.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopt first reading of Ordinance No. 7,763–N.S. Second reading scheduled for June 15, 2021.
- 27. Appointment of Monica Renee Jones to Mental Health Commission**  
**From: Mental Health Commission**  
**Recommendation:** Adopt a Resolution appointing: Monica Renee Jones as a representative of the General Public Interest Category, to complete her first 3-year term beginning May 26, 2021 and ending May 25, 2024.  
**Financial Implications:** None.  
Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400  
**Action:** Adopted Resolution No. 69,888–N.S.
- 28. Police Review Commission online poll**  
**From: Police Review Commission**  
**Recommendation:** Authorize the Police Review Commission to conduct an online poll regarding awareness of the Commission and experience with its complaint process.  
**Financial Implications:** None.  
Contact: Katherine Lee, Commission Secretary, (510) 981-4950  
**Action:** Approved recommendation.

## Council Consent Items

29. **Support of AB 1177 – California Public Banking Options Act**  
**From: Mayor Arreguin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of Assembly Bill 1177 and send a copy of the Resolution to Governor Newsom, Senator Skinner and Assemblymember Wicks.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 69,889–N.S.
30. **Budget Referral: Sixth Street Traffic Calming Improvements for the Improvement of Pedestrian and Cyclist Safety**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** That the City Council refers to the budget process the funding of traffic calming improvements as follows: 1. Rapid Rectangular Flashing Beacons (RRFB) and a median refuge island at Sixth and Channing Way; 2. A median refuge island at Sixth and Addison Street.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation.

## Council Consent Items

### 31. COVID Economic Recovery - Expanding Local Purchasing Preferences to Rebuild the City's Local Economy and Tax Base

**From: Councilmember Hahn (Author), Councilmember Bartlett (Co-Sponsor)**

**Recommendation:**

1. To support urgently needed economic recovery in the wake of the COVID-19 crisis and direct more City of Berkeley dollars to Berkeley businesses, adopt a Resolution to expand Berkeley's existing local vendor preference program, effective September 1, 2021, by increasing the value of eligible contracts as follows: a. Contracts for supplies, equipment, materials, and other goods, raise the eligible contract value to \$100,000. b. Contracts for non-professional services, raise the eligible contract value to \$250,000. Direct the City Manager to develop and implement a local vendor preference program for contracts for professional services of up to \$250,000 in value (or up to a higher amount), to be effective January 1, 2022, to further support economic recovery in the City of Berkeley.

2. Refer to the City Manager to reach-out to Berkeley businesses to publicize, offer training and provide other meaningful access to the City's expanded local preferences programs including outreach to businesses owned by people of color, people with disabilities, women, immigrants, and other traditionally marginalized business communities to ensure equitable access to contracting opportunities with the City of Berkeley.

3. Refer to the City Manager to quickly incorporate, when available, any relevant or actionable results of the Mason Tillman Associates study reviewing and identifying disparities in the awarding of contracts affecting local, small, emerging enterprises and other enterprises with possible barriers to access in City construction, architecture, engineering, professional services, goods, and other services contracts.

4. Refer to the City Manager to track and issue periodic reports to Council (or include in existing reports such as the annual Economic Dashboard), and/or to track on an online dashboard, the City's success expanding contracting for goods, equipment, and services with local vendors.

**Financial Implications:** See report

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

**Action:** Mayor Arreguin and Councilmember Taplin added as co-sponsors. Adopted Resolution No. 69,890–N.S. revised to change the effective date to January 1, 2022. Approved recommendation as written in Supplemental Communications Packet #1.

### 32. Budget Referral: City of Berkeley Annual Holocaust Remembrance Day

**From: Councilmember Wengraf (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor)**

**Recommendation:** Refer to the Fiscal Year 2022/2023 budget process a request for \$6,000 annually to fund the City of Berkeley's Annual Holocaust Remembrance Day Program.

**Financial Implications:** \$6,000

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

**Action:** Approved recommendation.

## Council Consent Items

33. **Budget Referral: Increased Funding for Neighborhood Traffic Calming**  
**From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Droste (Co-Sponsor)**  
**Recommendation:** Refer to the Fiscal Year 2022/2023 Budget Process an annual increase in allocation for neighborhood traffic calming from the current 100 thousand dollars to 200 thousand dollars.  
**Financial Implications:** \$100,000  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160  
**Action:** Approved recommendation.
34. **Amend BMC 14.72.105**  
**From: Councilmember Wengraf (Author)**  
**Recommendation:** Adopt first reading of an Ordinance amending BMC 14.72.105 Neighborhood-Serving Community Facility Permits, to allow a broader range of community facilities to be eligible for parking permits.  
**Financial Implications:** See report  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160  
**Action:** Adopt first reading of Ordinance No. 7,764–N.S. Second reading scheduled for June 15, 2021.
35. **Budget Referral: Willard Park Ambassador**  
**From: Councilmember Droste (Author), Mayor Arreguin (Co-Sponsor), Councilmember Robinson (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:** Refer to the Budget and Finance Committee a request for \$100,000 in funding for a Park Ambassador at Willard Park for 1 year.  
**Financial Implications:** \$100,000  
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180  
**Action:** Approved recommendation.



## Action Calendar – Public Hearings

**36. Rescinding and Adopting the Environmental Health Division Fee Schedule  
From: City Manager**

**Recommendation:** Conduct a Public Hearing and, upon conclusion, adopt a Resolution to rescind Resolution 67,495-N.S. which established the current Environmental Health fee schedule and adopt a new fee schedule. The new fee schedule keeps all existing fees at the same level and adds a new permit fee category for Microenterprise Home Kitchen Operations (MEHKOs) with a proposed fee of \$510 annually to cover permit and inspection fees. The new fees will be effective June 1, 2021 until subsequently modified.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.  
M/S/C (Arreguin/Hahn) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to adopt Resolution No. 69,891–N.S.

**Vote:** All Ayes.

**37. Selected Recreation and Camps Program Fee Increases  
From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees and increasing current fees for select Recreation Division programs and rescinding Resolution No. 68,898-N.S. and all amendatory resolutions.

**Financial Implications:** See report.

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

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.  
M/S/C (Arreguin/Robinson) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Robinson/Harrison) to adopt Resolution No. 69,892–N.S.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

### 38. FY 2022 Proposed Budget and Proposed Budget Public Hearing #1

**From: City Manager**

**Recommendation:** Accept the FY 2022 Proposed Budget for review and consideration by the City Council and final adoption on June 29, 2021 and conduct Public Hearing #1 on the FY 2022 Proposed Budget.

**Financial Implications:** See FY 2022 Proposed Biennial Budget

Contact: Rama Murty, Budget Office, (510) 981-7000

**Action:** M/S/C (Arreguin/Robinson) to accept revised materials from the City Manager on Item 38.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:30 p.m.

**Vote:** All Ayes.

**Public Testimony:** The Mayor opened the public hearing. 20 speakers.

M/S/C (Arreguin/Robinson) to close the public hearing.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Droste.

Councilmember Droste absent 11:09 p.m. – 11:45 p.m.

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:40 p.m.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Wengraf; Abstain – None; Absent – Droste.

**Action:** M/S/C (Arreguin/Harrison) to suspend the rules and extend the meeting to 11:45 p.m.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Wengraf, Droste.

Councilmember Wengraf absent 11:31 p.m. – 11:45 p.m.

## Action Calendar – New Business

### 39a. Grant Allocation: Approve Funding Recommendation for Programs to Reduce Consumption of Sugar-Sweetened Beverages (SSBs)

**From: Sugar Sweetened Beverage Product Panel of Experts**

**Recommendation:** Approve the SSBPPE Commission's recommendations and adopt thirteen (13) Resolutions authorizing the City Manager or her designee to enter into contracts with the Berkeley Unified School District and the Community Based Organizations (CBOs) listed below to distribute a total of \$2,662,506 for FY 2022 and FY 2023 according to the schedule below and to also provide \$239,626 to the City of Berkeley Public Health Division (BPHD) during the same period to support

## Action Calendar – New Business

administering and enhancing this program as approved by the Berkeley City Council as follows:

1. \$951,452 total grant to Berkeley Unified School District to implement the Gardening and Cooking Program for FY 2022 and FY 2023 to be disbursed as follows: \$475,726 for FY 2022 and \$475,726 for FY 2023.
2. \$242,250 total grant to the Ecology Center to implement For Thirst, Water First! program for FY 2022 and FY 2023 to be disbursed as follows: \$121,125 in FY 2022 and \$121,125 in FY 2023.
3. \$445,330 grant to Healthy Black Families to implement Thirsty for Change! (T4C) program for FY 2022 and FY 2023 to be disbursed as follows: \$222,665 in FY 2022 and \$222,665 in FY 2023.
4. \$30,000 grant to the Multicultural Institute to implement the Life Skills/Day Laborer Program: Health Activity program for FY 2022 and FY 2023 to be disbursed as follows: \$15,000 in FY 2022 and \$15,000 in FY 2023.
5. \$80,000 grant to the YMCA of the East Bay to implement the YMCA Diabetes Prevention (YDPP) program for FY 2022 and FY 2023 to be disbursed as follows: \$40,000 in FY 2022 and \$40,000 in FY 2023.
6. \$90,550 grant to the YMCA of the East Bay to implement the YMCA Healthy Me! program for FY 2022 and FY 2023 to be disbursed as follows: \$45,275 in FY 2022 and \$45,275 in FY 2023.
7. \$237,150 grant to Lifelong Medical Care to implement the Chronic Disease and Oral Health Prevention Project for FY 2022 and FY 2023 to be disbursed as follows: \$118,575 in FY 2022, and \$118,575 in FY 2023.
8. \$37,600 grant to Fresh Approach to implement the Veggie Rx Program for Healthy Foods and Beverages program for FY 2022 and FY 2023 to be disbursed as follows: \$18,800 in FY 2022, and \$18,800 in FY 2023.
9. \$116,000 grant to Bay Area Community Resources to implement the Healthy Options at Point of Sale program for FY 2022 and FY 2023 to be disbursed as follows: \$58,000 in FY 2022, and \$58,000 in FY 2023.
10. \$55,448 grant to Community Health Education Institute to implement the Artists Against Soda program for FY 2022 and FY 2023 to be disbursed as follows: \$27,724 in FY 2022, and \$27,724 in FY 2023.
11. \$77,600 grant to Berkeley Youth Alternatives to implement the Urban Agriculture and Team Nutrition Program for FY 2022 and FY 2023 to be disbursed as follows: \$38,800 in FY 2022 and \$38,800 in FY2023.
12. \$59,500 grant to 18 Reasons to implement the Cooking Matters program for FY2022 and FY2023 to be disbursed as follows: \$29,750 in FY2022 and \$29,750 in FY2023.
13. \$239,626 to the City of Berkeley Public Health Division (BPHD) to support the SSBPPE Commission and assist with outside evaluations to be disbursed as follows: \$119,813 in FY 2022 and \$119,813 in FY 2023.
14. The Commission recommends that indirect or administrative expenses not exceed 10% of the program budget for any entity and that the funds awarded not be used to supplant any other source of funding.
15. The Commission recommends that City Council authorize the City Manager to authorize advances for BUSD and the selected community agencies receiving funds in FY 2022 and FY2023. The advances are to be equivalent to 25% of the agency's allocation.

**Financial Implications:** See report

Contact: Dechen Tsering, Commission Secretary, (510) 981-5300

## Action Calendar – New Business

### 39b. Companion Report: Approve Funding Recommendation for Programs to Reduce Consumption of Sugar-Sweetened Beverages (SSBs)

**From: City Manager**

**Recommendation:** Approve the SSBPE Commission’s recommendation for funding for Community Based Organizations (CBOs) and Berkeley Unified School District (BUSD) and adopt thirteen (13) Resolutions authorizing the City Manager or her designee to enter into contracts with the CBOs and BUSD to distribute a total of \$2,662,506 for FY 2022 and FY 2023 according to the schedule recommended by the SSBPE. Uphold the City of Berkeley Public Health Division allocation previously approved through Resolution No. 69,669-N.S. by allocating \$399,374 during the same time period.

**Financial Implications:** See report.

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

**Action:** Moved Item 39b to the Consent Calendar. Adopted Resolution No. 69,893–N.S. (BUSD); Resolution No. 69,894–N.S. (Ecology Center); Resolution No. 69,895–N.S. (Healthy Black Families); Resolution No. 69,896–N.S. (Multicultural Institute); Resolution No. 69,897–N.S. (YMCA Diabetes Prevention & YMCA Healthy Me); Resolution No. 69,898–N.S. (Lifelong Medical Care); Resolution No. 69,899–N.S. (Fresh Approach); Resolution No. 69,900–N.S. (Bay Area Community Resources); Resolution No. 69,901–N.S. (Community Health Education Institute); Resolution No. 69,902–N.S. (Berkeley Youth Alternatives); Resolution No. 69,903–N.S. (18 Reasons); Resolution No. 69,904–N.S. (City of Berkeley Public Health Division); Resolution No. 69,905–N.S. (Total Funding Allocation).

### 40. Amending the Berkeley Election Reform Act (BERA) Relating to Officeholder Accounts *(Reviewed by the Agenda & Rules Committee)*

**From: Agenda & Rules Committee: Mayor Arreguin, Councilmembers Hahn and Wengraf**

**Recommendation:** Take one of the following actions:

1. Refer a proposal to the Fair Campaign Practices Commission (FCPC) amending the Berkeley Election Reform Act (BERA), BMC Chapter 2.12, and Lobbyist Registration Act, BMC Chapter 2.09, to enact “a reasonable set of limitations and rules” to regulate the maintenance of officeholder accounts, as developed and referred for consideration by the Agenda and Rules Committee; or
2. Refer a proposal to the FCPC amending BERA, BMC Chapter 2.12, to prohibit Officeholder Accounts, as originally proposed by the Fair Campaign Practices Commission.

*Policy Committee Recommendation: Send the item to Council with two proposed alternatives: 1) Councilmember Hahn’s proposal to regulate officeholder accounts, and 2) the Fair Campaign Practices Commission proposal to prohibit officeholder accounts; and to include the Commission’s analysis of regulating officeholder accounts in the item that goes to the full Council.*

**Financial Implications:** See report.

Contact: Agenda & Rules Committee members: Jesse Arreguin, Committee Chair, (510) 981-7100, Sophie Hahn, Councilmember, District 5, (510) 981-7150, Susan Wengraf, Councilmember, District 6, (510) 981-7160

**Action:** M/S/C (Arreguin/Harrison) to continue Item 40 to September 14, 2021.

**Vote:** All Ayes.

## Council Action Items

- 41. Commission Reorganization for Post-COVID19 Budget Recovery**  
**From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)** *(Reviewed by the Agenda & Rules Committee)*
- Recommendation:**
1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.
  2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.
  3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.
  4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.
  5. Refer to City Manager and Commissions the following additional considerations:
    - Federal, state or other external mandates that might be impacted, and determine how to handle.
    - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted.
    - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter.
    - Whether the merged Commission might include 9, or a greater number of members.
    - The possibility of requiring specific qualifications for appointment to the merged Commission.
    - The possibility of recommended or required Standing Committees of the Merged Commission.
    - Volunteer workload and capacity given scope of Commission's charter
- Policy Committee Recommendation: Make a Qualified Positive Recommendation to City Council to: 1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one. 2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by*

## Council Action Items

*Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City Manager on revised charge/responsibilities of merged commissions. 3. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes. 4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions. 5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees. 6. Refer Councilmember Hahn questions to City Manager and Commissions: "Commissions to Combine/Merge - Suggested Considerations" - Federal, state or other external mandates that might be impacted, and determine how to handle. - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted. - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter. - Whether the merged Commission might include 9, or a greater number of members. - The possibility of requiring specific qualifications for appointment to the merged Commission. - The possibility of recommended or required Standing Committees of the Merged Commission - Volunteer workload and capacity given scope of Commission's charter.*

**Financial Implications:** See report

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

**Action:** Item continued to June 15, 2021.

## Information Reports

### 42. Mental Health Commission Work Plan 2021-2022

**From: Mental Health Commission**

Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400

**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 0 speakers.**

## Adjournment

Adjourned at 11:45 p.m.

I hereby certify that the foregoing is a true and correct record of the regular session meeting held on May 25, 2021.

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Mark Numainville  
City Clerk

## Communications

### **Tenant Opportunity to Purchase Act**

1. 4 similarly-worded form letter (My name is)
2. Mary Behm-Steinberg
3. David Nutt
4. Annie Koruga
5. Kathleen Crandall
6. Berkeley Rental Housing Coalition
7. East Bay Young Democrats
8. California Democratic Renters Council

### **1921 Walnut Street Demolition**

9. Northern Alameda County Sierra Club
10. University of California, Berkeley

### **COVID-19**

11. Ava See (2)

### **City of Berkeley Crime**

12. Erwan Illian

### **2021 LRDP and Housing Projects #1 and #2 – UC Berkeley**

13. City of Berkeley Landmarks Preservation Commission

### **Affordable Housing Overlay**

14. Cal Berkeley Democrats
15. Associated Student University of California

### **Public Comment at Agenda and Rules Meeting**

16. Thomas Lord

## Supplemental Communications and Reports 1

### **Item #31: COVID Economic Recovery - Expanding Local Purchasing Preferences to Rebuild the City's Local Economy and Tax Base**

17. Supplemental material, submitted by Councilmember Hahn

### **Item #38: FY 2022 Proposed Budget and Proposed Budget Public Hearing #1**

18. Jamie Greenblatt, on behalf of Play Café
19. Katherine Sanderlin, on behalf of Aurora Theatre Company
20. Wyndy Knox Carr
21. Josh Costello
22. Ellen Levine
23. Susie Medak
24. Edwin Bernbaum

- 25. Gina Moreland
- 26. Joanie McBrien, on behalf of Shotgun Players
- 27. Mary Lins, on behalf of Berkeley Playhouse

## **Supplemental Communications and Reports 2**

### **Item #38: FY 2022 Proposed Budget and Proposed Budget Public Hearing #1**

- 28. Jennifer Cole
- 29. Ann Holsberry
- 30. Gary Grimm
- 31. Summer Brener
- 32. Adam Hochschild
- 33. Laurie Rich, on behalf of the David Brower Center
- 34. Archana Horsting, on behalf of the Kala Art Institute
- 35. Scott Gelfand
- 36. Hadlye Dynak
- 37. Moni Law
- 38. Carole Kennerly
- 39. David White, Deputy City Manager
- 40. Diana Bohn (2)

## **Supplemental Communications and Reports 3**

### **Item #2: Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**

- 41. Barbara Gilbert

### **Item #31: COVID Economic Recovery - Expanding Local Purchasing Preferences to Rebuild the City's Local Economy and Tax Base**

- 42. Brennan Cox, on behalf of Groundworks
- 43. Kennedy Smith, on behalf of Institute for Local Self-Reliance
- 44. Action Calendar – Public Hearing

### **Item #36: Rescinding and Adopting the Environmental Health Division Fee Schedule**

- 45. Barbara Gilbert

### **Item #38: FY 2022 Proposed Budget and Proposed Budget Public Hearing #1**

- 46. Revised material, submitted by Budget
- 47. Presentation, submitted by Budget
- 48. Diana Bohn
- 49. Cherilyn Parsons
- 50. Laurel Halvorson
- 51. Anna Clark



**Item #39: Grant Allocation: Approve Funding Recommendation for Programs to Reduce Consumption of Sugar-Sweetened Beverages (SSBs)**

52. Martin Bourque

53. Vicki Alexander, on behalf of Healthy Black Families

54. Nefer Kelley

**Item #40: Amending the Berkeley Election Reform Act (BERA) Relating to Officeholder Accounts**

55. Eric Friedman

56. Geoff Lomax

**Urgent Item: Budget Referral: Funding for Traffic Control Mitigations to Protect Pedestrian Access to Cragmont Elementary School**

57. Urgent item, submitted by Councilmember Wengraf

**Miscellaneous**

58. Laurel Halvorson





Office of the City Manager

CONSENT CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Contract No. 099148-1 Amendment: Code Publishing Company for Berkeley  
Municipal Code Publishing Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 099148-1 (FUND\$ Contract No. 9541A) with Code Publishing Company for online and printed code publishing services for the Berkeley Municipal Code, increasing the contract by \$40,000 for a total not to exceed amount of \$139,000, and extending the contract to December 21, 2024.

FISCAL IMPACTS OF RECOMMENDATION

This amendment will add \$40,000 to the City's existing contract for code publishing services for a total not to exceed amount of \$139,000. The term of the contract will be extended by two years, with \$10,000 allocated per year for a total of \$20,000. This request also includes funding in the amount of \$20,000 to account for major updates to the Berkeley Zoning Ordinance, as well as upgrades to the online code platform to increase functionality. Funds for this contract amendment will be available from the General Fund as follows: \$15,000 will be included in the FY 2022 budget; \$5,000 will be included in the First Amendment to the FY 2022 Annual Appropriations Ordinance; \$10,000 will be included in the FY 2023 budget; and \$10,000 will be included in the FY 2024 budget. This contract amendment has been entered into the City's contract management system.

CURRENT SITUATION AND ITS EFFECTS

Code Publishing Company provides the City with code publishing services for the City Charter and Berkeley Municipal Code (Code). These services include codification of ordinances into the existing Code, electronic publishing of the Charter and Code on the City's website, internet services to support the electronic Code, and supplement services for updating the hardcopy Code book. The Code and Charter are presently approximately 2,300 pages. The existing contract expires on December 21, 2022 and this request will allow for continuation of these services from Code Publishing Company through December 21, 2024.

In addition to the codification and publishing services provided by Code Publishing, this amendment includes funding for major updates to the Code as well as upgrades to the functionality of the online Code. In response to a referral from the City Council, Planning Department staff are preparing a major update to the City's Zoning Ordinance (BMC Title 23). The current Zoning Ordinance represents twenty-five percent of the City's Code and is anticipated to be replaced in its entirety by the new Zoning Ordinance. If adopted by Council, the new Zoning Ordinance will require codification and publishing, and given the magnitude of the project, this cost cannot be absorbed by the existing contract.

This contract amendment will also allow for a major upgrade to the City's online web platform (<https://www.codepublishing.com/CA/Berkeley/>). The current platform has been in use for over 10 years, and significant advances in technology have occurred during this time. The new web platform will provide for responsive design to smartly fit the user's screen size and meets industry standards for compatibility with different devices. The new platform also includes enhanced settings to increase accessibility for individuals with disabilities, and allows the user to customize the appearance of the site, including fonts, colors, and how much text is displayed. The navigation and searchability of the Code will also be upgraded to allow for more robust searching, saving, sharing, bookmarking, and printing, resulting in enhanced transparency and a more user-friendly experience.

### BACKGROUND

The City Clerk Department is responsible for the processing of ordinances adopted by the City Council, and ensuring the maintenance and updating of the Code and Charter. In 2008, staff reviewed proposals for code publishing services, including the full conversion of the print and electronic Code. Code Publishing Company was selected and worked with staff to both convert the electronic code to an HTML format online that allowed users to search, read, and print information more easily, as well as manage the conversion and reformatting of the hardcopy Code book. The project also entailed on-going incorporation of adopted ordinances into the Code, including maps, diagrams, charts, and tables, as well as maintenance of a general alphabetical subject index.

In 2013, the City released Request For Proposal Specification No. 14-10810 for code publishing services. A panel of City staff performed a review of the submitted proposals and selected Code Publishing Company based on their ability to best meet the selection criteria, including technical ability to perform the service, references and customer service, and turnaround time of service provided. The Code Publishing Company proposal addressed all of the criteria and the panel found them to be qualified and the best selection, resulting in the execution of Contract No. 9541.

On April 24, 2018, the City Council adopted Resolution No. 68,384-N.S. which increased the amount of the contract for a total not to exceed amount of \$99,000 and extended the term of the contract through December 21, 2022. The amendment to the

contract allowed for continuity of codification and publishing services as well as continued efficiencies from utilizing a vendor that specializes in the updating and maintenance of municipal codes.

ENVIRONMENTAL SUSTAINABILITY

Code Publishing Company maintains the electronic version of the Code on the City's website. The electronic Code is updated as ordinances become effective, features robust search capabilities, and provides users with the option of viewing and printing the Code by title, chapter or section. The electronic version of the Code has reduced printing requirements, as users are able to access the Code from electronic devices and selectively print on an as-needed basis.

RATIONALE FOR RECOMMENDATION

Code Publishing Company has provided the City with a high level of customer service and competitive pricing. Code Publishing Company provides highly detailed editing and proofreading services, management of complex Code organization, and offers modern online features including responsive design for mobile viewing, a customizable interface for better ADA compliance, and advanced searching and navigation tools for increased efficiency and transparency.

ALTERNATIVE ACTIONS CONSIDERED

The City Council could consider not approving this contract amendment, however the City does not currently have in-house resources to update and maintain the Code in the same manner as a professional codifier. Maintaining the hardcopy and electronic Code requires a high level of technical and editorial expertise. Staff recommends a contract for this specialized service, as it will allow for Code maintenance and updates in a timely and cost-effective manner.

CONTACT PERSON

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

Attachments:

1: Resolution

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

CONTRACT NO. 099148-1 AMENDMENT: CODE PUBLISHING COMPANY FOR  
BERKELEY MUNICIPAL CODE PUBLISHING SERVICES

WHEREAS, the City Clerk Department is responsible for the processing of ordinances adopted by the City Council, and ensuring the maintenance and updating of the Berkeley Municipal Code and City Charter; and

WHEREAS, in 2008, staff reviewed proposals for code publishing services, including the full conversion of the print and electronic Code, and executed Contract No. 7820 with Code Publishing Company; and

WHEREAS, in 2013, the City released Request For Proposal Specification No. 14-10810 for code publishing services and a panel of City staff selected Code Publishing Company based on their ability to best meet the selection criteria, resulting in the execution of Contract No. 9541; and

WHEREAS, on April 24, 2018, the City Council adopted Resolution No. 68,384-N.S., which increased the total not to exceed amount of the contract to \$99,000 and extended the term through December 21, 2022; and

WHEREAS, Code Publishing Company continues to provide the City with a high level of customer service and competitive pricing; and

WHEREAS, funds in the amount of \$40,000 are allocated in the General Fund budget, and this contract amendment has been entered into the City's contract management system.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 099148-1 with Code Publishing Company for Berkeley Municipal Code publishing services, increasing the contract by \$40,000 for a total not to exceed amount of \$139,000, and extending the contract to December 21, 2024.



Office of the City Manager

CONSENT CALENDAR  
June 29, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David White, Deputy City Manager, City Manager's Office  
 Subject: Appointment of Interim Director of Police Accountability

RECOMMENDATION

Adopt a Resolution confirming the appointment of Katherine J. Lee to be Interim Director of Police Accountability and approving an employment contract to be effective July 1, 2021 at an annual salary of \$182,260.65.

FISCAL IMPACTS OF RECOMMENDATION

The salary and benefits for the Interim Director of Police Accountability are included in the FY 2022 Proposed Budget for the newly-established Office of the Director of Police Accountability. The annual salary for Ms. Lee is \$182,260.65, which is within the salary range for the position that was approved by City Council on May 25, 2021.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to Resolution 69,531–N.S. that was adopted by the City Council on July 28, 2020, city staff has taken the following action so that the Police Accountability Board can commence its work on July 1, 2021:

- Issued an application to solicit community interest in the Police Accountability Board (“Board”) and on June 1, 2021, the Mayor and City Council adopted Resolution 69,916-N.S. consisting of appointments of the nine (9) members to the Board.
- On May 25, 2021, the City Council adopted Resolution amending Resolution 69,538-N.S. to establish the unrepresented classification of Director of Police Accountability with a monthly salary range of \$11,862.93 - \$17,794.40, effective May 25, 2021.

City staff are in the process of hiring an Executive Recruitment firm to assist the City in filling the Director of Police Accountability on a permanent basis. It is anticipated that the recruitment will take approximately six (6) months. Until the recruitment process is complete and City Council has appointed an individual to serve as the permanent Director of Police Accountability, City Council is being asked to approve the attached resolution appointing Katherine J. Lee as the Interim Director of Police Accountability. The Interim will serve at the pleasure of City Council.

Ms. Lee is well qualified to serve as the City's Interim Director of Police Accountability. She has an extensive background in civilian police oversight and public administration and has been recognized by the National Association for Civilian Oversight for Law Enforcement as a Certified Practitioner of Oversight. In addition, Ms. Lee has served the City of Berkeley capably and well for more than 30 years, serving as a Deputy City Attorney in the City Attorney's Office, a Senior Hearing Examiner at the Rent Board, and for the last six (6) years as the Police Review Commission Officer for the Police Review Commission. Finally, Ms. Lee received a law degree from the Georgetown University Law Center and her undergraduate degree from the University of California, Berkeley.

The attached Agreement provides that Ms. Lee shall serve as Interim Director of Police Accountability for six (6) months commencing on July 1, 2021 and that she shall serve as the Interim Director of Police Accountability until the City Council either acts to appoint a Director of Police Accountability or terminates her interim appointment. Should the City Council determine that it will not retain Ms. Lee as Interim Director of Police Accountability, then Ms. Lee's release would constitute a layoff and she would be entitled to exercise her rights under Section 10.8 of the Unrepresented Employee Manual regarding Employee Retreat Rights. Pursuant to the Agreement, Ms. Lee shall receive an annual salary of \$182,260.65, which is within the salary range for the Director of Police Accountability approved by the City Council.

#### BACKGROUND

In 1973, a ballot measure was adopted to establish a Police Review Commission for the community to participate in setting Police Department policies, practices, and procedures and to provide a means for investigation of complaints against sworn employees of the Police Department. The existing Police Review Commission consists of nine (9) commissioners that are appointed by the Mayor and City Council, and is supported by three (3) full-time equivalent employees.

On November 3, 2020, Berkeley voters adopted Measure II, a Charter Amendment that established the Office of the Director of Police Accountability that consists of a new position, Director of Police Accountability, and the Police Accountability Board. The Police Accountability Board replaces the existing Police Review Commission.

Pursuant to Measure II, the purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department. The Director of Police Accountability, a position to be filled by the City Council at a noticed public meeting, is responsible for investigating complaints filed against sworn employees of the Berkeley Police Department, carrying out the work of the Police Accountability Board, and



overseeing the day-to-day operations of the Office of the Director of Police Accountability, amongst other responsibilities as outlined in Measure II. Both the Police Accountability Board and Director of Police Accountability are independent of the City Manager, except for administrative purposes, and report to the Mayor and City Council.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental impacts from the action being requested by City Council.

RATIONALE FOR RECOMMENDATION

Ms. Lee has an extensive background in civilian police oversight and public administration and as a long-standing employee with the City, she is well qualified to assume the responsibilities of the Interim Director of Police Accountability and will ensure a seamless transition from the Police Review Commission to the Office of the Director of Police Accountability.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

David White, Deputy City Manager, City Manager's Office, (510) 981-7012

Attachments:  
1: Resolution

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

APPOINTMENT OF KATHERINE J. LEE AS INTERIM DIRECTOR OF POLICE  
ACCOUNTABILITY

WHEREAS, Section 125 of the City Charter provides that the Director of Police Accountability shall be appointed by the City Council to implement Measure II adopted on November 3, 2020, oversee the operations of Office of the Director of Police Accountability and carryout the work of the Police Accountability Board; and

WHEREAS, Katherine J. Lee has an extensive background in civilian police oversight and public administration and has been recognized by the National Association for Civilian Oversight for Law Enforcement as a Certified Practitioner of Oversight; and

WHEREAS, Ms. Lee received her law degree from the Georgetown University Law Center and her undergraduate degree from the University of California, Berkeley; and

WHEREAS, Ms. Lee has served the City of Berkeley capably and well for more than 30 years, serving as a Deputy City Attorney in the City Attorney's Office, a Senior Hearing Examiner at the Rent Board, and for the last six (6) years as the Police Review Commission Officer for the Police Review Commission.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that that it hereby appoints Katherine J. Lee as the Interim Director of Police Accountability, effective July 1, 2021, on the terms and conditions set forth in the contract attached hereto as Exhibit A.

Exhibit

A: Agreement by and between the City of Berkeley and Katherine J. Lee

## AGREEMENT

This Agreement is entered into on June 29, 2021 between the CITY OF BERKELEY, a Charter City organized and existing under the laws of the State of California ("City") and KATHERINE J. LEE, ("Lee") collectively "the parties."

This Agreement is made with reference to the following facts and objectives:

The Charter of the City of Berkeley, Section 125, vests the City Council with the sole authority to employ a Director of Police Accountability; and the City Council desires to employ KATHERINE J. LEE as the Interim Director of Police Accountability of the City of Berkeley for a six-month period or until such time as the Council appoints a Director of Police Accountability or terminates Lee's Interim appointment.

THEREFORE, in consideration of mutual promises and covenants set forth below, the parties agree as follows:

1. COMMENCEMENT AND TERMINATION OF EMPLOYMENT

- a. The City Council hereby employs Lee as the Interim Director of Police Accountability, and she hereby accepts employment as the Interim Director of Police Accountability for a period of six months commencing on July 1, 2021. Lee shall continue to serve as Interim Director of Police Accountability until such time as the Council either takes action to appoint a Director of Police Accountability, or terminates her Interim appointment.
- b. Pursuant to Charter section 125, Lee shall serve at the pleasure of the Council and may be removed from office by a two-thirds vote of the City Council with or without cause.

2. DUTIES

- a. Lee shall carry out the functions and duties of the position of the Director of Police Accountability in a manner consistent with the Charter of the City of Berkeley and such other laws and regulations as may be applicable.

3. COMPENSATION

- a. As compensation for services rendered under this contract, Lee shall receive an annual salary of \$182,260.65. Said salary shall be paid on the dates and in the manner consistent with the payroll procedures in use for City of Berkeley career employees.
- b. In addition, Lee shall receive such employee benefits as are payable to the City's regular-at-will employees under the City's Unrepresented Employee Manual, and any cost of living increases Council approves for regular at-will employees.

- c. During the period Lee serves as Interim Director of Police Accountability, if the Council determines that it will not retain Lee as Interim Director of Police Accountability, then Lee's release shall constitute a layoff and Lee shall be provided the opportunity to exercise her rights under Section 10.8 of the Unrepresented Employee Manual regarding Employee Retreat Rights. Lee shall not be entitled to exercise her rights under Section 10.8 of the Unrepresented Employee Manual regarding Employee Retreat Rights if the Council terminates Lee from her position as Interim Director of Police Accountability for-cause.
- d. Notwithstanding the provisions of Section 3.c, in the event the Council terminates Lee based on conviction of, or no contest plea to, a felony or any crime involving moral turpitude or personal gain, Lee shall not be entitled to return to her prior position as Police Review Commission Officer and shall be entitled only to such salary accrued to the date of termination, and such other termination benefits and payments as are required by law.

4. LEAVE

- a. Lee shall be entitled to such paid leave as that received by all other regular at-will employees under the City's Unrepresented Manual and will continue to accrue such leave at the same rates as she accrued in the position of Police Review Commission Officer.

5. AMENDMENT

- a. The City Council and Lee may at any time mutually agree to amend or terminate this Agreement. Any such agreement shall be in writing.

6. ENTIRE AGREEMENT

- a. This Agreement supersedes any other agreements, written or oral, expressed or implied, between the City of Berkeley and Lee.

7. GOVERNING LAW

- a. This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement which shall be effective upon approval by the City Council.

CITY OF BERKELEY

By

\_\_\_\_\_  
Hon. Jesse Arreguin,  
Mayor

KATHERINE J. LEE

By \_\_\_\_\_  
Katherine J. Lee

CITY OF BERKELEY  
Approved as to form:

By \_\_\_\_\_  
Farimah Faiz Brown,  
City Attorney



Office of the City Manager

CONSENT CALENDAR  
June 29, 2021

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 29, 2020

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 \$350,000.

| <u>PROJECT</u>                              | <u>Fund</u> | <u>Source</u> | <u>Amount</u>    |
|---------------------------------------------|-------------|---------------|------------------|
| Vision 2050 Infrastructure Revenue Planning | 501         |               | \$350,000        |
| <b>Total:</b>                               |             |               | <b>\$350,000</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 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.

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on June 29, 2021

CONSENT CALENDAR  
June 29, 2021

BACKGROUND

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

ENVIRONMENTAL SUSTAINABILITY

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 June 29, 2021

- a) Vision 2050 Infrastructure Revenue Planning

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



DATE SUBMITTED: June 29, 2021

| SPECIFICATION NO.  | DESCRIPTION OF GOODS / SERVICES BEING PURCHASED | APPROX. RELEASE DATE | APPROX. BID OPENING DATE | INTENDED USE                                                                                                                           | ESTIMATED COST   | BUDGET CODE TO BE CHARGED                                                      | DEPT. / DIVISION | CONTACT NAME & PHONE    |
|--------------------|-------------------------------------------------|----------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------------------------------------------------------------------|------------------|-------------------------|
| 21-11463-C         | Vision 2050 Infrastructure Revenue Planning     | 6/30/2021            | 7/29/2021                | RFP for consultant services to assist with feasibility analysis, planning and outreach towards a potential future infrastructure bond. | \$350,000        | 501-54-623-673-0000-000-431-612990-<br><br>501-54-623-673-0000-000-431-612310- | PW/Engineering   | Sean O'Shea<br>981-6306 |
| <b>Dept TOTAL</b>  |                                                 |                      |                          |                                                                                                                                        | \$350,000        |                                                                                |                  |                         |
| <b>Dept TOTAL</b>  |                                                 |                      |                          |                                                                                                                                        | \$350,000        |                                                                                |                  |                         |
| <b>DEPT. TOTAL</b> |                                                 |                      |                          |                                                                                                                                        | <b>\$350,000</b> |                                                                                |                  |                         |





Office of the City Manager

CONSENT CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 Subject: Appropriations Limit for FY 2022

RECOMMENDATION

Adopt a Resolution establishing the appropriations limit at \$311,493,168 for FY 2022 pursuant to Article XIII B of the Constitution of the State of California based on the calculations for the appropriations limit.

FISCAL IMPACTS OF RECOMMENDATION

The amount of appropriations subject to the limit are budgeted proceeds of taxes (e.g., all taxes levied; transfers from an enterprise fund to the extent those transfers exceed the cost of providing the services; discretionary state subventions; interest earned from the investment of proceeds of taxes, etc.), and the total of these budgeted revenues cannot exceed the total appropriations limit. The City's actual appropriations in each fiscal year have been significantly below the limit, as they will be for FY 2022. Thus, there are no present financial implications of establishing the limit.

CURRENT SITUATION AND ITS EFFECTS

Each year in June, concurrent with the adoption of the budget, Council must approve an appropriations limit for the following fiscal year pursuant to the State constitution. This resolution adopts the appropriations limit for FY 2022 at \$311,493,168. The excess of the appropriations limit over appropriations is \$72,422,840 for FY 2022 based on the proposed budget appropriations for FY 2022.

The Finance Department has compiled the data and made calculations to determine the FY 2022 appropriations limit. The documentation of determination, upon adoption and promulgation of the attached draft resolution, has been available for review by the public in the Office of the City Clerk. Exhibits A and B attached hereto, provide the required documentation. Exhibit A is a summary of the appropriations limit determination, the amount of appropriations subject to the limit, and the excess of the appropriations limit over appropriations. Exhibit B provides details of the appropriations limit calculations.

The Council action will set the FY 2022 appropriations subject to the limitations of Article XIII B of the Constitution of the State of California, which may not exceed the

amounts calculated by the City's Finance Department. These calculations were filed with the City Clerk at least 15 days prior to June 29, 2021.

BACKGROUND

In November 1989, the voters of the State of California approved Proposition 4, commonly known as the (Paul) Gann Initiative, and added Article XIII B of the State's Constitution. In June 1990, this Article was modified by the passing of Proposition 111. These propositions placed various limitations on the fiscal powers of state and local government.

Senate Bill 1352 requires that: 1) the governing body of each local jurisdiction shall establish by a legislative action its appropriations limit at a regularly scheduled meeting or noticed special meeting; and 2) 15 days prior to such meeting, give notice that documentation used to determine the appropriations limit shall be made available to the public.

The Council action will set the FY 2022 appropriations subject to the limitations of Article XIII B of the Constitution of the State of California, which may not exceed the amounts calculated by the City's Finance Department. These calculations were filed with the City Clerk 15 days prior to June 29, 2021.

RATIONALE FOR RECOMMENDATION

This is a state law.

ALTERNATIVE ACTIONS CONSIDERED

None

ENVIRONMENTAL SUSTAINABILITY

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: Resolution

Exhibit A: GANN Appropriation Limit FY 2022

Exhibit B: Schedule to Calculate Appropriation Limitation FY 2022

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

ESTABLISHING AN APPROPRIATIONS LIMIT FOR FY 2022

WHEREAS, on November 6, 1979, the citizens of the State of California approved Proposition 4, which added Article XIII B to the Constitution of the State of California to place various limitations on the fiscal powers of State and local government; and

WHEREAS, on June 5, 1990, the citizens of the State of California approved Proposition 111 which provided new Proposition 111 adjustment formulas; and

WHEREAS, Senate Bill 1352, enacted by the Legislature of the State of California, provides for the implementation of Article XIII by defining various terms in this article; and

WHEREAS, pursuant to the requirements of Senate Bill 1352, the City Council, on June 1, 2021 adopted a Resolution which gave notice, as required by law, that the City Council would establish the City of Berkeley appropriations limit for FY 2022 by a Resolution of the City Council on June 29, 2021.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley, that the Council, pursuant to the requirements and criteria set forth in Senate Bill 1352, does hereby establish the appropriations limit at \$311,493,168 for FY 2022 for the City of Berkeley as documented in Exhibits A and B attached hereto and incorporated herein by reference as though fully set forth.

Exhibits:

A: GANN Appropriation Limit FY 2022

B: Schedule to Calculate Appropriation Limitation FY 2022

**EXHIBIT A**

**CITY OF BERKELEY  
GANN APPROPRIATION LIMITATION FOR FY 2022  
(Based on the FY 2022 Proposed Budget)**

|                                                                                                                                      |           |                                          |
|--------------------------------------------------------------------------------------------------------------------------------------|-----------|------------------------------------------|
| FY 2021 Gann Appropriation Limit of \$238,632,972 (before Special Taxes Added), Adjusted for Growth Factor of 1.0534 (See Exhibit B) | \$        | <b>251,375,973</b>                       |
| <b>ADD BACK:</b>                                                                                                                     |           |                                          |
| Library Relief Tax                                                                                                                   |           | 21,704,603                               |
| Emergency Medical Services Special Tax                                                                                               |           | 3,330,634                                |
| Park Maintenance, City Trees and Landscaping Special Tax                                                                             |           | 15,320,468                               |
| Emergency Services for Severely Disabled Tax                                                                                         |           | 1,451,853                                |
| Firefighting, Emergency Medical Response and Wildfire                                                                                |           | 12,750,000                               |
| Fire Protection and Emergency Response and Preparedness                                                                              |           | 5,559,637                                |
| <b>TOTAL Gann Appropriation Limitation</b>                                                                                           | <b>\$</b> | <b>311,493,168</b> <sup>(1)</sup>        |
| Appropriations Subject to Gann Limitation                                                                                            | <b>\$</b> | <b><u>239,070,328</u></b> <sup>(2)</sup> |
| <b>EXCESS of Limitation Over Appropriation</b>                                                                                       | <b>\$</b> | <b><u><u>72,422,840</u></u></b>          |

*Notes:*

*(1) The appropriation limit is the calculated dollar amount, which restricts the ability to receive and appropriate proceeds of taxes.*

*(2) The amounts of appropriations subject to the limitation are budgeted proceeds of taxes (e.g., all taxes levied; transfers from an enterprise fund to the extent those funds exceed the cost of providing the services; discretionary state subventions; interest earned from the investment of proceeds of taxes, etc.) and the total of these budgeted revenue cannot exceed the total appropriation limitations.*

The GANN Limit override to raise the spending limit for the special taxes are required to be renewed by voters every four years. The date the next GANN Limit override is to be submitted to voters is November, 2024

CITY OF BERKELEY  
 SCHEDULE TO CALCULATE APPROPRIATION LIMITATION FOR FY 2020  
 (Based on the FY 2020 Proposed Budget)

|                                                                            |                      |
|----------------------------------------------------------------------------|----------------------|
| <b>Total City Appropriations</b> (Per Final Amended Budget for FY 1978/79) | <b>\$ 72,457,778</b> |
| <b>Less:</b> 1. Debt Service Appropriation                                 | \$ 457,186           |
| 2. Inter-service Funds:                                                    |                      |
| Equipment Maintenance                                                      | 1,436,890            |
| Warehouse                                                                  | 554,883              |
| 3. Enterprise Funds:                                                       |                      |
| Off-Street Parking                                                         | 414,609              |
| Marina Operations & Maintenance                                            | 1,623,144            |
| Sanitary Sewer Maintenance & Construction                                  | 1,260,012            |
| Refuse Collection                                                          | 3,635,197            |
| 4. Non-Proceeds of Taxes                                                   | 33,147,004           |
| <b>Appropriation Subject to Limitation</b>                                 | <b>42,528,925</b>    |
| <b>Base Year 1978/79</b>                                                   | <b>\$ 29,928,853</b> |

| Fiscal Year | Beginning Balances |                                                                           | Less: Transferred Cost |                 | Add Back: Special Taxes |                                        |                                                         |                           |                              |                                                     |                                                       | Subtotal Transferred Cost and Special Taxes | Appropriation Limit After Transferred Cost and Add Back of Special Taxes |
|-------------|--------------------|---------------------------------------------------------------------------|------------------------|-----------------|-------------------------|----------------------------------------|---------------------------------------------------------|---------------------------|------------------------------|-----------------------------------------------------|-------------------------------------------------------|---------------------------------------------|--------------------------------------------------------------------------|
|             | Growth Factor      | Appropriation Limit Before Transferred Cost and Add Back of Special Taxes | Landscaping            | Street Lighting | Library Relief Tax      | Emergency Medical Services Special Tax | Park Maintenance City Trees and Landscaping Special Tax | Emergency Paratransit Tax | Disaster Fire Protection Tax | Fire Protection & Emergency Response & Preparedness | Firefighting, Emergency Medical Response and Wildfire |                                             |                                                                          |
| Base Year   |                    | \$ 29,928,853                                                             |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |                                                       | -                                           | \$ 29,928,853                                                            |
| 1980        | 1.097700           | 32,852,902                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |                                                       | -                                           | 32,852,902                                                               |
| 1981        | 1.121400           | 36,841,244                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |                                                       | -                                           | 36,841,244                                                               |
| 1982        | 1.083100           | 39,902,752                                                                | \$ (949,298)           | \$ (522,600)    |                         |                                        |                                                         |                           |                              |                                                     |                                                       | \$ (1,471,898)                              | 38,430,854                                                               |
| 1983        | 1.070200           | 41,128,700                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |                                                       | -                                           | 41,128,700                                                               |
| 1984        | 1.029600           | 42,346,109                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |                                                       | -                                           | 42,346,109                                                               |
| 1985        | 1.047000           | 44,336,377                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |                                                       | -                                           | 44,336,377                                                               |
| 1986        | 1.045400           | 46,349,249                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |                                                       | -                                           | 46,349,249                                                               |
| 1987        | 1.025800           | 47,545,060                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |                                                       | -                                           | 47,545,060                                                               |
| 1988        | 1.047500           | 49,803,451                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |                                                       | -                                           | 49,803,451                                                               |
| 1989        | 1.054700           | 52,527,700                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |                                                       | -                                           | 52,527,700                                                               |
| 1990        | 1.050200           | 55,164,591                                                                |                        |                 | \$ 6,010,000            |                                        |                                                         |                           |                              |                                                     |                                                       | 6,010,000                                   | 61,174,591                                                               |
| 1991        | 1.056300           | 58,270,356                                                                |                        |                 | 6,600,000               |                                        |                                                         |                           |                              |                                                     |                                                       | 6,600,000                                   | 64,870,356                                                               |
| 1992        | 1.056800           | 61,580,113                                                                |                        |                 | 6,752,000               |                                        |                                                         |                           |                              |                                                     |                                                       | 6,752,000                                   | 68,332,113                                                               |
| 1993        | 1.057900           | 65,145,601                                                                |                        |                 | 6,850,000               |                                        |                                                         |                           |                              |                                                     |                                                       | 6,850,000                                   | 71,995,601                                                               |
| 1994        | 1.043100           | 67,953,377                                                                |                        |                 | 7,202,000               |                                        |                                                         |                           |                              |                                                     |                                                       | 7,202,000                                   | 75,155,377                                                               |
| 1995        | 1.016900           | 69,101,789                                                                |                        |                 | 7,202,000               |                                        |                                                         |                           |                              |                                                     |                                                       | 7,202,000                                   | 76,303,789                                                               |
| 1996        | 1.030200           | 71,188,663                                                                |                        |                 | 7,570,000               |                                        |                                                         |                           |                              |                                                     |                                                       | 7,570,000                                   | 78,758,663                                                               |
| 1997        | 1.063200           | 75,687,786                                                                |                        |                 | 7,570,000               |                                        |                                                         |                           |                              |                                                     |                                                       | 7,570,000                                   | 83,257,786                                                               |
| 1998        | 1.060800           | 80,289,604                                                                |                        |                 | 7,570,000               | \$ 1,639,599                           | \$ 5,500,000                                            |                           |                              |                                                     |                                                       | 14,709,599                                  | 94,999,203                                                               |
| 1999        | 1.060400           | 85,139,096                                                                |                        |                 | 7,927,500               | 1,651,547                              | 5,790,163                                               |                           |                              |                                                     |                                                       | 15,369,210                                  | 100,508,306                                                              |
| 2000        | 1.059900           | 90,238,928                                                                |                        |                 | 8,373,875               | 1,701,993                              | 5,850,400                                               |                           |                              |                                                     |                                                       | 15,925,368                                  | 106,164,296                                                              |
| 2001        | 1.057500           | 95,427,666                                                                |                        |                 | 8,936,938               | 1,812,014                              | 6,025,912                                               |                           |                              |                                                     |                                                       | 16,774,864                                  | 112,202,530                                                              |
| 2002        | 1.097300           | 104,712,778                                                               |                        |                 | 9,478,469               | 1,927,257                              | 7,211,984                                               | \$ 661,000                |                              |                                                     |                                                       | 19,278,710                                  | 123,991,488                                                              |
| 2003        | 0.999740           | 104,685,553                                                               |                        |                 | 9,997,653               | 1,974,876                              | 7,435,281                                               | 689,369                   | \$ 1,000,000                 |                                                     |                                                       | 21,097,179                                  | 125,782,732                                                              |
| 2004        | 1.031489           | 107,981,996                                                               |                        |                 | 11,654,000              | 2,034,352                              | 7,609,028                                               | 690,475                   | 970,000                      |                                                     |                                                       | 22,957,855                                  | 130,939,851                                                              |
| 2005        | 1.040236           | 112,326,760                                                               |                        |                 | 11,603,755              | 2,000,000                              | 7,594,920                                               | 702,727                   | 950,639                      |                                                     |                                                       | 22,852,041                                  | 135,178,801                                                              |
| 2006        | 1.060000           | 119,066,366                                                               |                        |                 | 12,214,113              | 2,040,000                              | 7,755,780                                               | 754,105                   | 969,652                      |                                                     |                                                       | 23,733,650                                  | 142,800,016                                                              |
| 2007        | 1.052907           | 125,365,810                                                               |                        |                 | 12,580,535              | 2,120,827                              | 7,975,189                                               | 771,244                   | 969,652                      |                                                     |                                                       | 24,417,447                                  | 149,783,257                                                              |
| 2008        | 1.055370           | 132,307,315                                                               |                        |                 | 13,209,469              | 2,184,452                              | 8,214,445                                               | 805,333                   | 998,742                      |                                                     |                                                       | 25,412,441                                  | 157,719,756                                                              |
| 2009        | 1.056666           | 139,804,642                                                               |                        |                 | 13,520,414              | 2,274,380                              | 8,502,545                                               | 839,882                   | 969,652                      |                                                     |                                                       | 26,106,873                                  | 165,911,515                                                              |
| 2010        | 1.018780           | 142,430,173                                                               |                        |                 | 13,655,619              | 2,297,124                              | 8,587,570                                               | 889,152                   | 969,652                      | 5,400,000                                           |                                                       | 31,799,117                                  | 174,229,290                                                              |
| 2011        | 1.072060           | 152,693,690                                                               |                        |                 | 13,904,789              | 2,332,903                              | 8,754,869                                               | 894,401                   | 969,652                      | 3,600,000                                           |                                                       | 30,456,614                                  | 183,150,304                                                              |
| 2012        | 1.0381             | 158,511,319                                                               |                        |                 | 14,425,555              | 2,461,803                              | 9,237,474                                               | 944,155                   | 969,652                      | 3,788,761                                           |                                                       | 31,827,400                                  | 190,338,719                                                              |
| 2013        | 1.04787            | 166,099,254                                                               |                        |                 | 15,028,438              | 2,484,633                              | 9,309,080                                               | 967,511                   | 985,734                      | 3,879,323                                           |                                                       | 32,654,719                                  | 198,753,973                                                              |
| 2014        | 1.063912           | 176,714,993                                                               |                        |                 | 15,870,770              | 2,561,235                              | 9,586,190                                               | 1,022,302                 | 985,734                      | 4,095,987                                           |                                                       | 34,122,218                                  | 210,837,211                                                              |
| 2015        | 1.011200           | 178,694,201                                                               |                        |                 | 16,345,912              | 2,640,032                              | 9,865,971                                               | 1,052,122                 | 985,734                      | 4,186,198                                           |                                                       | 35,075,969                                  | 213,770,170                                                              |
| 2016        | 1.051700           | 187,932,691                                                               |                        |                 | 16,617,288              | 2,687,121                              | 10,043,981                                              | 1,070,929                 | 985,734                      | 4,256,304                                           |                                                       | 35,661,357                                  | 223,594,048                                                              |
| 2017        | 1.064900           | 200,129,523                                                               |                        |                 | 17,893,335              | 2,778,570                              | 12,150,387                                              | 1,152,175                 | 985,734                      | 4,583,053                                           |                                                       | 39,543,434                                  | 239,672,957                                                              |
| 2018        | 1.047200           | 209,575,636                                                               |                        |                 | 18,786,687              | 2,916,558                              | 12,763,390                                              | 1,209,625                 | 985,734                      | 4,812,892                                           |                                                       | 41,474,886                                  | 251,050,522                                                              |
| 2019        | 1.045400           | 219,090,370                                                               |                        |                 | 19,746,463              | 3,047,265                              | 13,411,968                                              | 1,270,257                 | 985,734                      | 5,058,273                                           |                                                       | 43,519,960                                  | 262,610,330                                                              |
| 2020        | 1.046200           | 229,212,345                                                               |                        |                 | 20,806,525              | 3,215,011                              | 14,143,821                                              | 1,339,668                 | 985,734                      | 5,328,686                                           |                                                       | 45,819,445                                  | 275,031,790                                                              |
| 2021        | 1.041100           | 238,632,972                                                               |                        |                 | 20,342,539              | 3,183,676                              | 14,369,024                                              | 1,361,402                 | 985,734                      | 5,405,100                                           |                                                       | 45,647,475                                  | 284,280,447                                                              |
| 2022        | 1.053400           | 251,375,973                                                               |                        |                 | 21,704,603              | 3,330,634                              | 15,320,468                                              | 1,451,853                 | 0                            | 5,559,637                                           | 12,750,000                                            | 60,117,195                                  | 311,493,168                                                              |







Office of the City Manager

CONSENT CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: FY 2022 Revision to the Investment Policy and Designation of Investment Authority

RECOMMENDATION

Adopt a Resolution accepting the changes to the Investment Policy and to confirm the delegation of investment authority to the Director of Finance to make investments for FY 2022.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts from accepting the revisions to the Investment Policy and renewing the delegation of authority to the Director of Finance to make investments.

CURRENT SITUATION AND ITS EFFECTS

**A. FY 2022 Reinforcement and Revision to the Investment Policy:**

1. **Recommendation:** Increase the percentage of the portfolio that can be invested in callable Agency securities (i.e., Government Sponsored Enterprises) from 35% to 45%.

**Authority:** The State restrictions do not address callable versus non-callable Agency securities, and does not place a percentage limit on the purchase of Agencies.

**Rationale:** The City can obtain higher interest rates by purchasing callable instead of non-callable Agencies in this interest rate environment, without taking on reinvestment risk.

- Changes on the policy page 15, 2<sup>nd</sup> bullet, *“No more than 35% 45% of the portfolio may be invested in callable agency or government-sponsored enterprise securities.”*

**2. Reinforcement of Current Investment Policy:**

On November 27, 2018 the Berkeley City Council approved to incorporate the Environmental, Social, and Governance (ESG) principles in the City's investment policy. ESG principles put Berkeley's values into our investment decisions. On April 27, 2021, the City Council by Resolution 69,829-N.S. re-affirmed that commitment by aligning the City with the ESG principles and not investing in industrial animal protein and factory farming companies.

**B. Delegating Authority to Make Investments**

The Investment Policy requires the City Council to annually confirm the delegation of investment authority to the Director of Finance.

**BACKGROUND**

The State statutes that govern investment activity requires the City Council to annually affirm the Investment Policy and to annually confirm the delegation of investment authority.

**INVESTMENT OVERSIGHT**

All investments included in the portfolio comply with the City's adopted investment policies and State law.

**ENVIRONMENTAL SUSTAINABILITY**

The Investment Policy provides opportunities to make environmentally responsible investments that support the City's environmental sustainability goals.

**RATIONALE FOR RECOMMENDATION**

The State requires City Council to annually affirm the Investment Policy, and to annually confirm the delegation of investment authority to the Director of Finance.

**ALTERNATIVE ACTIONS CONSIDERED**

None.

**CONTACT PERSON**

Henry Oyekanmi, Director, Finance, 981-7326

Attachments:

- 1: Resolution
2. Investment Policies for Idle Pooled Cash (Effective July 1, 2021)
3. Investment Policies for Retiree Medical Plan Trust Funds (Effective July 1, 2021)

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

ACCEPTING THE INVESTMENT POLICY AND RENEWING THE DELEGATION  
OF AUTHORITY TO MAKE INVESTMENTS TO THE DIRECTOR OF FINANCE

WHEREAS, by Resolution No. 69,463-N.S. dated June 30, 2020, the City Council adopted the Investment Policy for the City of Berkeley; and

WHEREAS, the Statement of Investment Policies requires the Director of Finance to submit and make recommendations for amendments to the investment policy; and

WHEREAS, the Director of Finance has recommended an amendment to the City's investment policy to the City Council.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes to adopt a resolution affirming the Statement of Investment Policies, and to confirm the delegation of investment authority to make investments to the Director of Finance for FY 2022.

# City of Berkeley Investment Policy



*Effective July 1, 2022*

# City of Berkeley Investment Policy July 1, 2022

## Table of Contents

|                                                              |    |
|--------------------------------------------------------------|----|
| I. INTRODUCTION.....                                         | 2  |
| A. Scope of Policies .....                                   | 2  |
| B. Investment Objectives .....                               | 2  |
| C. Use of State Investment Guidelines .....                  | 6  |
| II. INVESTMENT AUTHORITY AND RESPONSIBILITIES.....           | 6  |
| A. Authorized Investment Officers.....                       | 6  |
| B. Internal Controls .....                                   | 7  |
| C. Evaluation of Investment Officer Actions .....            | 9  |
| III. CAPITAL PRESERVATION AND RISK .....                     | 9  |
| A. Overview .....                                            | 9  |
| B. Portfolio Diversification Practices .....                 | 9  |
| IV. ELIGIBLE FINANCIAL INSTITUTIONS.....                     | 10 |
| A. Authorized Dealers .....                                  | 10 |
| B. Individual Placement of Deposits.....                     | 10 |
| V. INVESTMENT VEHICLES .....                                 | 11 |
| A. State of California Limitations .....                     | 11 |
| B. City Policies .....                                       | 14 |
| VI. INVESTMENT MATURITY.....                                 | 16 |
| VII. CASH MANAGEMENT.....                                    | 16 |
| VIII. EVALUATION OF INVESTMENT PERFORMANCE .....             | 16 |
| IX. INVESTMENT REPORTING.....                                | 17 |
| X. APPENDICES .....                                          | 19 |
| A. Investment Portfolio – Diversification Requirements ..... | 19 |
| B. Berkeley’s ESG Investing Initiative .....                 | 20 |

## I. Introduction

Pursuant to Sections 2.44.040 and 2.44.060 of the Berkeley Municipal Code, Resolution No. 45,087-N.S., and Sections 53601, 53607, 53636 and 53648 of the State Government Code, the Director of Finance, the Treasurer of the City, is authorized to make investments of the City's idle funds. The Code also directs the City to present an annual investment policy to the City Council for approval. This Investment Policy, after approval of the amendments by the City Council, will serve as the Investment Policy for the City of Berkeley for fiscal year 2019.

### A. Scope of Policies

These investment policies apply to the investments of the City of Berkeley and the Rent Stabilization Board. All financial assets of any non-trust funds, including the general fund and other funds that may be created from time to time, shall be administered in accordance with the provisions of these policies.

### B. Investment Objectives

The City's primary investment objective is to achieve a reasonable rate of return on public funds while minimizing the potential for capital losses arising from market changes or issuer default. Although the generation of revenues through interest earnings on investments is an appropriate City goal, the primary consideration in the investment of City funds is capital preservation in the overall portfolio. As such, the City's yield objective is to achieve a reasonable rate of return on City investments rather than the maximum generation of income, which could expose the City to unacceptable levels of risk.

The following investment objectives, in order of priority, shall be applied in the management of City funds: safety, liquidity and yield.

#### 1. **Safety of principal is the foremost objective of the investment program**

Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective is to mitigate credit risk and interest rate risk, summarized as follows:

- a. Credit risk. This is the risk of loss due to the failure of the security issuer or backer. Credit risk may be mitigated by:
  - Limiting investments to the safest types of securities.
  - Determining the credit worthiness of the financial institutions, broker/dealers, and intermediaries with which the City does business.
  - Diversifying the investment portfolio so that potential losses on individual securities will be minimized.

b. Interest rate risk. This is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates. Interest rate risk may be mitigated by:

- Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities prior to maturity; and
- Investing operating funds primarily in shorter-term securities.

## 2. **Liquidity**

No investment shall be made that could not appropriately be held to maturity without compromising liquidity requirements. The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary markets (dynamic liquidity).

## 3. **Yield**

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the City's investment risk constraints and liquidity needs. Return on investment is of least importance compared to the safety and liquidity objectives described above. The core of investments are limited to relatively low risk securities in anticipation of earning a reasonable return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:

- i. Liquidity needs of the portfolio require that the security be sold.
- ii. A security swap would improve the quality, yield, or target duration in the portfolio.

## 4. **Responsible Investing**

Investment policies of the City of Berkeley shall comply with the letter of the following ordinances, resolutions and directives:

- Nuclear-Free Berkeley Act
- Resolution No. 59,853-N.S.-Oppressive States Contract prohibition
- Divestment from Gun Manufacturers and Tobacco Companies
- Divestment from Publicly Traded Fossil Fuel Companies and Banks that Finance Pipelines and Fossil Fuel Infrastructure
- Divestment from Prisons Resolution No. 67,640-N.S. and Immigration Detention Companies
- Divest from Any Companies Designing, Building or Financing the U.S. – Mexico Border Wall Resolution No. 67,865-N.S.
- No Investment in Any Entity Involve in the Production and Manufacturing of Weapons-Resolution No. 68,766-N.S

- Integrate Environmental, Social, and Governance Principles (ESG) for All Investment Decision Making Process (See Appendix B for details.)

a. **Nuclear-Free Berkeley Act**

To the extent possible, without compromising the City's safety, liquidity and yield objectives, it is the City's policy to prefer investments in U.S. Agency securities. They are preferred because of their generally higher yields and generally socially preferable uses, such as housing loans or student loans, versus investments in Treasury securities with their association with nuclear weapons.

All financial institutions, which hold deposits or investments of the City, shall file a statement with the Director of Finance indicating the percentage of the bank's assets which are loaned to or invested in nuclear weapons agents as defined in Section 12.90 of the Nuclear-Free Berkeley Act. The Director of Finance shall use this information as a factor in selecting banks which have minimum involvement in the nuclear weapons industry. A summary of these reports shall be attached to the annual Statement of Investment Policies.

- Investments in United States Treasury securities may be made by the City of Berkeley.
- The City of Berkeley shall ensure that any City funds, or any funds controlled by the City, invested or other third parties, are invested according to the provisions of this section and, to this end, shall obtain written assurances to this effect from any such trustees or third parties.

b. **Divestment From Publicly-Traded Fossil Fuel Companies and Companies that Provide Direct Financing or On-going Lines of Credit for the Funding of Fossil Fuel Infrastructure**

The City of Berkeley has a responsibility to protect the lives and livelihoods of its inhabitants from the threat of climate change. While fossil fuel companies provide an attractive return on investment, the City of Berkeley will suffer greater economic and financial losses from the impact of unchecked climate change. The City's infrastructure, businesses and communities would face greater risk of damages and losses due to that climate change. The City believes that its investments should support a future where all citizens can live healthy lives without the negative impacts of a warming environment. For the purposes of the Investment Policy, a "fossil fuel company" shall be defined as any of the two hundred publicly-traded companies with the largest coal, oil and gas reserves as measured by the gigatons of carbon dioxide that would be emitted if those reserves were extracted and burned, as listed in the Carbon Tracker Initiative's "Unburnable Carbon" report.

Staff responsible for managing the City's investment portfolio are directed to divest all City funds held in fossil fuel companies or companies that provide direct financing or on-going lines of credit for the funding of fossil fuel infrastructure



such as the Dakota Access Pipeline and are prohibited from making any new investments in such companies.

**c. Divestment from Gun Manufacturers and Tobacco Companies**

The City of Berkeley has a responsibility to protect the lives and livelihoods of its inhabitants from the threat of dangerous weapons and products. There is no better role for city government than to protect people. If the City invests in companies that are putting dangerous weapons and dangerous products on our streets, then the City is part of the problem.

Staff responsible for managing the City's investment portfolio are directed to divest all City funds held in gun manufacturers and tobacco companies and are prohibited from making any new investments in such companies.

**d. Divestment from Prisons and Immigration Detention Companies**

The prison and immigration detention industry reaps large monetary benefits from the imprisonment of these communities. Prison companies admit that their companies benefit from high incarceration rates. With the increasing economic benefits that come with commodifying human lives, the City of Berkeley should divest from prison and immigration detention companies to make a statement that the industry harms human lives and degrades them as monetary investment.

Staff responsible for managing the City's investment portfolio are directed to divest all City funds held in Prisons and Immigration Detention Companies and are prohibited from making any new investments in such companies.

**e. Divestment from any Companies Designing, Building or Financing the U.S.-Mexico Border Wall - Resolution No. 67,865-N.S.**

The City of Berkeley is strongly opposed to the construction of a border wall between the United States and Mexico as called for in Presidential Executive Order 13767. Immigration has been part of this country's history since its inception. Construction of a border wall with tightened security will harm refugees who are feeling violence and conflict in Central American countries including Honduras and El Salvador. A border wall would increase international tensions and cause environmental damage by increasing emissions, cutting off natural water flows, and disturbing wildlife migration routes. The wall would cut through ancestral native lands and would significantly disrupt tribal communities. In addition, construction of a wall would be huge financial burden to taxpayers. Therefore, to ensure that local tax dollars in no way support the construction of the proposed border wall, the City of Berkeley will divest from all companies involved with designing, building, and financing the border wall.

Staff responsible for managing the City's investment portfolio are directed to divest all city funds from companies that design, build or finance the U.S.-Mexico

border wall as called for in Presidential Executive Order 13767, and are prohibited from making any new investments in such companies.

**f. No Investment in Any Entity Involve in the Production and Manufacturing of Weapons-Resolution No. 68,766-N.S**

The City of Berkeley joins the cities nationwide that oppose militarism and violence, and encourages other cities to follow Berkeley's lead. U.S. weapons manufacturers continue to supply repressive regimes around the world and U.S. produced weapons are being used in attacks that the international community deems unlawful for their disproportionate and excessive harm to civilians.

Staff responsible for managing the City's investment portfolio are directed to divest all City funds from companies that are involved in the production or manufacturing of weapons and weapons system, whether conventional or nuclear and including the manufacture of civilian arms.

These guidelines apply to all cash-equivalent assets included within the scope of the City's audited financial statements and held either directly by the City or held and invested by fiscal agents.

**g. Integrate Environmental, Social, and Governance Principles (ESG) for All Investment Decision Making Process (See Appendix B for details.)**

This combines environmental, social, and governance issues with traditional financial factors in the investment decision-making process. ESG investing helps cities like Berkeley to benefit from both impact driven and financially prudent investments. ESG principles would put Berkeley's values into our investment dollars.

## **C. Use of State Investment Guidelines**

Government Code Sections 16481.2, 53601, 53607, 53635, and 53646 of the State of California regulate the investment practices. It is the policy of the City of Berkeley to use the State's provisions for local government investments as the base for developing and implementing the City's investment policies and practices.

As required under Government Code Sections 16481.2 and 53646, the Statement of Investment Policies will be reviewed by the Council annually.

## II. Investment Authority and Responsibilities

### A. Authorized Investment Officers

#### 1. Idle Funds

Pursuant to Sections 2.44.040, 2.44.060 of the Berkeley Municipal Code, Resolution No. 45,087-N.S., and Sections 53601, 53636 and 53648 of the State Government Code, the Director of Finance, the Treasurer of the City, is authorized to make investments of the City's idle funds. Responsibility for the operation of the investment program is hereby delegated to the Director of Finance, who shall carry out established written procedures and internal controls for the operation of the investment program consistent with this plan. Procedures should include references to: safekeeping, delivery versus payment basis of settling transactions, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking services contracts. In the exercise of this responsibility, the authority to perform specific investment tasks and duties is delegated as follows:

- Treasury Manager/Revenue Collection Manager. In the absence, and under the direction, of the Finance Director, to invest idle funds on a daily basis as required for cash flow purposes pursuant to the requirements of the Statement of Investment Policies.
- Senior Accountant or Accounting Manager. To execute necessary investment documents, and obtain the approval of the Director of Finance to authorize wire transfers and execute bank authorizations.
- Deputy City Manager. To execute necessary investment documents, authorize wire transfers; execute bank authorization in absence of the Director of Finance, Treasury Manager/ Revenue Collection Manager, Senior Accountant, and the Accounting Manager.

### B. Internal Controls

The Director of Finance shall establish a system of internal controls designed to prevent losses of public funds arising from fraud, employee error, misrepresentation of third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the City of Berkeley. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management. These controls shall include:

- Separation of transaction authority from accounting and physical custody.

- By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
- Also, securities purchased from any bank or dealer including appropriate collateral (as defined by State Law), shall be placed with an independent third party for custodial safekeeping.
- Avoidance of physical delivery of securities by using a delivery versus payment “Basis of Settlement Only.”
- All trades will be executed on a delivery versus payment (DVP) basis. This ensures that securities are delivered to the City’s safekeeping bank at the same time the funds are released by the City’s safekeeping bank.
- Third-Party custodial safekeeping of securities held in the name of the City. Delivered securities must be properly safeguarded against loss or destruction. Book entry securities are recorded in electronic records and the potential for fraud and loss increases with physically delivered securities. All investment securities, except collateralized certificates of deposit and money market funds, purchased by the City will be delivered by either book entry or physical delivery and will be held in third-party safekeeping by a City-approved custodian bank, its correspondent New York Bank or the Depository Trust Corporation (DTC). Whenever possible, securities purchased are to be recorded in “book entry” form.
- All securities and applicable collateral will be held by the City’s third party custodian and evidenced by safekeeping receipts. All book entry securities owned by the City shall be evidenced by a safekeeping receipt issued to the City by the custodian bank to acknowledge that the securities are held in the Federal Reserve system in a “customer account” for the custodian bank which names the City as “customer”;

The Director of Finance will require each approved safekeeping financial institution to submit a copy of its Consolidated Report of Condition and Income (Call Report) to the City within 60 days after the end of each calendar quarter.

- Competitive bidding on investment transactions. Before the City invests in any secondary market funds, competitive bids shall be requested. If a specific maturity date is required, either for cash flow purposes or for conformance to maturity guidelines, bids will be requested from at least three financial institutions for instruments which meet the maturity requirement. If no specific maturity is required, a yield curve analysis will be conducted to determine which maturities would be most advantageous.
- Written confirmation and documentation of all financial transactions.

- Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
- Rapid deposit of funds received by the City (i.e., large checks.)
- Bonding of all investment officials.

### **C. Evaluation of Investment Officer Actions**

Section 53600.3 of the Government Code identifies trustees as those persons authorized to make investment decisions on behalf of a local agency. As a trustee, the standard of prudence to be used by investment officials shall be the "prudent investor" standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures, and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this plan.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of their entity.

## **III. Capital Preservation and Risk**

### **A. Overview**

Some level of risk is inherent in any investment transaction. Losses may be incurred due to issuer default, market price changes, or technical cash flow complications such as investments in non-marketable certificates of deposit. Diversification of the City's portfolio by institution, investment vehicle, and maturity term is the primary tool available to the City in minimizing investment risk and capital losses by safeguarding the overall portfolio from any individual loss.

## B. Portfolio Diversification Practices

The following sections summarize the City's major portfolio diversification practices and guidelines in determining:

- Authorized Dealers
- Investment Vehicles
- Investment Maturity

Portfolio limitations included in these guidelines are to be based on the portfolio composition and investment management plan policies in effect at the time of placement; the actual composition of the City's investments may vary over time from plan limitations due to overall portfolio changes from when the individual placement was made as well as changes in the City's investment management plan

## IV. Eligible Financial Institutions

### A. Authorized Dealers

- Investments shall be purchased only through well-established, financially sound institutions. The Finance Director shall maintain a list of financial institutions and broker/dealers approved for investment. All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions will be given a copy of the City's Statement of Investment Policies, and a return cover letter which must be signed indicating that the Statement of Investment Policies has been read and understood.

Qualified financial institutions and broker/dealers must supply the Director of Finance with the following:

- Financial Institutions
  - Current audited financial statements
  - Depository contracts, as appropriate
  - A copy of the latest FDIC call report or the latest FHLBB report, as appropriate.
- Broker/Dealers
  - Current audited financial statements
  - Proof that brokerage firm is a member in good standing with a national securities exchange.
- Except for repurchase agreements, investments shall be awarded based on competitive bids. Documentation relating to investment quotes shall be maintained by the Finance Department for a period of one year.

## **B. Individual Placement of Deposits**

Individual placement of negotiable, collateralized, and other time certificates of deposit with eligible financial institutions shall be based on the following practices and procedures:

- Deposits shall only be placed with financial institutions maintaining offices within the City of Berkeley.
- Unless collateralized by eligible securities as provided in Sections 53651 and 53652 of the Government Code, the maximum amount of Certificates of Deposit to be placed with any single institution is \$250,000.

## **V. Investment Vehicles**

### **A. State of California Limitations**

As provided in Sections 53601, 53635, and 16429.1 of the Government Code, the State of California limits the investment vehicles available to local agencies to the following:

#### **1. U.S. Treasury Instruments**

As authorized in Government Code Section 53601(b), this category includes bills, notes, bonds or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest. There are no portfolio limitations on the amount.

#### **2. Government Sponsored Enterprises**

As authorized in Government Code Section 53601(f), this category includes a wide variety of government securities. These securities include U. S. government-sponsored enterprise obligations, such as issues by the Federal National Mortgage Association (FNMA's), Federal Home Loan Bank (FHLB), Federal Farm Credit (FFCB), Student Loan Marketing Association (SLMA), etc. There are no portfolio limitations on the amount.

#### **3. Municipal Securities**

As authorized in Government Code Section 53601(a)(c)(d)(e), this category includes obligations of the City, the State of California, any of the other 49 states, and any local agency within the State of California, provided that:

- The securities are rated "A" or higher by at least one nationally recognized statistical rating organization.
- No more than 5% of the portfolio may be invested in any issuer.
- The maximum maturity does not exceed five years.

**4. Banker's Acceptances**

As provided in Government Code Section 53601(f)g, 40% of the City's portfolio may be invested in Banker's Acceptances, otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank, although no more than 30% of the portfolio may be invested in Bankers' Acceptances with any one commercial bank. Additionally, the maturity period cannot exceed 180 days.

**5. Commercial Paper**

Commercial paper is a short-term, unsecured promissory note issued by financial and non- financial companies to raise short-term cash. As provided in Government Code Section 53601(h) up to 25% of the City's portfolio may be invested in "prime" commercial paper of the highest ranking or of the highest letter and number rating as provided by a nationally recognized statistical-rating organization (i.e., Moody's or Standard and Poor's or Fitch), with maturities not to exceed 270 days. The issuer must have total assets in excess of \$500 million, and have debt other than Commercial Paper rated "A" or higher by a nationally recognized statistical-rating organization.

**6. Negotiable Certificates of Deposit**

Negotiable certificates of deposit are a fixed deposit certificate that may be negotiated (traded) to a third party. The institution issuing the certificate promises to pay the holder the initial investment plus the interest rate stated on the certificate at maturity. As authorized in Government Code Section 53601(i), the City may invest 30% of its portfolio in negotiable certificates of deposit issued by commercial banks, thrifts and foreign banks.

**7. Repurchase Agreements**

Repurchase agreements are agreements between the local agency and seller for the local agency to purchase government securities to be resold back to the seller at a specific date and for a specific amount and are authorized by Government Code Section 53601(j). Although the legal maximum maturity on these investments is 360 days, repurchase agreements are generally short-term investments varying from one day to two weeks. Investments in repurchase agreements must be collateralized, and collateral required for repurchase agreements is limited to Treasury and Agency securities. In order to anticipate market changes and provide a level of security for all funds, the required collateralization level is 102% of market value of principal and accrued interest.

**8. Reverse Repurchase Agreements**

Reverse repurchase agreements are a sale of securities by the local agency with a simultaneous agreement for the local agency to repurchase the securities on or before a specified date. As provided in Government Code section 53635(j), reverse repurchase agreements require the prior approval of the City Council. Reverse repurchase agreements can only be made with primary dealers of the Federal



Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with the local agency. There are no portfolio limitations on the amount for these investments.

**9. Medium-Term Corporate Notes**

As authorized in Government Code Section 53601(k), local agencies may invest in corporate bonds and notes of industrial companies, banks, bank holding companies, insurance companies, thrifts and finance companies that are rated "A" or better by a nationally recognized rating service; and issued by corporations organized and operating in the United States. The maximum remaining maturity is limited to five years, and the amount invested must not exceed 30% of the agency's portfolio.

**10. Shares of Beneficial Interest Issued By Diversified Management Companies**

As authorized in Government Code Section 53601(l), local agencies are also authorized to invest in shares of beneficial interest issued by diversified management companies (i.e., mutual funds) as defined in Section 23701(m) of the Revenue and Taxation Code in an amount not to exceed 20% of the agency's portfolio.

**11. Financial Futures and Financial Option Contracts**

As authorized in Government Code Section 53601.1, local agencies may invest in financial futures or option contracts in any of the above investment categories subject to the same overall portfolio limitations.

**12. Time Certificates of Deposit**

As authorized in Government Code Section 53635, time certificates of deposit are fixed term, non-negotiable investments which are required to be collateralized 110% by eligible pooled securities. The pool is administered by the State, and is composed of a wide variety of government securities, secured by first mortgages on improved residential property located in the State. There are no portfolio limits on the amount; however the maturity period for this investment vehicle may not exceed five years unless approved by the Council.

**13. Local Agency Investment Fund**

As authorized in Government Code Section 16429.1, local agencies may invest in the Local Agency Investment Fund (LAIF), a pooled investment fund managed by the State Treasurer's Office. It operates like a money market fund, but is for the exclusive benefit of governmental entities within the State. The current maximum amount of money that may be invested is \$40 million.

**14. Moneys Held By A Trustee Or Fiscal Agent**

As authorized in Government Code Section 53601(m), debt proceeds held by a trustee or fiscal agent, which are pledged to the payment or security of bonds or other indebtedness may be invested in accordance with the statutory provisions governing the issuance of those bonds or other agreement; or to the extent not

inconsistent with statutory provisions, or if there are no specific statutory provisions, investments may be made in accordance with the ordinance, resolution, indenture, or agreement of the local agency for the issuance.

This category includes investment agreements approved in writing by insurance companies, supported by appropriate opinions of counsel with notice to Standard and Poor's.

**15. Other Secured Notes, Bonds Or Other Obligations**

As authorized in Government Code Section 53601(n), notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities.

**16. Mortgage Pass Through, Collateralized Mortgage Obligation, Mortgage-backed Bond, Equipment Lease-backed Certificate, Consumer Receivable Pass through Certificate, and Consumer Receivable-backed Bond**

As authorized in Government Code Section 53601(o), securities in this category must be rated "AA" or its equivalent or better by a nationally recognized rating service. Purchases may not exceed 20% of the agency's portfolio.

**B. City Policies**

**1. Allowable Investment Vehicles and Restrictions**

The Director of Finance/City Treasurer is authorized to invest in any of the investment vehicles allowed by Sections 53601, 53635 and 16429.1 of the Government Code above, with the following limitations:

Financial futures; option contracts, floaters, inverse floaters, range notes, interest-only strips that are derived from a pool of mortgages, or any security that could result in zero interest income if held to maturity may not be purchased. Exclusion of these vehicles is consistent with the City's overall objective of achieving reasonable yields on public funds while minimizing risk and capital losses. Although the potential exists for greater interest yields with these vehicles, it is believed that the potential level of risk exceeds their benefits except in very limited circumstances.

- Reverse repurchase agreements shall be entered into only to effect a "matched" transaction whereby the proceeds of the reverse are reinvested for the same period as the term of the reverse repurchase agreement.
- Funds will only be invested in negotiable Certificates of Deposit that are fully insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC) in amounts up to \$250,000 (including interest).

- The authority to invest in certain securities is restricted by the provisions of the section entitled “Responsible Investing”.
- No more than 45% of the portfolio may be invested in callable agency or government- sponsored enterprise securities.
- Commercial paper is limited to a maturity of 180 days, and the issuer must have the highest rating from two nationally recognized rating agencies, not one (as required by the State).
- The greater of \$5 million or 2% of the short-term portfolio can be in the commercial paper of any single corporation or group under essentially common ownership or control.
- Purchases of such corporate notes as mortgage pass through, collateralized mortgage obligation, mortgage-backed bond, equipment lease-backed certificate, consumer receivable pass through certificate and consumer receivable-backed bond must be rated “Aa” or AA or its equivalent or better by a nationally recognized rating service. As authorized in Government Code Section 53601(j), staff may invest in corporate bonds and notes of industrial companies, banks, bank holding companies, insurance companies, thrifts and finance companies that are rated “A” or better by a nationally recognized rating service; and issued by corporations organized and operating in the United States. The amount invested must not exceed 30% of the agency's portfolio.
- No investment shall be made which involve a “hidden” reduction in the investment rate or yield in order to subsidize other investment programs. For example, the City invests \$10,000,000 for a year at a rate of 1% less than “market” rates.
- Up to 100% of the portfolio may be placed in money market accounts.

See Appendix A for the Investment Portfolio/Diversification Requirements, which lists the maximum amounts that may be invested in the various investment types and the maximum authorized maturities.

## 2. Term

Reserve funds from the proceeds of debt issues may be invested by the Director of Finance/City Treasurer in government agency securities with terms exceeding five (5) years, if the maturity of such investments are made to coincide as nearly as practicable with the life of the debt issue. A maximum of 30 percent of the par value of the portfolio may be invested in a stated maturity of up to 10 years.

### 3. New Investments

No new types of investments will be purchased for the first time without at least two weeks notification to the City Council. For example, although Mortgage Pass through securities are authorized investments, none will be purchased for the first time without such prior City Council notification.

## VI. Investment Maturity

In addition to the risks associated with the credit-worthiness of the financial institution and the security of the investment vehicle, the maturity period of investments is also a significant consideration in the management of the City's portfolio. In order to minimize the impact of market risk, it is intended that all investments will be held until maturity. Investments may be sold prior to maturity for cash flow or appreciation purposes; however, no investment shall be made based solely on yields resulting from anticipated capital gains.

Also, except for debt proceeds, a maximum of 30 percent of the par value of the portfolio may exceed five years.

## VII. Cash Management

To achieve a reasonable return on public funds, the following cash management practices will be followed:

- Maintain maximum investment of all City funds not required to meet immediate cash flow needs while maintaining adequate compensating balances as required under the City's banking services agreement.
- Pool resources available for investment from all City-administered funds, with interest earnings allocated to each of the funds in accordance with generally accepted accounting principles.
- Maximize the City's cash flow through the immediate deposit of all cash receipts, use of direct deposits and wire transfers when available, and appropriate timing of payments to vendors.
- Maximize the cash flow information available through the use of only one operating bank account.

## VIII. Evaluation of Investment Performance

As indicated in the Introduction section of this document, it is the City's primary investment objective to achieve a reasonable rate of return on public funds while minimizing risks and

preserving capital. In evaluating the performance of the City's portfolio in achieving this objective, it is expected that yields on City investments will regularly meet or exceed the average return on the State Local Agency Investment Fund (LAIF).

## **IX. Investment Reporting**

Consistent with Sections 16481.2 and 53646 of the Government Code, the Department of Finance shall submit an annual Statement of Investment Policies to the Council for consideration at a public meeting.

In addition to the submittal of an annual Statement of Investment Policies, the Department of Finance shall provide the Council with a quarterly and annual investment report providing the following information for each investment or security:

- Issuer or broker/dealer (financial institution)
- Type of investment
- Certificate or other reference number if applicable
- Percentage yield on an annualized basis
- Purchase date
- Maturity date for each investment and the weighted average maturity of all the investments within the portfolio
- Current book value
- Current market value
- Total cost and market value, including source of this valuation, of the City's portfolio
- A description of the compliance with the Statement of Investment Policies
- An evaluation of investment operations for the preceding year. This shall include an evaluation of how well the objectives have been achieved: the accuracy of forecasting expenditures and revenues, as well as a comparison of the average returns on the investment portfolio with that of the Local Agency Investment Fund (LAIF).
- Report of investments. The Director of Finance shall prepare a report that provides a clear status of the current investment portfolio and transactions. The report will be prepared in a manner which allows the City Manager and Council to ascertain whether investment activities during the reporting period have conformed to the investment policies.
- Summary of key or unusual events, including but not limited to:
  - Any exceptions to policies;
  - Adherence to or deviations from social investment goals;
  - Purchases of Treasury securities, other than in repurchase agreements with maturities of seven days or less;

- Purchases of securities that exceed maturity limits;
  - Sales of securities more than three months before maturity;
  - Changes in investment procedures, dealers, staff, etc.
- Investment performance:
    - A glossary, defining all funds or accounts referred to elsewhere in the report; and a listing of banks, securities dealers and custodians that the City has had investment transactions during the period.
    - A summary of the certifications for deposits of City funds.
    - Other information regarding the City's portfolio as appropriate

The Quarterly Investment Report shall include all investments as of the end of the quarter from all funds held in the City's portfolio, and shall be issued within 60 days after the end of the quarterly reporting period to the City Manager, and the City Council; the annual report shall be issued within 90 days after the end of the fiscal year to the City Manager, and the City Council.

## X. Appendices

### A. Investment Portfolio – Diversification Requirements

#### Investment Portfolio Diversification Requirements

| Investment Instrument                                         | Maximum Amount of Portfolio | Maximum Length to Maturity |
|---------------------------------------------------------------|-----------------------------|----------------------------|
| Bank / Time Deposit Accounts                                  | 100%                        | 5 Years                    |
| Money Market Deposit Accounts                                 | 100%                        | N/A                        |
| Repurchase Agreements                                         | 10%                         | 1 Year                     |
| Reverse Repurchase Agreements                                 | 10%                         | 7 Days                     |
| Bankers Acceptances                                           | 40%                         | 7 Days                     |
| U.S. Government Securities (Treasury Bills, Notes, and Bonds) | 100%                        | 10 Years                   |
| U.S. Government Agency Securities by Agency                   | 100%                        | 10 Years                   |
| Certificates of Deposit (Negotiable)                          | 30%                         | 10 Years                   |
| Municipal Bonds                                               | 100%                        | 5 Years                    |
| Commercial Paper                                              | 25%                         | 180 Days                   |
| Medium Term Notes                                             | 30%                         | 10 Years                   |

## B. Berkeley's ESG Investing Initiative



CITY OF BERKELEY

### BERKELEY'S ESG INVESTING INITIATIVE

On November 27, 2018, City of Berkeley City Council approved the recommendation to incorporate the Environmental, Social, and Governance (ESG) principles in the City of Berkeley's investment policy. This is a new effort to integrate ESG considerations into Berkeley's investment decision-making process would lead the way for responsible investment in the United States and across the globe. ESG factors makes good business sense and leads to more sustainable markets and better outcomes for societies.

### WHAT IS ESG INVESTING?

ESG investing describes the consideration of environmental, social, and governance (ESG) factors alongside traditional financial factors in the investment decision-making process, ensuring that investments are financially prudent and impact driven. ESG factors may include greenhouse gas emissions, energy usage, labor standards, business ethics, gender and racial diversity, executive compensation, and more.

### WHY IS ESG INVESTING IMPORTANT?

First, ESG investing drives better risk-adjusted returns, since companies that score higher on ESG factors tend to have stronger fundamentals that mitigate financial risk, putting those companies in a better position for long-run stability and profitability.

And second, ESG investing helps guide investment dollars to make a positive impact on some of the most fundamental challenges facing Berkeleyans. Through promoting investments in companies that prioritize conservation and sustainable business practices, it helps protect our environment for future generations. Through promoting investments in companies that promote a better quality of life for all of us, it helps create a more equitable, just corporate eco-system and world. And through promoting investments in companies with strong corporate governance, it helps promote sound and representative management practices.

### WHAT IS THE CITY OF BERKELEY'S APPROACH?

We plan to take clear, defined steps toward fully integrating ESG factors into the investment decisions within our operating portfolio, potentially including the following actions and commitments:

- **100% Integration:** Ensure that 100% of investment decisions on corporate securities are analyzed through ESG factors, making Berkeley one of the few cities in the country to take this step with its operating portfolio. Specific factors will include (but will not be limited to):
  - *Environmental:* Carbon Footprint; Energy Consumption; Water/Waste; External Conservation Initiatives; and Sector-Specific Adjustments.
  - *Social:* Labor Rights; Employee Diversity; Corporate Social Responsibility; and Human Rights/Ethics.
  - *Governance:* Leadership Structure; Executive Compensation; Human Capital Management; Transparency/Disclosure; and Shareholder Rights.
- **Comprehensive Approach:** Seek to maintain a minimum ESG portfolio rating of investment grade or higher.
- **Proactive, Responsible Investing:** Pursue opportunities for sustainable investments, including purchasing securities from market leaders in disclosure and corporate board diversity, securities that fund community development projects, and other securities with strongly positive effects on our communities.
- **Commitment to Carbon-Neutrality:** Achieve a carbon-neutral portfolio from an investment perspective, which may include seeking to offset existing investments in the top 200 publicly-owned coal, oil, and gas reserve owners (ranked by the carbon emissions embedded in their reserves) with socially responsible investments.



CITY OF BERKELEY

**INVESTMENT POLICY**

FOR RETIREE MEDICAL PLAN TRUST FUNDS



**Effective July 1, 2021**

**City of Berkeley**  
**INVESTMENT POLICIES FOR RETIREE MEDICAL PLAN**  
**TRUST FUNDS**  
**July 1, 2021**

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**Table of Contents**

|                                                           |    |
|-----------------------------------------------------------|----|
| <b>I. Introduction</b>                                    |    |
| A. Scope of Policies .....                                | 1  |
| B. Investment Objectives.....                             | 1  |
| C. Use of State Investment Guidelines .....               | 2  |
| <br>                                                      |    |
| <b>II. Investment Authority and Responsibilities</b>      |    |
| A. Authorized Investment Officers .....                   | 2  |
| B. Internal Controls .....                                | 2  |
| C. Evaluation of Investment Officer Actions .....         | 3  |
| <br>                                                      |    |
| <b>III. Capital Preservation and Risk</b>                 |    |
| A. Overview .....                                         | 4  |
| B. Portfolio Diversification Practices .....              | 4  |
| <br>                                                      |    |
| <b>IV. Eligible Financial Institutions</b>                |    |
| A. Authorized Dealers .....                               | 5  |
| B. Individual Placement of Deposits.....                  | 5  |
| <br>                                                      |    |
| <b>V. Investment Vehicles</b>                             |    |
| A. State of California Limitations.....                   | 6  |
| <br>                                                      |    |
| <b>VI. Investment Maturity</b> .....                      | 10 |
| <br>                                                      |    |
| <b>VII. Cash Management</b> .....                         | 10 |
| <br>                                                      |    |
| <b>VIII. Evaluation of Investment Performance</b> .....   | 10 |
| <br>                                                      |    |
| <b>IX. Investment Reporting</b> .....                     | 10 |
| <br>                                                      |    |
| <b>Appendix</b>                                           |    |
| A. Investment Portfolio—Diversification Requirements..... | 12 |

## **I. INTRODUCTION**

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Pursuant to Sections 2.44.040 and 2.44.060 of the Berkeley Municipal Code, Resolution No. 45,087-N.S., and Sections 53601, 53607, 53636 and 53648 of the State Government Code, the Director of Finance, the Treasurer of the City, is authorized to make investments of the City's idle funds. The Code also directs the City to present an annual investment policy to the City Council for approval. This Investment Policy, after approval of the amendments by the City Council, will serve as the Investment Policy for the City of Berkeley for the subsequent fiscal year.

Notwithstanding Section 53601 or 53635, the governing body of a local agency may invest funds designated for the payment of employee retiree health benefits in any form or type of investment deemed prudent by the governing pursuant to Section 53622. The authority of the governing body to invest or to reinvest funds intended for the payment of employee retiree health benefits, or to sell or exchange securities purchased for that purpose, may be delegated by the governing body to designated officers. The City Council has designated the Director of Finance, the Treasurer of the City, or his/her designee, the authority to make investments of the City's retiree medical plan trust funds.

Funds intended for the payment of employee retirement health benefits shall only be held for the purpose of providing benefits to participants in the retiree health benefit plan and defraying reasonable expenses of administering that plan.

The governing board or designated officer, when making investments of the funds, shall discharge its duties with respect to the investment of the funds.

- (1) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants in the retiree health benefit plan, minimizing employer contributions thereto, and defraying reasonable expenses of administering the plan.
- (2) With care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.
- (3) Shall diversify the investments of the funds so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.

### **A. SCOPE OF POLICIES**

These investment policies apply to the investments of the Retiree Medical Plan Trust Funds.

### **B. INVESTMENT OBJECTIVES**

The Treasurer adheres to the principle which maintains that over the long-term, prudent investment risk-taking may be rewarded with higher incremental returns. Consequently, while capital preservation (i.e., Safety) is regarded to be of paramount importance, the Treasurer regards prudent risk-taking as justifiable.

## C. USE OF STATE INVESTMENT GUIDELINES

As required under Government Code Sections 16481.2 and 53646, the Statement of Investment Policies will be reviewed by the Council annually.

## II. INVESTMENT AUTHORITY AND RESPONSIBILITIES

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### A. AUTHORIZED INVESTMENT OFFICERS

#### 1. *Retiree Medical Trust Funds:*

A Trust is to be established by the City for the purpose of holding and investing assets separate and apart from the other funds of the City to fund the benefits of the Program. The specific terms governing the Trust are to be set forth in a separate trust instrument.

- The trustee of the Trust (the “Trustee”) may be the City Treasurer (i.e., Director of Finance) or an independent third party qualified to act as a trustee under California law and designated by the City.
- The Trustee shall be a fiduciary of the Program and shall act solely in the interest of the Participants, minimizing employer contributions to the Trust, and defraying reasonable expenses of administering the Program.
- The City Manager may, with the written concurrence of the City Council, appoint an “investment manager” (as that term is defined in section 3(38) of the Employee Retirement Income Security Act) to have responsibility for investment of the Trust assets. In this case, the Trustee shall act as directed by the investment manager. The investment manager shall act as a fiduciary of the Program and shall act with the same duties and responsibilities set out in “Investment Objectives” section above.

### B. INTERNAL CONTROLS

The Director of Finance shall establish a system of internal controls designed to prevent losses of trust funds arising from fraud, employee error, misrepresentation of third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the City of Berkeley. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management. These controls shall include:

- Separation of transaction authority from accounting and physical custody.
- By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
- Also, securities purchased from any bank or dealer including appropriate collateral (as defined by State Law), shall be placed with an independent third party for custodial safekeeping.

- Avoidance of physical delivery of securities by using a delivery versus payment “Basis of Settlement Only”.
- All trades will be executed on a delivery versus payment (DVP) basis. This ensures that securities are delivered to the City’s safekeeping bank at the same time the funds are released by the City’s safekeeping bank.
- Third-Party custodial safekeeping of securities held in the name of the City.  
Delivered securities must be properly safeguarded against loss or destruction. Book entry securities are recorded in electronic records and the potential for fraud and loss increases with physically delivered securities. All investment securities, except collateralized certificates of deposit and money market funds, purchased by the City will be delivered by either book entry or physical delivery and will be held in third-party safekeeping by a City-approved custodian bank, its correspondent New York Bank or the Depository Trust Corporation (DTC). Whenever possible, securities purchased are to be recorded in “book entry” form.
- All securities and applicable collateral will be held by the City’s third party custodian and evidenced by safekeeping receipts. All book entry securities owned by the City shall be evidenced by a safekeeping receipt issued to the City by the custodian bank to acknowledge that the securities are held in the Federal Reserve system in a “customer account” for the custodian bank which names the City as “customer”;

The Director of Finance will require each approved safekeeping financial institution to submit a copy of its Consolidated Report of Condition and Income (Call Report) to the City within 60 days after the end of each calendar quarter.

- Competitive bidding on investment transactions. Before the City invests in any secondary market funds, competitive bids shall be requested. If a specific maturity date is required, either for cash flow purposes or for conformance to maturity guidelines, bids will be requested from at least three financial institutions for instruments which meet the maturity requirement. If no specific maturity is required, a yield curve analysis will be conducted to determine which maturities would be most advantageous.
- Written confirmation and documentation of all financial transactions.
- Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
- Rapid deposit of funds received by the City (i.e., large checks.)
- Bonding of all investments officials.

### **C. EVALUATION OF INVESTMENT OFFICER ACTIONS**

Section 53600.3 of the Government Code identifies trustees as those persons authorized to make investment decisions on behalf of a local agency. As a trustee, the standard of prudence to be used by investment officials shall be the "prudent investor" standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written

procedures, and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this plan.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of their entity.

### **III. CAPITAL PRESERVATION AND RISK**

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#### **A. OVERVIEW**

The Treasurer adheres to the principle which maintains that over the long-term, prudent investment risk-taking may be rewarded with higher incremental returns. Consequently, while capital preservation (i.e., Safety) is regarded to be of paramount importance, the Treasurer regards prudent risk-taking as justifiable.

Some level of risk is inherent in any investment transaction. Losses may be incurred due to issuer default, market price changes, or technical cash flow complications such as investments in non-marketable certificates of deposit. Diversification of the City's portfolio by institution, investment vehicle, and maturity term is the primary tool available to the City in minimizing investment risk and capital losses by safeguarding the overall portfolio from any individual loss.

#### **B. PORTFOLIO DIVERSIFICATION PRACTICES**

The following sections summarize the City's major portfolio diversification practices and guidelines in determining:

- Authorized Dealers
- Investment Vehicles
- Investment Maturity

Portfolio limitations included in these guidelines are to be based on the portfolio composition and investment management plan policies in effect at the time of placement; the actual composition of the City's investments may vary over time from plan limitations due to overall

portfolio changes from when the individual placement was made as well as changes in the City's investment management plan.

#### **IV. ELIGIBLE FINANCIAL INSTITUTIONS**

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##### **A. AUTHORIZED DEALERS**

- Investments shall be purchased only through well-established, financially sound institutions. The Finance Director shall maintain a list of financial institutions and broker/dealers approved for investment. All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions will be given a copy of the City's Statement of Investment Policies, and a return cover letter which must be signed indicating that the Statement of Investment Policies has been read and understood.

Qualified financial institutions and broker/dealers must supply the Director of Finance with the following:

##### Financial Institutions

Current audited financial statements

Depository contracts, as appropriate

A copy of the latest FDIC call report or the latest FHLBB report, as appropriate.

##### Broker/Dealers

Current audited financial statements

Proof that brokerage firm is a member in good standing with a national securities exchange.

- Except for repurchase agreements, investments shall be awarded based on competitive bids. Documentation relating to investment quotes shall be maintained by the Finance Department for a period of one year.

##### **B. INDIVIDUAL PLACEMENT OF DEPOSITS**

Individual placement of negotiable, collateralized, and other time certificates of deposit with eligible financial institutions shall be based on the following practices and procedures:

- Deposits shall only be placed with financial institutions maintaining offices within the City of Berkeley.
- Unless collateralized by eligible securities as provided in Sections 53651 and 53652 of the Government Code, the maximum amount of Certificates of Deposit to be placed with any single institution is \$250,000.

## V. INVESTMENT VEHICLES

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The governing body of a local agency may invest funds designated for the payment of employee retiree health benefits in any form or type of investment deemed prudent by the governing pursuant to Section 53622. Some of the investment vehicles the City Council has authorized are the following:

### 1. U.S. Treasury Instruments

As authorized in Government Code Section 53601(b), this category includes bills, notes, bonds or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest. There are no portfolio limitations on the amount.

### 2. Government Sponsored Enterprises

As authorized in Government Code Section 53601(f), this category includes a wide variety of government securities. These securities include U. S. government-sponsored enterprise obligations, such as issues by the Federal National Mortgage Association (FNMA's), Federal Home Loan Bank (FHLB), Federal Farm Credit (FFCB), Student Loan Marketing Association (SLMA), etc. There are no portfolio limitations on the amount.

### 3. Municipal Securities

As authorized in Government Code Section 53601(a)(c)(d)(e), this category includes obligations of the City, the State of California, any of the other 49 states, and any local agency within the State of California, provided that:

- The securities are rated “A” or higher by at least one nationally recognized statistical rating organization.
- 
- There are no limitations on the amount or period.

### 4. Banker's Acceptances

As provided in Government Code Section 53601(f)g, 40% of the City's portfolio may be invested in Banker's Acceptances, otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank, although no more than 30% of the portfolio may be invested in Bankers' Acceptances with any one commercial bank. Additionally, the maturity period cannot exceed 180 days.

### 5. Commercial Paper

Commercial paper is a short-term, unsecured promissory note issued by financial and non-financial companies to raise short-term cash. As provided in Government Code Section 53601(h) up to 25% of the City's portfolio may be invested in "prime" commercial paper of the highest ranking or of the highest letter and number rating as provided by a nationally recognized statistical-rating organization (i.e., Moody's or Standard and Poor's or Fitch), with maturities not to exceed 270 days. The issuer must have total assets in excess of \$500 million, and have debt other than Commercial Paper rated “A” or higher by a nationally recognized statistical-rating organization.



**6. Negotiable Certificates of Deposit**

Negotiable certificates of deposit are a fixed deposit certificate that may be negotiated (traded) to a third party. The institution issuing the certificate promises to pay the holder the initial investment plus the interest rate stated on the certificate at maturity. As authorized in Government Code Section 53601(i), the City may invest 30% of its portfolio in negotiable certificates of deposit issued by commercial banks, thrifts and foreign banks.

**7. Repurchase Agreements**

Repurchase agreements are agreements between the local agency and seller for the local agency to purchase government securities to be resold back to the seller at a specific date and for a specific amount and are authorized by Government Code Section 53601(j). Although the legal maximum maturity on these investments is 360 days, repurchase agreements are generally short-term investments varying from one day to two weeks. Investments in repurchase agreements must be collateralized, and collateral required for repurchase agreements is limited to Treasury and Agency securities. In order to anticipate market changes and provide a level of security for all funds, the required collateralization level is 102% of market value of principal and accrued interest.

**8. Reverse Repurchase Agreements**

Reverse repurchase agreements are a sale of securities by the local agency with a simultaneous agreement for the local agency to repurchase the securities on or before a specified date. As provided in Government Code section 53635(j), reverse repurchase agreements require the prior approval of the City Council. Reverse repurchase agreements can only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with the local agency. There are no portfolio limitations on the amount for these investments.

**9. Medium-Term Corporate Notes**

As authorized in Government Code Section 53601(k), local agencies may invest in corporate bonds and notes of industrial companies, banks, bank holding companies, insurance companies, thrifts and finance companies that are rated "A" or better by a nationally recognized rating service; and issued by corporations organized and operating in the United States. There are no portfolio limitations for these investments.

**10. Shares of Beneficial Interest Issued By Diversified Management Companies**

As authorized in Government Code Section 53601(l), local agencies are also authorized to invest in shares of beneficial interest issued by diversified management companies (i.e., mutual funds) as defined in Section 23701(m) of the Revenue and Taxation Code in an amount not to exceed 20% of the agency's portfolio.

**11. Financial Futures and Financial Option Contracts**

As authorized in Government Code Section 53601.1, local agencies may invest in financial futures or option contracts in any of the above investment categories subject to the same overall portfolio limitations.

**12. Time Certificates of Deposit**

As authorized in Government Code Section 53635, time certificates of deposit are fixed term, non-negotiable investments which are required to be collateralized 110% by eligible pooled securities. The pool is administered by the State, and is composed of a wide variety of government securities, secured by first mortgages on improved residential property located in the State. There are no portfolio limits on the amount; however the maturity period for this investment vehicle may not exceed five years unless approved by the Council.

**13. Local Agency Investment Fund**

As authorized in Government Code Section 16429.1, local agencies may invest in the Local Agency Investment Fund (LAIF), a pooled investment fund managed by the State Treasurer's Office. It operates like a money market fund, but is for the exclusive benefit of governmental entities within the State. The current maximum amount of money that may be invested is \$40 million.

**14. Moneys Held By A Trustee Or Fiscal Agent**

As authorized in Government Code Section 53601(m), debt proceeds held by a trustee or fiscal agent, which are pledged to the payment or security of bonds or other indebtedness may be invested in accordance with the statutory provisions governing the issuance of those bonds or other agreement; or to the extent not inconsistent with statutory provisions, or if there are no specific statutory provisions, investments may be made in accordance with the ordinance, resolution, indenture, or agreement of the local agency for the issuance.

This category includes investment agreements approved in writing by insurance companies, supported by appropriate opinions of counsel with notice to Standard and Poor's.

**15. Other Secured Notes, Bonds Or Other Obligations**

As authorized in Government Code Section 53601(n), notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities.

**16. Mortgage Pass Through, Collateralized Mortgage Obligation, Mortgage-backed Bond, Equipment Lease-backed Certificate, Consumer Receivable Pass through Certificate, and Consumer Receivable-backed Bond**

As authorized in Government Code Section 53601(o), securities in this category must be rated "AA" or its equivalent or better by a nationally recognized rating service. Purchases may not exceed 20% of the agency's portfolio.

In addition to the authorized investments above, the following investments may be made by Retiree Medical plan funds:

- Up to 100% of the retiree medical plans funds may be invested in equity mutual funds<sup>1</sup> or equity index funds<sup>2</sup>, preferred stocks<sup>3</sup> and bond funds<sup>4</sup>.

<sup>1</sup>Equity Mutual Fund – A financial intermediary that allows a group of investors to pool their money together with a predetermined investment objective. The mutual fund will have a fund manager who is responsible for investing the pooled money into specific securities. When you invest in a mutual fund, you are buying shares of the mutual fund and become a shareholder of the fund. They are very cost effective, as the fund can purchase securities with much lower trading costs than an individual investor. But the biggest advantage to mutual funds is diversification.

<sup>2</sup>Equity Index Fund – A mutual fund that attempts to copy the performance of a stock market index. The most common index fund tries to track the S&P 500 by purchasing all 500 stocks using the same percentages as the index. Index funds have lower fees because computers do most of the work. There is no need to hire an expensive fund manager or research analysts. Index funds can have an expense ratio as low as .18%, while actively managed funds can have an expense ratio over 3%. Over the long-term, the S&P 500 beats the returns of 80% of actively managed funds.

<sup>3</sup>Preferred Stock – A hybrid between common stock and a bond. Each share of preferred stock is normally paid a guaranteed dividend that receives first priority (i.e., the common stockholders cannot receive a dividend until the preferred dividend has been paid in full) and has priority over the common stockholders relative to the company's assets in the event of bankruptcy.

<sup>4</sup>Bond Fund- A bond fund is a more efficient way of investing in bonds than buying individual securities. Bond mutual funds are just like stock mutual funds in that you put your money into a pool with other investors, and a professional invests that pool of money according to what he or she thinks the best opportunities are. They are very cost effective, as the fund can purchase securities with much lower trading costs than an individual investor. But the biggest advantage to mutual funds is diversification.

Some of the investment vehicles that are Unallowable Investment Vehicles and Restrictions:

The Director of Finance/City Treasurer is not authorized to invest in any of the following investment vehicles:

Financial futures; option contracts, floaters, inverse floaters, range notes, interest-only strips that are derived from a pool of mortgages, or any security that could result in zero interest income if held to maturity may not be purchased. Exclusion of these vehicles is consistent with the City's overall objective of achieving reasonable yields on public funds while minimizing risk and capital losses. Although the potential exists for greater interest yields with these vehicles, it is believed that the potential level of risk exceeds their benefits except in very limited circumstances.

See Appendix A for the Investment Portfolio/Diversification Requirements, which lists the maximum amounts that may be invested in the various investment types and the maximum authorized maturities.

In accordance with Government Code Sections 53620-53622, the assets of the City of Berkeley Retiree Medical Plan Trust may be invested in any form or type of investment deemed prudent by the City Council.

The maximum maturity for Retiree Medical Plan Trust funds is 30 years.

## **VI. CASH MANAGEMENT**

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To achieve a reasonable return on public funds, the following cash management practices will be followed:

- Maintain maximum investment of all City funds not required to meet immediate cash flow needs.
- Maximize the City's cash flow through the immediate deposit of all cash receipts, use of direct deposits and wire transfers when available, and appropriate timing of payments to vendors.
- Maximize the cash flow information available through the use of only one operating bank account.

## **VII. EVALUATION OF INVESTMENT PERFORMANCE**

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An actuarial study commissioned by the City many years ago determined that, in addition to City Contributions, an average rate of return of 7% on miscellaneous employees' retiree medical trust fund assets invested must be achieved to fund the retiree health benefit at the desired 70% level. Primarily as a result of the Federal Reserve Board's decision to keep short-term rates near zero for the last 10 years, the average rate currently earned is significantly below that 7% level.

## **VIII. INVESTMENT REPORTING**

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Consistent with Sections 16481.2 and 53646 of the Government Code, the Department of Finance shall submit an annual Statement of Investment Policies to the Council for consideration at a public meeting.

In addition to the submittal of an annual Statement of Investment Policies, the Department of Finance shall provide the Council with a quarterly and annual investment report providing the following information for each investment or security:

- Issuer or broker/dealer (financial institution)
- Type of investment
- Certificate or other reference number if applicable
- Percentage yield on an annualized basis
- Purchase date
- Maturity date for each investment and the weighted average maturity of all the investments within the portfolio
- Current book value

- Current market value
- Total cost and market value, including source of this valuation, of the City's portfolio
- A description of the compliance with the Statement of Investment Policies
- An evaluation of investment operations for the preceding year. This shall include an evaluation of how well the objectives have been achieved: the accuracy of forecasting expenditures and revenues, as well as a comparison of the average returns on the investment portfolio with that of the Local Agency Investment Fund (LAIF).
- Report of investments. The Director of Finance shall prepare a report that provides a clear status of the current investment portfolio and transactions. The report will be prepared in a manner which allows the City Manager and Council to ascertain whether investment activities during the reporting period have conformed to the investment policies.
- Summary of key or unusual events, including but not limited to:
  - Any exceptions to policies;
  - Adherence to or deviations from social investment goals;
  - Purchases of Treasury securities, other than in repurchase agreements with maturities of seven days or less;
  - Purchases of securities that exceed maturity limits;
  - Sales of securities more than three months before maturity;
  - Changes in investment procedures, dealers, staff, etc.
- Investment performance;
  - A glossary, defining all funds or accounts referred to elsewhere in the report; and
  - A listing of banks, securities dealers and custodians that the City has had investment transactions during the period.
  - A summary of the certifications for deposits of City funds.
  - Other information regarding the City's portfolio as appropriate

The Quarterly Investment Report shall include all investments as of the end of the quarter from all funds held in the City's portfolio, including funds held and invested by trustees; and shall be issued within 30 days after the end of the quarterly reporting period to the City Manager, and the City Council; the annual report shall be issued within 90 days after the end of the fiscal year to the City Manager, and the City Council.

APPENDIX A**INVESTMENT PORTFOLIO  
Diversification Requirements**

| <u><i>Investment Instrument</i></u>                                 | <u><i>Maximum<br/>Amount<br/>Of Portfolio</i></u> | <u><i>Maximum<br/>Length<br/>To Maturity</i></u> |
|---------------------------------------------------------------------|---------------------------------------------------|--------------------------------------------------|
| Bank / Time Deposit<br>Accounts                                     | 100%                                              | 5 Years                                          |
| Money Market Deposit<br>Accounts                                    | 100%                                              | N/A                                              |
| Repurchase Agreements                                               | 10%                                               | 1 Year                                           |
| Reverse Repurchase<br>Agreements                                    | 10%                                               | 7 Days                                           |
| Bankers Acceptances                                                 | 40%                                               | 7 Days                                           |
| U.S. Government Securities<br>(Treasury Bills,<br>Notes, and Bonds) | 100%                                              | 30 Years                                         |
| U.S. Government Agency<br>Securities by Agency                      | 100%                                              | 30 Years                                         |
| Certificates of Deposit<br>(Negotiable)                             | 30%                                               | 30 Years                                         |
| Municipal Bonds                                                     | 100%                                              | 30 Years                                         |
| Commercial Paper                                                    | 25%                                               | 180 Days                                         |
| Medium Term Notes                                                   | 30%                                               | 30 years                                         |

In addition to the investments above, the following investments may be made by Retiree Medical plan funds:

- Up to 25% of the retiree medical plans funds may be invested in equity mutual funds<sup>1</sup> or equity index funds<sup>2</sup>, and preferred stock<sup>3</sup>.

<sup>1</sup>Equity Mutual Fund – A financial intermediary that allows a group of investors to pool their money together with a predetermined investment objective. The mutual fund will have a fund manager who is responsible for investing the pooled money into specific securities. When you invest in a mutual fund, you are buying shares of the mutual fund and become a shareholder of the fund. They are very cost effective, as the fund can purchase securities with much lower trading costs than an individual investor. But the biggest advantage to mutual funds is diversification.

<sup>2</sup>Equity Index Fund – A mutual fund that attempts to copy the performance of a stock market index. The most common index fund tries to track the S&P 500 by purchasing all 500 stocks using the same percentages as the index. Index funds have lower fees because computers do most of the work. There is no need to hire an expensive fund manager or research analysts. Index funds can have an expense ratio as low as .18%, while actively managed funds can have an expense ratio over 3%. Over the long-term, the S&P 500 beats the returns of 80% of actively managed funds.

<sup>3</sup>Preferred Stock – A hybrid between common stock and a bond. Each share of preferred stock is normally paid a guaranteed dividend that receives first priority (i.e., the common stockholders cannot receive a dividend until the preferred dividend has been paid in full) and has priority over the common stockholders relative to the company's assets in the event of bankruptcy.







Office of the City Manager

CONSENT CALENDAR  
June 29, 2021

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: Request for Proposal for Project Homekey

RECOMMENDATION

Adopt a Resolution authorizing City Manager to:

1. Release a Request for Proposals (RFP) for a Homekey Project; and
2. Allocate HOME-ARP funding and General Fund collected pursuant to Measure P, and/or other funding source, to support a future Homekey project.

FISCAL IMPACTS OF RECOMMENDATION

The RFP may lead to approval of a Homekey project which would require a local match of City funds. Approximately \$2.3M in HOME-ARP funds and current and future years of Measure P funding allocated toward permanent supportive housing for unhoused residents, and/or other source such as the Housing Trust Fund, may be available to support the acquisition, rehabilitation and/or supportive services for a future Homekey project. Staff will return to City Council in the fall with a detailed recommendation for a future development partner and funding required to submit an application to the State for Homekey funding.

CURRENT SITUATION AND ITS EFFECTS

In anticipation of the State of California Housing and Community Development (the "State") releasing a Notice of Funding Availability (NOFA) for Homekey funds later this year, the City issued a Request for Qualifications ("RFQ") on May 11, 2021, to pre-select organizations that are qualified to acquire, rehabilitate and/or operate a Homekey property. The State Homekey Program provides government entities funding to purchase and rehabilitate housing, including hotels, motels, vacant apartment buildings, and other buildings and convert them into interim or permanent, long-term housing. Under the Homekey Program, local entities partner with the State to offer this housing to serve people experiencing homelessness or who are also at risk of becoming homeless and who are impacted by the COVID-19 pandemic.

If and when the State releases its Homekey NOFA, the City will issue an RFP inviting the organizations selected through the City's RFQ process to submit a proposal for a specific property and be a joint applicant with the City for the State Homekey application. The RFQ proposals are due June 11, 2021, and staff anticipates finalizing

a list of eligible developers in early July 2021. The staff will issue an RFP for a Homekey Project as soon as the State releases its Homekey NOFA which is anticipated in September 2021. The City's Homekey RFP will require a proposal for a specific property and staff expect that bidders will request matching funds from the City. To maximize the amount of funds requested from the State Homekey Program, the City/Developer Homekey application must show a match of local/private funds ranging from \$50,000 to \$100,000 per unit, which combined with State match would result in a total of \$200,000 to \$250,000 per unit. Staff recommends using HOME-ARP and General Fund collected pursuant to Measure P to support a future Homekey project.

In April of this year, the federal Department of Housing and Urban Development (HUD) informed the City that it has awarded the City \$2.7M in HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP) funds in addition to the City's regular allocation of HOME funds. This is one-time funding to address homeless assistance needs by creating affordable housing or non-congregate shelter units and allows for 15% of the funds to be used for program delivery. Later in the year, HUD will issue an implementing notice providing additional guidance on HOME-ARP. These funds are available for expenditure until September 2030. Staff recommend using \$2.3M of these funds for a Homekey project.

General Fund collected pursuant to Measure P are also available for a permanent supportive housing project such as Homekey. City Council allocated \$2.5M in Measure P funds for permanent supportive housing in June 2020. Of this amount, Council subsequently set aside approximately \$900,000 per year for the Step-Up Housing Program, leaving \$1.6M available each year for a permanent supportive housing project. Staff recommend allocating four years (Fiscal Years 2022 through 2026) of Measure P funds for a Homekey project. However, depending on the size and costs of a future acquisition, staff will also consider alternative possible funding sources should they become available and/or be more appropriate to the project.

Prior to City Council review, the Housing Advisory Commission (HAC) and Homeless Panel of Experts (HPOE) will have the opportunity to consider staff recommendation of the Homekey project, including the selection of the developer and request for a specific amount of City funds.

Issuing an RFP for a Homekey project is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support services for our most vulnerable community members. The funds will be used to support conversion of an existing hotel, motel, other existing residential building or non-residential structure into permanent affordable housing for households with extremely low incomes and are experiencing homelessness or at risk of homelessness.

#### BACKGROUND

In July 2020, the State of California Department of Housing and Community

Development (the “State”) established its Homekey Program<sup>1</sup> and released a first Notice of Funding Availability (NOFA) for the program, which is now closed. The State is expected to issue a second NOFA in September 2021.

Staff is interested in applying for State Homekey funds along with a qualified affordable housing developer. This is an opportunity for the City to make an immediate impact on creating long-term, permanent supportive housing for Berkeley, leveraging limited City funds with State funds created specifically for this purpose. Per the Homekey requirements, residents will have extremely low incomes (ELI) (defined as up to 30% of the Area Median Income) and have experienced homelessness or be at risk of homelessness. To ensure long-term affordability of these units, the City will record a 55-year regulatory on property. Since the purpose of the State Homekey program is to mitigate the spread of COVID-19 among the homeless, the preference is to serve those who are experiencing homelessness. If COVID-19 is no longer a prevalent illness in the future, the requirement to serve households with COVID-19 may not be required.

If Council approves, the City will partner with a developer and submit a joint application for one Homekey Project. Per the first Homekey NOFA issued in July 2020, the State required applicants to demonstrate a 5-year commitment of operating funds, two years of which could be requested as part of the Homekey application from the State General Fund. The State also required a match for acquisition/construction costs over \$100,000 per unit. To receive an additional amount up to \$50,000 the State required a 1:1 match, which would provide an additional \$100,000 per unit (State plus applicant’s match of \$50K/unit). The second additional amount up to \$50,000 required a 2:1 to provide another \$150,000 (State plus applicant’s match of \$100K/unit). Assuming the match requirements stay the same, the total amount of funds available for a project would be \$200,000 to \$250,000 per unit. The RFP will include criteria pertaining to an applicant’s ability to secure non-City sources for these match funds. The City should also be prepared to commit local funds to help meet the match requirements of the State Homekey program, if needed.

While the City cannot, at this time, state the amount of funding it would commit to a project, the RFP will list any City funds available for acquisition, improvements, and/or services. In the fall, staff will submit a proposal to City Council for consideration of a Homekey project along with a request for City funds, and authorization to submit an application for State Homekey funding. The Housing Advisory Commission (HAC) and the Homeless Panel of Experts (HPOE) would also have the opportunity to consider staff recommendation prior to City Council review.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable direct environmental sustainability impact associated with the adoption of this recommendation. A future Homekey project would involve reusing or re-

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<sup>1</sup> For more information, see: <https://www.hcd.ca.gov/grants-funding/active-funding/Homekey.shtml>

purposing an existing hotel, motel, other residential or non-residential structure to permanent supportive housing. The work would entail rehabilitating the housing units to be more energy efficient to the extent possible. Staff would also be required to perform an environmental review of the project as required when using federal funds (HOME, ESG-CV) which includes recommendations for mitigating environmental impacts if needed.

RATIONALE FOR RECOMMENDATION

The State Homekey Program provides funding to convert existing buildings into permanent supportive housing. The City has the opportunity to leverage limited City funds with the State funds created for this purpose. By issuing this City Homekey RFP, the City will identify a viable project and developer partner to submit a joint application for Homekey funding if and when the State releases its Homekey NOFA.

ALTERNATIVE ACTIONS CONSIDERED

State Homekey grant funding is available to local public entities, like the City, to purchase and rehabilitate existing housing or other non-residential structures and convert them to interim or permanent, long-term housing. The City does not own properties nor do we develop, own or operate affordable housing developments. Therefore, staff is recommending issuing the RFP to seek proposals from qualified, experienced developers, owners/operators of permanent supportive housing to help the City meet its goals of creating long-term affordable housing for the most vulnerable in our community.

CONTACT PERSON

Lourdes Chang, Community Development Project Coordinator, HHCS, 981-5263

Attachments:

1: Resolution

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

ISSUING A REQUEST FOR FUNDING FOR A HOMEKEY PROJECT TO CREATE  
LONG-TERM, PERMANENT SUPPORTIVE HOUSING

WHEREAS, the City of Berkeley (“City”) is interested in partnering with a qualified housing developer to create permanent supportive housing for residents who are experiencing homelessness or at risk of homelessness; and

WHEREAS, in July 2020, the State of California Housing and Community Development (“State”) created the State Homekey Program and issued its first Notice of Funding Availability (NOFA) to fund the conversion of existing residential buildings, such as hotels, motels, other residential buildings and non-residential structures, to permanent supportive housing for residents who are homeless or at risk of being homeless and have been impacted by COVID-19; and

WHEREAS, in anticipation of the State issuing a second Homekey NOFA later this year, the City issued a Request for Qualifications (“RFQ”) on May 11, 2021, to solicit interest from developers with experience in acquisition, rehabilitation, operating and/or management of affordable housing and provision of resident and supportive services; and

WHEREAS, through the RFQ the City will develop an eligible list of organizations who would be asked to submit proposals for a specific property and be a joint applicant with the City if and when the State issues a second Homekey Program NOFA; and

WHEREAS, the State Homekey Program may require a match of local and private funds to maximize the amount of State Homekey funds awarded to a project; and

WHEREAS, City staff have identified potential sources of City that may be used to fulfill the match requirement.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to issue a Request for Proposal (RFP) for a Homekey project in the City of Berkeley to create long-term, permanent supportive housing for residents who are homeless or are at risk of being homeless; and

BE IT FURTHER RESOLVED that City Manager is hereby authorized to use the following funds to support a future Homekey project: HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP), and General Fund collected pursuant to Measure P.





Office of the City Manager

CONSENT CALENDAR

June 29, 2021

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: Fiscal Year 2022 Community Development Block Grant Public Facility Improvement Program Funds for the West Berkeley Service Center

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to:

1. Allocate all available Fiscal Year (FY) 2022 Community Development Block Grant funding (estimated at \$1,145,251) for one public facility improvement project at the City's West Berkeley Service Center; and
2. Allocate any additional FY 2021 CDBG program income to the West Berkeley Service Center renovation project, if needed, and in accordance with Resolution No. 69,830 –N.S.

FISCAL IMPACTS OF RECOMMENDATION

Adopting this recommendation will authorize the City Manager to allocate \$1,145,251 (estimated) in FY 2022 CDBG funding to the City's WBSC renovation project. These funds are available for public facility improvements under the budget code 128-51-504-531-2024-000-444-662110. Any additional FY 2021 program income that is received by the City may increase the allocated amount to this project, in accordance with the FY 2022 Annual Action Plan that was adopted on April 27, 2021 (Resolution 69,830 – N.S.).

CURRENT SITUATION AND ITS EFFECTS

Community Development Block Grant funds are made available for public facility improvement projects on a first-come, first-served basis via an over-the-counter application process. Approximately \$1.1 million is currently available.

On March 7, 2021, the City of Berkeley Public Health Division submitted an application for renovations to the West Berkeley Service Center (WBSC) located at 1900 Sixth Street, Berkeley, CA 94710. Public Health requested \$3,336,436 to rehabilitate the facility. The full scope includes updating the electrical system, new exterior and interior lighting, HVAC system, windows, plumbing for restroom upgrade, and ADA accessibility improvements.

Housing and Community Services staff reviewed the proposal and confirmed that the project is CDBG eligible and project ready. The request exceeds available funds. However, if approved, the scope will be revised and phases will be identified to address the most urgent health and safety, accessibility, and energy efficiency needs within budget limitations. Funding allowing, the highest priority needs for the renovation include upgrading the electrical system to sufficiently support equipment (i.e. vaccine storage refrigerators and the required back-up generator, computers, lighting, etc.), improvements on the plumbing to address current issues and deficiencies, and repairing the roof where it is failing. The funding would also be used to improve access to the building (i.e. ADA improvements, leveling outdoor surfaces for safe play spaces for young children, etc.). Secondary priorities would be replacing lighting to enhance safety, HVAC improvements and/ or window replacements (based on architectural assessment) to address air and temperature conditions, removing a fireplace, and replacing aged flooring with improved hypoallergenic options that enhance the health of community and staff (i.e. addressing allergens that may impact respiratory conditions)

On May 12, 2021, the Housing Advisory Commission (HAC) held a Special Meeting to review and discuss the WBSC Public Facility Improvement application. The HAC unanimously passed a motion (M/S/C: Johnson/Lee-Egan) to support funding for this project (Vote: Ayes: Fain, Johnson, Lee-Egan, Rodriguez, Sanidad, and Sargent. Noes: None. Abstain: None. Absent: Mendonca and Simon-Weisberg) and to support the City Manager's recommendation that City Council allocate all available FY 2022 CDBG Public Facility Improvement Program funds to the City's West Berkeley Service Center.

### BACKGROUND

CDBG funds can be used to make improvements to public facilities located within Berkeley that are open to the public and primarily serve low-to-moderate income Berkeley residents. Allowable expenditures include health and safety repairs, improving accessibility access, and/or energy efficiency improvements. In FY 2017, Council approved a restructuring of the annual CDBG Public Facility Improvement Request for Proposal (RFP) process, changing it from an annual competitive RFP to a rolling Notice of Funding Availability (NOFA) on a first come, first served basis. The restructuring was intended to create efficiencies in the application review process and decrease the time between application submission and award. In FY 2018 and FY 2019, funds were used for an emergent need to make improvements to Berkeley's Mental Health Clinic.

In December 2020, staff held a workshop to release of FY20 CDBG Public Facility Improvement funds. Since then, several agencies inquired about potential projects, but no completed applications were submitted until the WBSC application was received in March. With no applicants from November 2019 to January 2021, both FY 2020 and FY 2021 funds were reallocated to support an emergency housing rehabilitation activity at Lorin Station and Rosewood Manor operated by the South Berkeley Neighborhood Development Corporation.



On April 27, 2021, Council approved the FY 2022 Annual Action Plan, which allocated an estimated \$1.1 million dollars of Community Development Block Grant (CDBG) funds to the Public Facility Improvement Program (available after July 1, 2021), and the NOFA website was updated announcing these available funds. On May 14, 2021 the City received notification from the US Department of Housing and Urban Development (HUD) that the FY 2022 CDBG award had been revised and increased by 1.5%. This has resulted in a slight increase to the allocated budget for the Public Facility Improvement Program, in accordance with the FY 2022 Annual Action Plan that was adopted on April 27, 2021 (Resolution 69,830 –N.S.).

City staff review applications for public facility improvements, and the Housing Advisory Commission (HAC) serves as the citizen review body for these funds.

#### ENVIRONMENTAL SUSTAINABILITY

The use of CDBG funds for the WBSC renovation will increase energy efficiency by updating the electrical system and windows, removing the fireplace in the community room, and installing a new HVAC system.

#### RATIONALE FOR RECOMMENDATION

The WBSC facility has a number of identified health and safety, accessibility, and energy efficiency concerns that require rehabilitation to continue to provide a safe, welcoming, family-friendly, and equity-centered facility for program participants and the community. The WBSC serves approximately 1,000 low-income adults and children and will operate six different Maternal, Child and Adolescent Health (MCAH) Public Health programs at this site. Programs include Berkeley Black Infant Health Program (BBIH), Immunization Program, Family Support Services Program (FSSP), Early Childhood Health & Wellness Program (ECHW), School-Linked Health Services Program (SLHS), and Women, Infant & Children Nutrition Program.

The building's current configuration makes accessibility challenging for its program participants. Additionally, this improvement plan allows for six Public Health programs to operate out of one building; which will enhance the ability to provide timely wrap-around services for program participants.

Council has previously identified the WBSC for potential development of future senior housing/services. However, without a clear timeline for this development and the immediate need to provide space for a number of the Public Health Division's MCAH Programs (due to closure of the Ann Chandler Public Health Clinic in 2021) as well as a temporary move of a number of the Public Health's MCAH Programs in 2018, the West Berkeley Service Center was identified as a space suitable for all of these displaced MCAH Programs as well as the Immunization Program. The building would also address a long-requested community need (most recently identified in the Public Health Division's 2018 Community Health Assessment) for a community centered space in West Berkeley as a resource to support health and wellness for children, youth, and

families. Without these proposed improvements, the WBSC in its current state would not adequately serve as a safe, welcoming, and respectful space to access direct services which address health and wellness for our communities; particularly with a health equity focus.

ALTERNATIVE ACTIONS CONSIDERED

If not funded, the applicant describes how they would not be able “to realize a vision of creating a community centered, family friendly facility that would complement the services of our programs and meet the identified need from our community” at the WBSC. The funds would then be available for other public or nonprofit entities who own facilities to apply for CDBG Public Facility Improvement Program funding.

CONTACT PERSON

Mary-Claire Katz, Associate Management Analyst, HHCS, 510-981-5414

Attachments:  
1: Resolution

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

FISCAL YEAR 2022 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)  
FUNDING FOR PUBLIC FACILITY IMPROVEMENTS TO THE WEST BERKELEY  
SERVICE CENTER (WBSC)

WHEREAS, the City of Berkeley is an entitlement jurisdiction which receives annual allocations of Community Development Block Grant (CDBG) funds from the US Department of Housing and Urban Development (HUD); and

WHEREAS, the City's allocation of CDBG funds currently includes an annual allocation for public facility improvements (budget code 128-51-504-531-2024-000-444-662110), and HHCS delivers these funds to the community through a first come, first served rolling application basis; and

WHEREAS, the City released a Notice of Funding Availability in November 2020 and held a community workshop to inform prospective applicants about the application process and available funds; and

WHEREAS, the City's Fiscal Year (FY) 2022 CDBG funds available for the Public Facility Improvement Program, as adopted by Council on April 27, 2021 (Resolution 69,830 – N.S.) was \$1,113,570; and

WHEREAS, HUD reissued the Program Year (PY) 2021(FY2022) Community Development Block Grant formula entitlement allocation, resulting in an increase to the Public Facility Improvement Program for a new total of \$1,145,251; and

WHEREAS, any additional CDBG FY 2021 program income received through the end of FY 2021 shall be proportionately allocated to the Public Facility Improvement Program and Planning and Administration in accordance with the FY 2022 Annual Action Plan that was adopted on April 27, 2021 (Resolution 69,830 –N.S.); and

WHEREAS, the City's West Berkeley Service Center located at 1900 6<sup>th</sup> Street has applied for all available FY 2022 Community Development Block Grant public facility improvement funds and has a demonstrated need for eligible rehabilitation repairs; and

WHEREAS, on May 12, 2021, the HAC held a Special Meeting and reviewed the West Berkeley Service Center Public Facility Improvement application and passed a motion to support the City Manager recommendation to the City Council to allocate all available public facility improvement funds of FY 2022 Community Development Block Grant funding for one public facility rehabilitation project at the City's West Berkeley Service Center (WBSC).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to:

June 29, 2021

1. Allocate all available FY22 Community Development Block Grant funding (estimated at \$1,145,251) for one public facility improvement project at the City's West Berkeley Service Center; and
2. Allocate any additional FY21 CDBG program income to the West Berkeley Service Center renovation project, if needed, and in accordance with Resolution No. 69,830 –N.S.



Office of the City Manager

CONSENT CALENDAR  
June 29, 2021

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. 31900254 Amendment: Easy Does It to Provide Emergency Disability Services and Audit Recommendation Update for Fiscal Year 2022-2023

RECOMMENDATION

Adopt a Resolution approving an amendment to Contract No. 31900254 to continue funding for Easy Does It (EDI) for Fiscal Year (FY) 2022 and FY 2023 in the amount of \$1,432,011 using Measure E funds to provide emergency disability services, as long as EDI continues to demonstrate progress towards resolving the audit findings.

FISCAL IMPACTS OF RECOMMENDATION

This recommendation would continue to fund EDI for FY 2022 and FY 2023 (July 1, 2021 to June 30, 2023) using Measure E funds. This continued funding aligns with the Housing and Community Service's Community Agency Request for Proposal (RFP), at which time, Measure E funds will again be included in the RFP.

CURRENT SITUATION AND ITS EFFECTS

EDI has a contract with the City to provide emergency disability services through June 30, 2021. EDI receives nearly all of its funding through Measure E, which is a special tax that creates an essential revenue stream for funding specialized emergency care for the severely physically disabled.

The current contract with EDI requires that the agency implement and sustain the recommendations from the May 1, 2018 report from the City of Berkeley Auditor, [\*Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons\*](#) (Attachment 2).

EDI has made progress toward implementing the recommendations from the audit, as documented in Attachment 3. Out of the 15 recommendations that apply to EDI, the City has agreed that three have been fully implemented, partially agreed that nine have been implemented, and disagreed that three of the recommendations have been implemented. Please reference Attachment 3 for the full list of audit recommendations that will be included in the FY 2022 and FY 2023 EDI contract amendments. EDI has

demonstrated a commitment to addressing the audit findings and while they are not all complete, progress has been made.

HHCS will continue to monitor EDI's progress through standard quarterly community agency program reports, as well as specific audit recommendation implementation updates that will require documentation of agency implementation.

#### BACKGROUND

On May 1, 2018, the City Auditor submitted its report, [\*Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons\*](#) with recommendations to assist EDI in complying with its City grant agreement and strengthening its oversight and management of taxpayer money. According to a memo from the Auditor dated May 21, 2019, EDI had made little progress implementing the audit recommendations from the 2018 audit. The memo suggested that HHCS include the audit recommendation language in the EDI contract. HHCS is continuing to monitor continued progress on the audit recommendations and attaching updates to the annual amendment.

In the "Other Requirements" section of Exhibit A of EDI's contract, it notes that, as a condition of this contract and future funding, EDI will implement the audit recommendations. This requirement will remain in their contract until the recommendations have been implemented and sustained as evidenced by the appropriate documentation.

#### ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the recommendations in this report.

#### RATIONALE FOR RECOMMENDATION

EDI provides critical services to severely physically disabled people, and by implementing and sustaining the auditor's recommendations, EDI will be in good standing to continue providing those valuable services with funding from the City of Berkeley and Measure E.

#### ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered for this recommendation.

#### CONTACT PERSON

Mary-Claire Katz, Associate Management Analyst, HHCS, (510) 981-5414

Attachments:

- 1: Resolution
- 2: Auditor report, "*Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons*"
- 3: Easy Does It Audit Findings and Recommendations Responses

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

FISCAL YEAR 2022 – 2023 EASY DOES IT CONTRACT AMENDMENT AND AUDIT  
RECOMMENDATION UPDATE

WHEREAS, the City of Berkeley and Easy Does It (EDI) previously entered into Contract Number 31900254, dated October 9, 2019 which Contract was authorized by the Berkeley City Council by the City Manager of the City of Berkeley; and

WHEREAS, on June 30, 2020 by Resolution No. 69,483-N.S., the Berkeley City Council authorized amendment of said Contract; and

WHEREAS, EDI has demonstrated a commitment to, and has made advances in addressing the audit findings and unresolved audit findings will be carried over into subsequent amendments of this contract; and

WHEREAS, the contract amendment with EDI will continue to stipulate that any outstanding recommendations from the May 1, 2018 report from the City of Berkeley Auditor, [Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons](#), must be implemented and that if EDI does not satisfactorily implement and sustain the audit recommendations, the City reserves the right to not recommend continued funding to EDI and may release a new request for proposals for Measure E funds.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley continue to fund EDI for FY 2022 (July 1, 2021 to June 30, 2022) in the amount of \$1,432,011 and FY 2023 (July 1, 2022 to June 30, 2023) using Measure E funds (Budget Code: 107-51-504-530-0000-000-4444-636110-) as originally adopted on October 9, 2019 by Resolution No. 69,010-N.S.

BE IT FURTHER RESOLVED that the City Manager or her designee is authorized to amend EDI's contract (No. 31900254) for FY 2022 (July 1, 2021 to June 30, 2022) in the amount of \$1,432,011 and FY 2023 (July 1, 2022 to June 30, 2023) as long as EDI continues to demonstrate progress towards resolving the audit findings. A record signature copy of said agreement and any amendments shall be on file in the office of the City Clerk.





Office of the City Auditor

Attachment 2

CONSENT CALENDAR

May 1, 2018

To: Honorable Mayor and Members of the City Council

From: Ann-Marie Hogan, City Auditor

Subject: Audit Report: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons

RECOMMENDATION

Request that the City Manager report back by May 7, 2019, and annually thereafter, regarding the status of recommendations until reported fully implemented by EDI.

FISCAL IMPACTS OF RECOMMENDATION

Easy Does It received \$1.17 million in Measure E special tax grant funding from the City of Berkeley in fiscal year 2017. Measure E creates an essential revenue stream for funding specialized emergency care for the severely physically disabled. If the funds are used incorrectly, the City risks losing taxpayer confidence to support the tax. It is vital, therefore, to take precautions to safeguard the money and use it as taxpayers intended.

CURRENT SITUATION AND ITS EFFECTS

Significant deficiencies in Easy Does It (EDI) operations left the agency unable to show that it had used taxpayer money as voters intended; deficiencies also put the funds at risk of theft. EDI's client data and records were unclear or missing, and its payroll records included discrepancies considered fraud indicators. However, EDI management demonstrated a commitment to serving the Berkeley community and to making positive changes, including establishing the procedures necessary to demonstrate compliance with Measure E funding requirements and to mitigate fraud risks. Making those changes will take time and will require leadership from board members who will be more involved in strategic planning, policy formation, financial planning and oversight, resource development, program review, and dispute resolution

Measure E does not allow for use of the tax revenue for City administrative costs; the City's General Fund support of staff monitoring community agencies has significantly declined over the years. HHCS reported to the City Council in September 2012 on the department's capacity restrictions, saying it has only a third of budgeted 2001 staffing to support roughly the same community agency program funding portfolio established in 2001. This forced HHCS to reduce administration efforts, resulting in little available time for monitoring Easy Does It activities to safeguard the use of public funds.<sup>1</sup>

## BACKGROUND

Easy Does It is a small nonprofit organization that provides 24/7 emergency services to Berkeley residents with severe physical disabilities. Services include emergency attendant care, accessible transportation, equipment repair; and on-demand paratransit and case-management services.

Easy Does It entered into a \$1.2 million contract with the City of Berkeley in fiscal year 2017 as part of the City's community agency grants program. The City granted EDI the money to provide services consistent with Measure E and Measure B. The City funded the grant with \$1.17 million of Measure E funds and \$50,000 of Alameda County Measure B funds. Funding also included a one-time contract increase of \$75,000 using Measure E reserves because EDI was not fiscally prepared to respond to Berkeley's mandated minimum wage increases.<sup>ii</sup>

## ENVIRONMENTAL SUSTAINABILITY

Our office manages and stores audit workpapers and other documents electronically to significantly reduce our use of paper and ink. This particular report has no other identifiable environmental effects or opportunities associated with it.

## RATIONALE FOR RECOMMENDATION

Implementing our recommendations will assist Easy Does It in complying with its City contract, including Measure E requirements, and strengthening its oversight and management of taxpayer money.

## CONTACT PERSON

Ann-Marie Hogan, City Auditor, City Auditor's Office, 510-981-6750

### Attachments:

1: Audit Report: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons

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<sup>i</sup> HHCS Staff Report (9/18/12) available via records online:

<https://www.cityofberkeley.info/recordsonline/search.aspx>

<sup>ii</sup> City of Berkeley Minimum Wage Ordinance 13.99: <http://www.codepublishing.com/CA/Berkeley/>

# City of Berkeley Office of the City Auditor



## **Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons**

Prepared by:

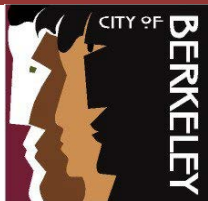
Ann-Marie Hogan, City Auditor, CIA, CGAP  
Claudette Biemeret, Audit Manager, CGAP  
Erin Mullin, Auditor I, MPP

Presented to Council May 1, 2018

## TABLE OF CONTENTS

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|                                                                                 |    |
|---------------------------------------------------------------------------------|----|
| Executive Summary.....                                                          | 1  |
| Audit Objective .....                                                           | 3  |
| Background .....                                                                | 3  |
| Finding and Recommendations .....                                               | 7  |
| Finding 1: EDI unable to substantiate compliance with funding requirements..... | 7  |
| Recommendations:.....                                                           | 17 |
| Fiscal Impact.....                                                              | 21 |
| Conclusion.....                                                                 | 22 |
| Appendix A:                                                                     |    |
| Scope and Methodology.....                                                      | 24 |
| Appendix B:                                                                     |    |
| Audit Finding, Recommendations, and Management Response Summary.....            | 27 |



# City Of Berkeley - Office Of the City Auditor

## Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons

May 1, 2018

### Purpose of the Audit

Our audit asks the question: Is Easy Does It in compliance with City contract requirements and are they using Measure E and Measure B funds as intended by taxpayers?

### Executive Summary

**EDI unable to verify compliance with Measure E**

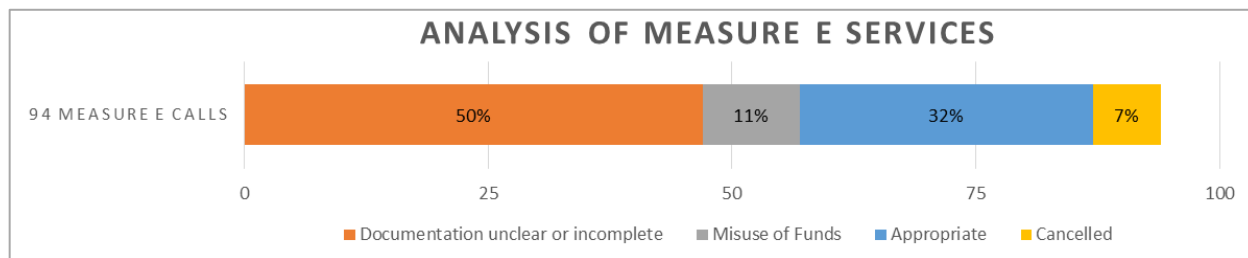
Easy Does It (EDI) provides a vital service to the Berkeley community. The agency delivers critical, on-demand care to severely physically disabled persons. Berkeley’s Measure E tax was designed to secure the funding needed to provide specific emergency services and incidental case-management to these individuals on an as-needed basis. EDI management demonstrated a commitment to the people they serve and a desire to improve services. However, significant deficiencies in operations left the agency unable to show that it had used taxpayer money as voters intended and put EDI at risk of fraud and misuse of Measure E funding.

**EDI reliance on Measure E limits scope of services**

Over 95%, \$1.2 million, of EDI’s revenue comes from Measure E. This limits the organization to primarily providing services that align with Measure E requirements. Therefore, EDI must implement policies and procedures that ensure it uses Measure E funding as intended. It must also develop a strong, sufficiently skilled board of directors who are able to provide oversight and constructive criticism, and make operational decisions. These changes will take time for EDI to implement but are necessary to ensure continued service delivery.

**50% of cases examined lacked sufficient support**

We selected 94 EDI cases to examine to verify Measure E eligibility. EDI lacked clear and sufficient support for 47 (50%) of those cases. Another 10 (11%) were for services outside the scope of Measure E, demonstrating a potential pattern of misuse.



**Procedures do not ensure EDI captures service data and eligibility information**

EDI's intake processes are not designed to evaluate whether service requests meet the criteria of Measure E. Easy Does It also lacks sufficient data-collection procedures: Nearly 25% of the cases recorded to its data system in fiscal year 2017 lacked coding identifying the service provided, further impairing EDI's ability to verify appropriate use of Measure E money.

**Payroll processes exposed to fraud risks**

There were significant discrepancies in EDI's payroll data and records that we identified as potential fraud indicators. EDI was able to provide explanations for the discrepancies but could not provide documentation supporting all of their assertions. Therefore, we did not conclude on the absence of fraud. EDI's payroll processes require immediate implementation of review practices designed to reduce the fraud exposure.

**EDI uses Measure B appropriately but needs to improve its documentation practices**

EDI did demonstrate it used Measure B funding as required to deliver on-demand paratransit services in fiscal year 2017. While EDI is using Measure B money appropriately, the agency routinely submitted incomplete forms to the City for funding reimbursement. Per EDI, this was partially due to a lack of communication by City staff about changes to the forms. This led to EDI and City staff spending valuable time tracking down information to substantiate that Measure B vouchers were used appropriately.

EDI's ability to demonstrate Measure B compliance stemmed from the Berkeley Aging Services Division's reimbursement practices that ensure EDI uses the funds correctly. Those practices were not in written guidance but City staff proactively created procedures during the course of this audit.

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## Recommendations

Easy Does It can move towards compliance and ensure the safeguarding of funding by:

- Developing a strategic plan that includes short- and long-term goals for implementing audit recommendations and other organizational changes needed to sustain operations.
- Cultivating a strong board of directors who will be involved with strategic and financial planning, policy formation, oversight, program review, and dispute resolution.
- Conducting a risk assessment of program and operational processes and establishing sufficient policies and procedures that address those risks and align with funding requirements.
- Creating and enforcing procedures for determining service eligibility and describing processes that allow for funding compliance and protect against fraud and misuse.
- Developing and enforcing streamlined data collection and recordkeeping processes that allow for the analysis of program performance and need, and demonstrate funding compliance.

We provided our recommendations to EDI and HHCS to allow management to begin implementing changes as soon as possible.

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## AUDIT OBJECTIVE

Is EDI using taxpayer money as intended?

Our audit asks the question: Is Easy Does It in compliance with City contract requirements and are they using Measure E and Measure B funds as intended by taxpayers?

As part of our program to assess the use of special taxes in accordance with voter intentions, we added audits of community agencies to our fiscal year [2017 Audit Plan](#).<sup>1</sup> We specifically chose Easy Does It because it received the second largest amount of City funding compared to all community agencies receiving grants in fiscal year 2017.

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## BACKGROUND

Easy Does It provides a vital service to the disabled community



Easy Does It is a small nonprofit organization that provides 24/7 emergency services to Berkeley residents with severe physical disabilities. Services include emergency attendant care, accessible transportation, and equipment repair for seniors and people with disabilities. Easy Does It (EDI) also provides on-demand transportation and case-management services. EDI has an office in Berkeley and a repair warehouse in Emeryville.

Disabled community faces health and safety risks without access to on-demand services

EDI's services are essential to the Berkeley community. While there are other non-profits with missions to serve the severely disabled community, Easy Does It is said to be the only organization that provides emergency on-demand services and they have done so for over two decades. Without their services, Berkeley residents with severe disabilities would face increased risks to their health and safety.

### Services Provided and Fee Structure

24/7 emergency attendant services available by calling 510-704-2111

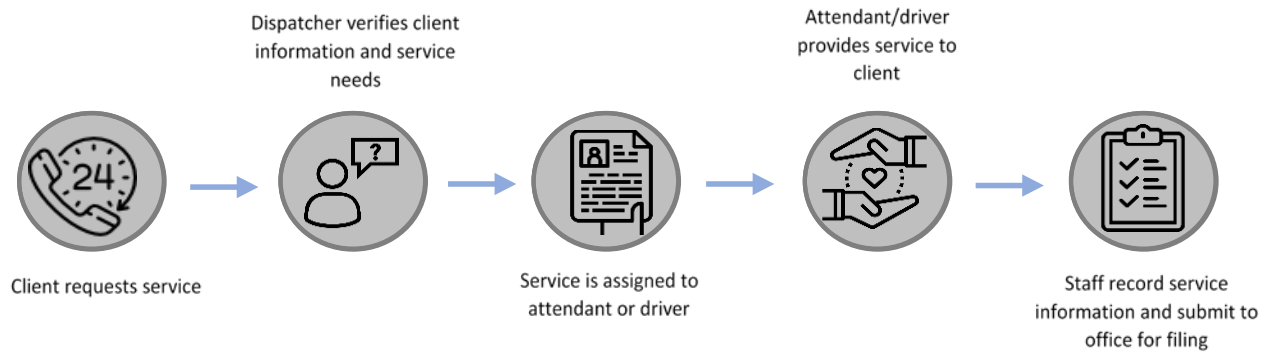
EDI delivers emergency attendant care to assist with non-medical personal care, urgent errands, and urgent household needs. EDI specifically provides services on an emergency basis when there is an unforeseen lapse in a severely disabled person's attendant care. EDI is staffed 24 hours a day with dispatchers to take service calls.

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<sup>1</sup> City Auditor's Office Fiscal Year 2017 Audit Plan: <http://bit.ly/2017AuditPlan>

Dispatchers identify the client’s needs and assign an on-call attendant to provide the services. Attendants work on-call shifts and at least two are on the schedule at any given time. Some of the typical services EDI provides include transferring clients in and out of bed, bathing, dressing, feeding, toileting, and cooking basic meals.

In addition to attendant care, Easy Does It offers emergency transportation services to assist clients who experience an unforeseen transportation need. Clients call EDI dispatch and dispatchers inform drivers where and when to pick-up and drop-off clients using lift-equipped vans.



Emergency attendant, repair and transportation service delivery model (Icons made by Freepik and Becris from www.flaticon.com)

EDI provides emergency adjustment and repairs; offers loaner program



Easy Does It also provides emergency adjustments and repairs for assistive equipment. EDI runs these services out of its Emeryville warehouse, which is stocked full of wheelchairs, tires, batteries, and a variety of spare parts. Everything in the warehouse comes from

community donations. There is no typical repair and repair times can take anywhere from 15 minutes to a couple of days, depending on the difficulty of the repair and the number of other clients. When workers cannot finish a repair the same day, Easy Does It has a loaner program so that clients can continue to get around until the repair is finished.



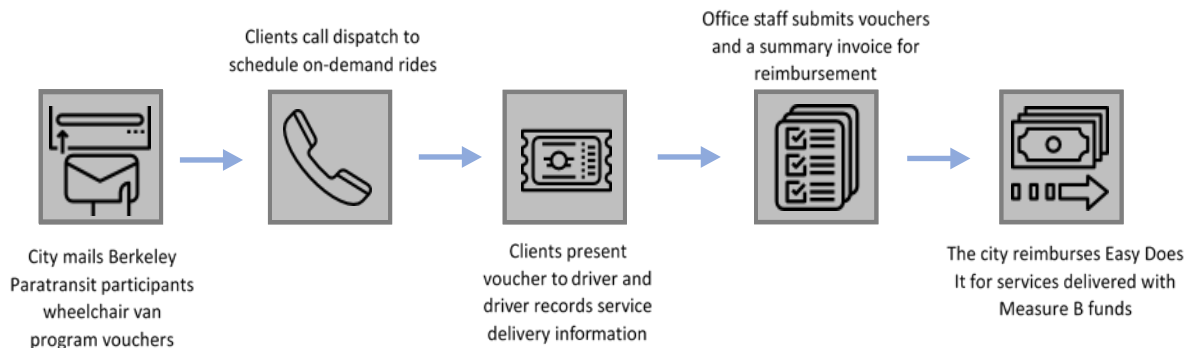
Low-cost services for clients

Easy Does It charges only \$15 per hour for its emergency services and offers a reduced rate to help low-income clients access services. Clients must apply for the reduced rate and, if they qualify, they pay only \$7 per hour for emergency services. Easy Does It aims to remain accessible to all clients while also paying its workers living wages that comply with the City’s minimum wage ordinance.<sup>2</sup>



Easy Does It offers non-emergency, on-demand rides to Berkeley paratransit users who use the City’s Wheelchair Van Program funded by Measure B. The City disburses vouchers to eligible paratransit clients to use; Easy

Does It collects these vouchers as a form of payment at the time of service and submits the collected vouchers to the City for reimbursement at the rate of \$28 per voucher. All rides must remain within one mile of the Berkeley border.



On-demand Wheelchair van program service delivery model (Icons made by Freepik and Becris from www.flaticon.com)

**Contract Funding**

Easy Does It received \$1.2 million in City grant funds in fiscal year 2017. The City funded the grant with \$1.17 million from Berkeley’s Measure E funds and \$50,000 from Alameda County’s Measure B funds. Funding included a one-time contract increase of \$75,000 using Measure E reserves. The City granted the additional money because EDI was not

<sup>2</sup> The Berkeley Minimum Wage Ordinance increased the City’s minimum wage from \$12.53 to \$13.75 per hour on October 1, 2017 and will increase the minimum wage again to \$15 per hour on October 1, 2018. Berkeley Municipal Code Section 13.99.040: <http://www.codepublishing.com/CA/Berkeley/>

EDI not fiscally able to cover minimum wage changes

fiscally prepared to respond to the minimum wage changes, including the removal of the on-call workers exemption from the City's minimum wage ordinance.

#### *Measure E*

Voters adopted the Measure E special tax in 1998 specifically to raise revenue to provide emergency services and incidental case management for severely physically disabled persons. The Measure E tax, as codified in Berkeley Municipal Code (BMC) Chapter 7.88, states:

BMC Chapter 7.88 describes the specific Measure E purpose and definitions approved by Berkeley voters

- Severely physically disabled persons frequently require specialized emergency services, such as urgent response by an attendant, and transportation services and equipment repair.
- A lack of timely emergency services can threaten the life and safety of persons with severe physical disabilities.
- Severely physically disabled means subject to a physical impairment that substantially limits one or more of the major life activities of an individual such that the individual must rely on personal assistance services or equipment to perform a major life activity or to avoid being institutionalized.<sup>3</sup>

Measure E is intended to remove the need for Berkeley Fire Department personnel to respond to emergencies that can be resolved by skilled attendants able to provide specialized services for severely disabled persons reliant on assistance for personal or health care needs.

#### *Measure B*

Measure B is an Alameda County tax passed through to the City of Berkeley

Alameda County voters approved the Measure B special tax in 2000 specifically to provide transportation services for seniors and people with disabilities. The Alameda County Transit Commission is responsible for administering a ½-cent transportation sales tax, which it distributes to local transit agencies and jurisdictions to meet regional priorities, including funding for paratransit services. The City of Berkeley distributes Measure B funds to organizations such as Easy Does It to provide paratransit services.

<sup>3</sup> Berkeley Municipal Code Chapter 7.88 Emergency Services for Severely Physically Disabled Persons Tax: <http://www.codepublishing.com/CA/Berkeley/>

## FINDING AND RECOMMENDATIONS

### Finding 1: EDI unable to substantiate compliance with funding requirements

EDI committed to its clients

Significant deficiencies in Easy Does It (EDI) operations left the agency unable to show that it had used taxpayer money as voters intended and put the funds at risk of theft. EDI's client data and records were unclear or missing and, in some cases, presented discrepancies considered fraud indicators. EDI has not designed and implemented an adequate system for recording, managing, and monitoring its use of Measure E money to ensure it meets funding requirements. Exacerbating the problem is a public need for services that extend beyond the limitations imposed by Measure E. More than 95% of EDI's income comes from Measure E, which means the agency cannot extend its services much beyond the tax use requirements. Throughout this audit, EDI management demonstrated a commitment to serving the Berkeley community and to making positive organizational changes. Making those changes will take time and must be spearheaded by leadership from board members who have the business and financial expertise necessary to support EDI.

#### Inconsistent or Missing Client Data and Case Files

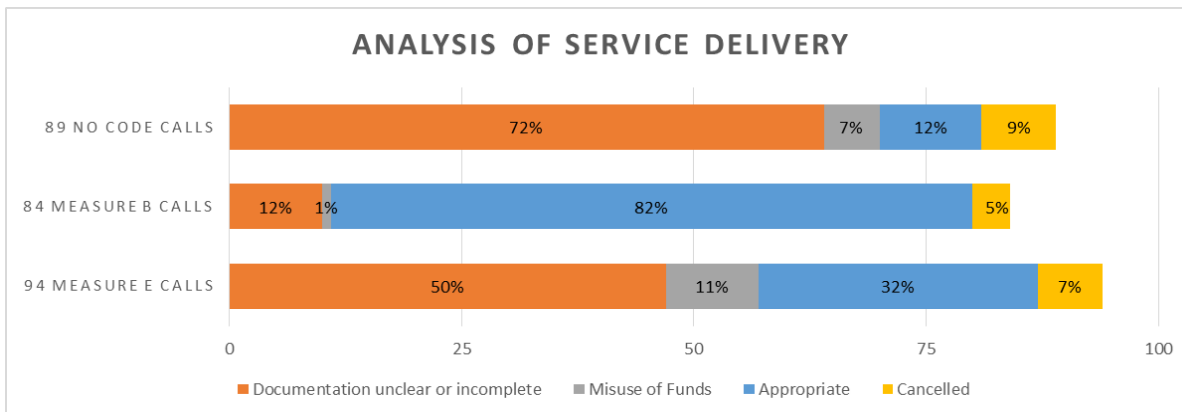
We obtained EDI case data to examine a sample selection for compliance with Measure E and Measure B. Deficiencies in the data and cases files revealed:

50% of Measure E files lacked sufficient support

- *Measure E*: EDI lacked clear and sufficient support for 47 (50%) of the 94 cases selected for examination. Another 10 (11%) were for services outside the scope of Measure E, demonstrating a potential pattern of misuse.
- *Measure B*: EDI generally used the funding correctly. Of the 84 cases examined, only one did not agree with requirements: The voucher had expired. Another 10 cases (12%) lacked sufficient documentation.

72% of non-coded cases lacked sufficient support

- *Data*: EDI did not consistently record use codes to its data system to classify the purpose of service calls. Of the 89 "no code" cases examined, 64 (72%) records lacked clear and sufficient support to substantiate the purpose of the call and funding compliance. Another 6 (7%) were outside the scope of services.



**Note:** See Appendix A for data selection, sampling, and examination methods.

*Measure E Calls Examined*

Client files missing intake forms, service agreements, sufficient descriptions to support Measure E funding use

The support missing from the EDI client files examined included variations of a lack of intake forms, service agreements, disability information, emergency need, and/or residency. Also lacking were sufficient descriptions of the disability to determine whether it met the Measure E definition of severely disabled. For example, one client’s listed disability was “left leg weakness, post-surgery,” which is too vague. In all, EDI’s client management processes and practices are disorganized and lax, leaving the agency unable to verify funding compliance.

Clarification needed as to whether providing services to nonresidents is allowable

The 10 cases identified as misuse include two for paratransit services and eight for non-residents. The two for paratransit may have been inadvertent data-entry errors preventable with better oversight. The eight for the non-resident cases present a need for clarification. According to EDI, they also provide services to clients who work or go to school in Berkeley. City staff support the use of Measure E in this way. Also, the BMC says that the Measure E services are for “persons in the City of Berkeley,” which could be interpreted to include people working and going to school in Berkeley. However, the City contract with EDI explicitly says “residency” in the scope, and the ballot argument in favor of the tax said the services are intended for “Berkeley citizens.”

*Measure B Examined*

EDI used Measure B appropriately

Easy Does It generally used Measure B funds to provide on-demand paratransit transportation for eligible individuals. Reimbursement practices established by the City ensure that contractors, such as EDI, use Measure B funds as intended. The City actively monitors EDI’s use of Measure B funds through the reimbursement process in which City staff

examine vouchers for eligibility. However, EDI drivers do not always fill out all the required fields, such as the length of the trip or the pick-up and drop-off addresses, on the voucher. The City needs this information to determine if the trip is eligible for reimbursement and the appropriate amount the City should pay the contractor.

*No Code Cases Examined and Data Collection Practices*

EDI not effectively capturing pertinent service data

EDI does not properly record program data. EDI recorded 5,555 service calls in fiscal year 2017. Of those, EDI failed to classify 1,264 (23%) as either Attendant, Repair, or Transportation. The data are necessary for determining eligibility for Measure E funding and further demonstrates disorganized processes as well as an inability to rely on agency data for reporting needs.

Manual and duplicative processes led to errors

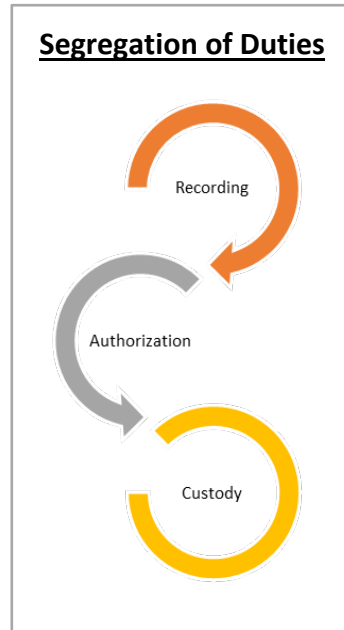
Multiple EDI staff collect data for a single client call on multiple forms: Dispatchers record client intake information on a paper form and record calls to a Google Drive spreadsheet; attendants and drivers record service data to paper forms; staff turn in service forms to the office by the end of the pay period after which office staff manually enter the information into the database. This process is vulnerable to manual entry errors and duplication.

Our examination of “no code” cases yielded the same results as our examination of Measure E coded cases: Lack of intake forms, service agreements, sufficient disability information, emergency need, and/or residency; and disorganized and lax processes.

Payroll Vulnerable to Fraud

EDI mitigates some fraud risks but gaps in procedures keep agency exposed

EDI’s program is by nature vulnerable to fraud and misuse. Employees work alone, off-site, and without direct supervision. Easy Does It mitigates some of these risks with essential control activities: Dispatchers communicate with attendants and drivers who are on call. Dispatchers are expected to document calls received and staff assigned to the case in the call log. Staff processing payroll use the call log to verify staff timesheet entries, including total on-call and service delivery hours. However, the opportunity for fraud remains.



There are significant gaps in EDI procedures that may allow for fraud and errors to go undetected. For example, only one employee can and does perform all the tasks related to a single transaction cycle. There is no evidence that anyone else reviews timesheet calculations or payroll entries. Due to their small size, EDI is not able to have full segregation of duties; however, there is an opportunity to separate the duties of approving timesheets, preparing payroll, disbursing checks, and maintaining personnel records. This would increase the chances of catching erroneous calculations and entries.

*Payroll Examination*

EDI was unable to locate the payroll registers for two months of payroll, and unable to provide timesheet support for 142.5 payroll hours equaling over \$2,700 in wages. The timesheets that were available indicated that EDI management does not consistently apply holiday and overtime pay, and did not reflect the overtime policy management explained. Further, significant irregularities in payroll pointed to possible fraud. For example:

- EDI recorded 240 hours of overtime in a two-week period for one employee whose position does not warrant overtime.
- EDI recorded 336 hours of regular time and 149 hours of overtime in a two-week period for one employee.
- EDI recorded manual checks for employees for one pay period yet the normal process is to use direct deposit.

Irregular payroll transactions raised fraud concerns

Audit did not conclude absence of fraud

EDI provided explanations for the discrepancies. For example, one of the irregular transactions was six months of back pay, and the manual checks were to pay employees their wages without processing payroll taxes. EDI lacked sufficient funds to pay them. We were able to confirm some statements, such as circumventing payroll taxes through the use of manual checks. However, EDI could not provide documentation or other corroborating evidence to support all of their statements. Therefore, we did not conclude that fraud did not occur.

\$1.1 million in tax dollars exposed to theft

EDI payroll represented \$1.1 million (85%) of EDI’s expenditures in fiscal year 2017, most of which was paid for using Measure E funding. EDI has a small administrative size, which makes it unfeasible to implement the full level of controls necessary to prevent payroll fraud. However, mitigating controls must be put into use to detect fraud. In response to concerns over payroll vulnerabilities, EDI staff said they implemented a review process and will begin better documenting their actions.

Noncompliance Expands to City contract

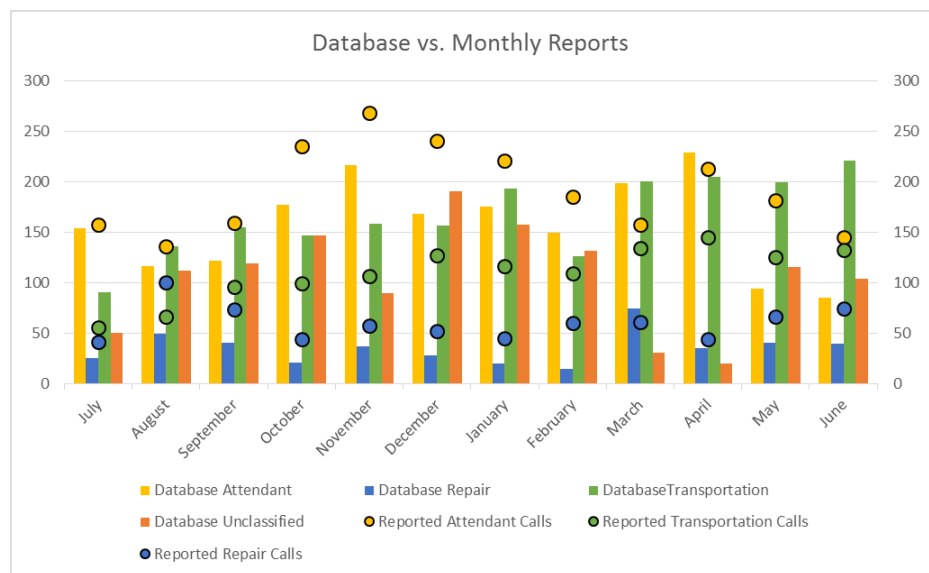
City contract includes performance reporting requirements to demonstrate use of Measure E funding

Easy Does It entered into a contract with the City of Berkeley for fiscal years 2016 and 2017.<sup>4</sup> The contract grants EDI funding to provide services consistent with Measure E and Measure B requirements. EDI receives the Measure E funding through quarterly payments in advance of services provided. EDI receives the Measure B funding on a reimbursement basis for actual services provided. The contract requires EDI to submit Measure E performance reports to Health, Housing, and Community Services. City staff use the reports to monitor whether EDI is using the money in accordance with funding requirements, and to assess whether it is appropriate to release the next installment of Measure E grant funding.

*Performance reporting*

EDI data does not agree with performance reports sent to HHCS

Deficiencies in EDI’s data and client files called into question the accuracy of EDI’s performance reporting. Comparing EDI data to the fiscal year 2017 performance reports show significant variances:



<sup>4</sup> EDI and Berkeley community services contract #10003: <https://www.cityofberkeley.info/recordsonline/search.aspx>

Measure E limits City staff's ability to provide contract oversight

Measure E does not allow for use of the tax revenue on administration, which severely limits City staff's ability to verify the accuracy of EDI's performance reports. HHCS staff routinely require clarification on submitted information. However, without funding to support oversight, HHCS staff are limited in what they can do given their other responsibilities to deliver services to the Berkeley community. This is further complicated by a need to ensure that EDI can continue to provide critical services: EDI does not have a sufficient cash flow to sustain services without funding from the City. In fact, because EDI did not submit accurate and timely reports to HHCS in fiscal year 2017, funding was delayed, which led to EDI's inability to pay the payroll taxes as discussed earlier.

*Measure E Case Management*

EDI required to provide case management services to clients who heavily rely on Measure E services

A stipulation of the City contract is that EDI provide basic case management services to assist clients who struggle with finding and retaining attendants. When unable to do so, clients rely too heavily on EDI, to the extent that it ceases to be an emergency service. Basic case management services include thoroughly assessing the client's need, developing a plan collaboratively with the client, and documenting all support and interventions.

55% of case files lacked documentation on outcome of efforts

Examination of EDI case management records showed that case files were incomplete, data were not free from error, and case management efforts were not compliant with the City contract. EDI did not have case management files for four of the 19 high-use clients identified during this audit. We found case management assessments for three of the four missing case management files in other office files. However, the case manager did not open a case on any of them. Of the open files we reviewed, 55% were missing an agreement and consent form, and all lacked documentation of the outcomes of case management efforts.

Further noncompliance was found with how the case manager salary is funded. The case manager works with clients who are not eligible for Measure E services. This includes people who do not have a physical disability and who live outside of Berkeley. Work is limited to answering questions and providing resources, and accounts for approximately 15% of the case management workload. This is minimal, but still a misuse.



Inadequate Internal Control System

Insufficient processes and procedures led to deficiencies

EDI lacks sufficient policies, processes, and procedures, aka internal controls, to allow the agency to ensure the integrity of its financial and performance information; assist in achieving operational goals; and support compliance with funding requirements. This inadequate internal control system led to the deficiencies cited above and revealed other weaknesses threatening EDI’s performance and fiscal stability.

*Measure E Criteria*

Lack of requirements for substantiating Measure E eligibility

The absence of clear client intake policies and procedures leave EDI unable to verify compliance with Measure E funding requirements. EDI’s written procedures and client forms lack the necessary steps for ensuring service is provided to severely physically disabled persons requiring emergency care as described by Measure E. Further, EDI’s service data indicate that staff are not screening and evaluating service calls to validate whether the service meets the criteria approved by taxpayers.

*Measure E Case Management*

Some clients come to rely on EDI for non-emergency needs and fall into a pattern of repeated use. EDI requires case management for clients who reach 25 calls in one month and identifies high users as those with 15 calls or more in a month. This threshold captures only a small portion of clients who have become overly reliant on Measure E services and require case management services. Comparatively, a similar program once offered by Alameda County set a cap on services to four calls a month. Setting a lower threshold could help EDI control over reliance on emergency services and program costs.

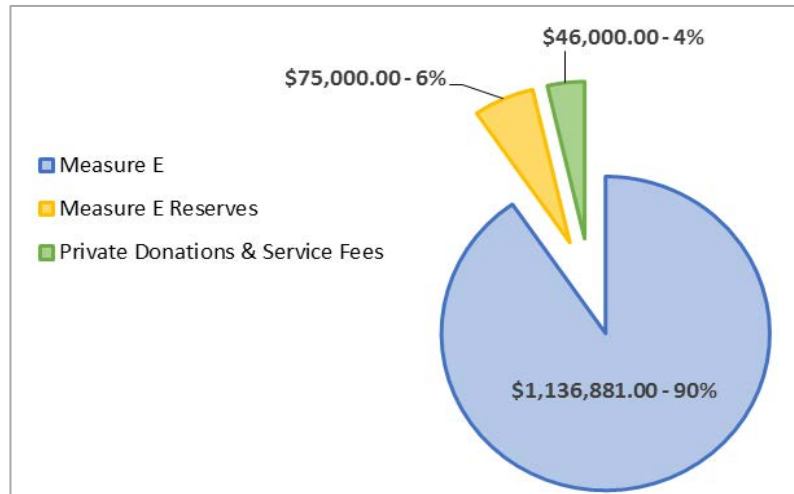
Shortage of reliable and skilled attendants increases use of EDI

When questioned about patterns of overuse, EDI management said that there is a significant shortage of reliable and skilled attendants, which increases client reliance on EDI services. Additionally, some clients refuse to work with the EDI case manager and become abusive if EDI refuses to provide services. According to EDI, one abusive client threatened to report the agency to the City Council and to public outlets. This is an unsettling concept for EDI as they fear they will lose funding.

Clients may not know EDI services highly limited to Measure E criteria

What is likely unknown to most EDI clients, is that the agency receives the majority of its funding from Measure E. EDI receives a few private donations and a small amount of revenue generated from service fees, but not enough to provide any level of substantial service.

**Easy Does It Disabled Services Program Budget Fiscal Year 2017**



Source: EDI’s City contract #10003, Exhibit B-1

EDI services heavily linked to Measure E criteria

Only 4%, \$46,000, of revenue not from Measure E

With only \$46,000 (4%) of EDI’s revenue coming from other sources, the agency cannot provide much service outside of the Measure E criteria. This is something EDI needs to communicate more often and more clearly to both clients and staff to help reduce use of Measure E money for nonemergency services.

*Staffing Problems*

The absence of a staffing analysis led to instances of improper staffing schedules. For example:

EDI does not perform staffing analysis; some overlap exists in scheduling

- EDI scheduled a single employee for overlapping dispatcher and attendant shifts in all five payroll periods we reviewed. Overlaps ranged from one to eight hours. This led to the EDI employee receiving 72 hours of dual compensation.
- EDI on-call attendant scheduling strained funding. The nature of being on-call means that there will be times employees are not called in to work. However, there were at least 58 shifts over three pay periods in fiscal year 2017 in which an on-call attendant was not dispatched to a single call. In some cases, EDI compensated staff for three consecutive days of 10-hour shifts with no service calls.

Limited cash flow requires prudent scheduling to avoid more cash shortfalls

A recurring analysis of staffing levels would give EDI the information necessary to produce schedules that are responsive to service needs and remove scheduling overlaps. EDI's limited cash flow requires prudent scheduling to avoid shortfalls such as that resulting in EDI's inability to pay the payroll taxes as described earlier in this report.

Manual staffing processes and poor recordkeeping practices mean EDI does not readily have necessary data to perform the assessment. A digital scheduling and timekeeping system integrated with payroll software could allow EDI to track data for analyzing staffing trends. This would also free up staff time to perform necessary payroll monitoring activities.

According to EDI, they must staff one female and one male attendant 24 hours a day to meet their clients' needs. EDI also said that they must have optional staff available to work with clients who are known to be abusive or who refuse to work with specific attendants. While these may be operational needs, they are not necessarily in agreement with Measure E and taxpayer intentions. These areas require legal clarification.

#### *Measure B*

Written guidance will assist in using staff time efficiently

EDI's lack of written guidance contributed to problems in the Measure B reimbursement process, such as the incomplete information noted earlier. It also led to inefficient use of staff time: Both City and EDI staff spent extra time searching for information to determine whether the Measure B vouchers were used in accordance with requirements. HHCS staff created procedures during this audit for contractors such as EDI to use in managing the Measure B voucher program. This should help limit staff inefficiencies. However, EDI expressed that part of the problem is a lack of communication from City staff about changes to the program and voucher design. Open communication is necessary to inform EDI about Measure B requirement and documentation changes.

#### *Gas Cards*

EDI's processes are insufficient to ensure that employees use company gas cards according to policy. Misuse occurred in the past when an employee used a gas card to fill up a private vehicle. HHCS staff caught the misuse and EDI recovered the funds. In response to City recommendations, EDI established a policy for using logs to track gas card usage and van mileage at the beginning and end of shifts.

Gas card and van mileage oversight insufficient; fraud risk still exists

EDI staff completed the required logs 85% of the time and had receipts supporting 92% of gas card transactions out the 48 transactions we examined. However, EDI does not require staff to specify what van they are fueling or reconcile the logs with service delivery data. Additionally, there was no evidence that management reviews these logs. Therefore, the risk of someone using the gas card for personal vehicles remains and we did not conclude that fraud did not occur in the use of gas cards.

#### *System Overhaul*

Improved policies, processes, and procedures need to be in written guidance and enforced through management oversight and employee training. The ongoing success of EDI requires that management work to implement an internal control system that ensures it uses taxpayer money in accordance with stated criteria.

#### The Long Road Ahead

EDI committed to serving the disabled community

EDI management expressed a commitment to improving operations and agreed that past practices could not continue. According to EDI, the deficiencies we noted were, in part, due to obstacles in operations creating an unstable environment. The agency has moved offices three times in the last six years and will have to move its repair shop at the end of the current lease in April 2018. EDI also experienced significant staff and board member turnover in recent years. In the last six years, there have been four different executive directors and the agency continues to have trouble retaining a board of active, involved members with the business and financial expertise necessary for agency leadership.

Strategic plan to guide changes will help EDI manage and prioritize improvements

EDI has a lot of work ahead to implement the changes needed to sustain its operations and support long-term fiscal health. Establishing a written strategic plan that includes short- and long-term goals will help EDI manage the implementation process. Strategic planning will provide EDI management the ability to prioritize what needs to be done and when, and focus its limited resources where they are needed most. A strategic plan will also allow EDI to note and celebrate achievements. In establishing the plan, EDI would need to perform a risk assessment of its major processes, particularly those discussed in this report, to identify and plan for changes that need to take place immediately.

Board members with the business and financial expertise needed to lead EDI

EDI has a very small administrative staff, making it an uphill battle to implement change while also continuing to provide critical services. This is where the agency would benefit from increased oversight and involvement from its board members. The current EDI board must take steps to recruit and cultivate a strong board of qualified people who will be more involved in strategic planning, policy formation, financial planning and oversight, resource development, program review, and dispute resolution.

**Recommendations**

**Easy Does It should:**

Recruit qualified board members

1.1 Recruit and cultivate qualified people with the business and financial expertise necessary to serve as active EDI board members. Include a process for vetting and voting on nominees to ensure members have the required skills and time to commit to the development and support of Easy Does It.

Perform a risk assessment

1.2 Have staff and board members jointly perform a risk assessment of all major processes to identify the operational weaknesses that leave EDI vulnerable to fraud, misuse, and abuse, and result in noncompliance with funding requirements. Rate the risks to identify those most significant in preventing EDI from achieving its mission and becoming fiscally stable.

Establish a written strategic plan

1.3 Have management and board members jointly establish a written strategic plan that includes short- and long-term goals using the recommendations from this audit and the risk assessment performed in response to recommendation 1.2. Include target implementation dates in the strategic plan. Prioritize implementation of goals identified as presenting the highest risk. Use the plan to guide the changes needed for an adequate system of internal controls, including the recommendations in this report.

Create and enforce written payroll procedures to deter and detect fraud

1.4 Create and enforce written payroll processing and monitoring procedures that include practices for detecting and deterring fraud, waste, and abuse; and that ensure payroll accuracy. This includes but is not limited to:

- Ensuring that no single person performs all the tasks related to a single transaction cycle.

|                                                                             |      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                             |      | <ul style="list-style-type: none"> <li>• Designating a second person to review and sign off on approved timesheets, changes to payroll data, time entry, and payroll pre-process registers.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Perform regular scheduling analysis                                         | 1.5  | Perform a staff scheduling and service needs analysis to establish optimal staffing schedules. Perform the analysis on a recurring basis, e.g., quarterly, to identify needed changes.                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Create and enforce analysis procedures                                      | 1.6  | Create and enforce written procedures for analyzing and managing staff schedules. Include the requirement for conducting the analysis on a recurring basis to keep up with scheduling change needs.                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Establish and enforce written procedures for determining client eligibility | 1.7  | <p>Establish and enforce clear written procedures for evaluating individual eligibility for Measure E services during client intake and service delivery. Use the City contract as a guide in creating the procedures and include:</p> <ul style="list-style-type: none"> <li>• Definitions for severe physical disability and emergency that are in alignment with Measure E requirements.</li> <li>• Requirement to complete intake and evaluation forms, and to thoroughly document and data enter Measure E eligibility criteria: residency, severity and type of disability, and reason the client situation is an emergency.</li> </ul> |
| Update forms with Measure E information                                     | 1.8  | Update all forms used for client intake and eligibility evaluation with guidance for identifying the severe physical disability and emergency that are in alignment with Measure E requirements. Include on the intake form an area for staff to conclude as to whether the services provided are considered Measure E eligible. Use the City contract as a guide in creating the forms.                                                                                                                                                                                                                                                      |
| Account for Measure E expenditures; record to financial system accordingly  | 1.9  | Record services to the financial system to clearly account for expenditures that are funded by Measure E and those that are not. Use the information collected during the improved screening, intake, and eligibility evaluation processes to identify the appropriate funding source.                                                                                                                                                                                                                                                                                                                                                        |
| Enforce case management rules                                               | 1.10 | Create written case management procedures and enforce the requirements for Measure E clients when usage exceeds the threshold. Ensure the procedures and any related forms are consistent with Measure E contract requirements for basic case                                                                                                                                                                                                                                                                                                                                                                                                 |

management. Use the City contract as a guide in creating the procedures and include written processes for:

- Identifying and documenting client overuse
- Creating case management files
- Assessing client needs
- Developing a plan with the client
- Identifying and documenting clients who refuse assistance
- Documenting all support and intervention, including progress made in, or obstacles to, obtaining reliable attendant care

|                                                           |      |                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Use City’s Measure B voucher procedures                   | 1.11 | Enforce the use of the written Measure B voucher processing procedures developed by HHCS personnel to capture information necessary to obtain reimbursement from the City of Berkeley.                                                                                                                                                     |
| Improve gas card use monitoring                           | 1.12 | Create written and improved gas card and van use monitoring procedures that will allow management to detect fraud and misuse, and that require reconciliation of gas and van use to service data.                                                                                                                                          |
| Train personnel on all procedures                         | 1.13 | Train staff on all procedures including those created in response to the recommendations in this audit and any developed as a result of the risk assessment performed in response to recommendation 1.2. Monitor staff’s work and provide additional training as may be warranted to ensure staff follow procedures.                       |
| Inform public on service delivery limitations             | 1.14 | Create informational literature that helps educate the public on why Easy Does It service is almost entirely limited to Measure E eligible services. Provide this literature to new clients and their families, as well as staff, to help clarify any misconceptions about EDI’s service delivery restrictions and capabilities.           |
| Implement electronic data collection system               | 1.15 | If funding allows, implement a mobile, electronic data collection system that allows Easy Does It staff to capture and record client intake, service, and billing data to the central database. Train staff on the use of the system and enforce its requirements. Update procedures as may be necessary to reflect the use of the system. |
| Integrate an electronic scheduling and timekeeping system | 1.16 | If funding allows, integrate an electronic scheduling and timekeeping software application with the current payroll system that will allow for a more efficient analysis of staffing trends as aligned with service delivery needs. Train staff on the use of the                                                                          |

system and enforce its requirements. Update procedures as may be necessary to reflect the use of the application.

### ***Easy Does It Response***

Easy Does It agrees with the finding and recommendations. See full response at Appendix B.

#### **The City Manager’s Office and Health, Housing, and Community Services Department should:**

Request City Attorney  
Opinion

1.17 Request an opinion from the City Attorney on whether the use of Measure E, per the governing legislation, is intended for:

- Persons who work or go to school, but do not reside, in the City of Berkeley.
- Ensuring one male and one female attendant are on staff or on call at all times.
- Ensuring optional staff availability to work with clients who are known to be abusive or who refuse to work with specific attendants.
- 24-hour service availability.
- Other items HHCS believe require clarification.

Maintain documented opinion to allow for transparency and reference.

#### **The Health, Housing, and Community Services Department should:**

Use opinion to update  
contract scope

1.18 Use the City Attorney opinion to:

- Inform Easy Does It on whether or not Measure E money may be used for: non-Berkeley residents who work and/or go to school in Berkeley; staffing both a male and female attendant at all times; and providing 24-hour services.
- Clarify in the scope of services of new City contracts using Measure E funding whether or not Measure E money may be used for: non-Berkeley residents who work and/or go to school in Berkeley; staffing both a male and female attendant at all times; and providing 24-hour services.



|                               |                                                                                                                                                                                                                                                                                                                        |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Lower the high-use thresholds | 1.19 Work with EDI to lower the thresholds for high-use clients. For example, identify high-use clients as those with 10 or more calls a month, and require clients obtain case management services once they reach 20 calls in one month. Incorporate those thresholds into new City contracts for Measure E funding. |
| Communicate changes           | 1.20 Communicate with Easy Does it when there are changes to Measure B requirements and provide EDI with updated Measure B procedures discussing those changes.                                                                                                                                                        |
| <b>City Manager Response</b>  | The City Manager agrees with the finding and recommendations. See full response at Appendix B.                                                                                                                                                                                                                         |

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## FISCAL IMPACT

|                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EDI used \$1.17 million in Measure E money in fiscal year 2017                                    | Easy Does It received \$1.2 million in City grant funds in fiscal year 2017, including \$1.17 million from the voter approved Measure E: <i>Emergency Services for Severely Physically Disabled Persons Special Tax</i> . Measure E creates a vital funding stream for the Berkeley community. Without the funding, individuals needing specialized emergency care face threats to their life, safety, and health. It is vital, therefore, to take precautions to safeguard the money and use it as taxpayers intended. If used incorrectly, the City risks losing taxpayer confidence, which has the potential to prevent the City from getting enough voter support to increase the tax or pass new tax measures. Worse, those who need the services will not receive assistance. |
| Misuse jeopardizes taxpayer confidence; risks funding for services                                | Easy Does It uses the majority of Measure E money to cover personnel costs. In fiscal year 2017, EDI payroll represented \$1.1 million (85%) of its expenditures. Vulnerabilities in EDI’s payroll processing practices exposed the money to potential theft and misuse. In an examination of payroll records, EDI was unable to provide timesheet support for 142.5 payroll hours equaling over \$2,700 in wages.                                                                                                                                                                                                                                                                                                                                                                  |
| Vulnerabilities in payroll processing exposed \$1.1 million in Measure E money to potential theft | Payroll irregularities stood out as indicative of fraud. Management provided explanations for the transactions, but could not provide documentation or other corroborating evidence to support all of their statements. Therefore, we did not conclude that fraud did not occur.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Lack of documentation to support irregularities leaves question of fraud unanswered               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

## CONCLUSION

EDI provides vital service that must be protected with stronger oversight

Easy Does It provides vital emergency services to the Berkeley community. The agency gives people with severe physical disabilities an affordable option for emergency attendant service when they experience an unforeseen lapse in care. Without this service, individuals would need to call the Berkeley Fire Department for assistance. The option to call Easy Does It allows the City to use its resources more efficiently and for other emergencies.

Deficiencies in procedures left EDI unable to demonstrate adherence to funding requirements

Significant deficiencies in EDI’s procedures left the agency unable to verify compliance with Measure E and City contract funding requirements. Missing and incomplete records and data raised concerns as to whether the agency was using money as taxpayers intended. In some cases, EDI used Measure E funds to cover operational costs and services not covered by the tax. The lack of sufficient support removed the ability to quantify the misuse and determine its significance.

Wide variances between EDI service delivery data and reported numbers

EDI performance reports submitted to the City failed to agree with EDI data. There were wide variances in the information for fiscal year 2017. Example: EDI’s December 2016 service report showed 240 attendant calls, but EDI’s database supported only 168, a variance of 72 calls.

Reliance on Measure E limits scope of services

EDI is reliant on Measure E funding. The agency receives a small amount of revenue from other sources, but not enough to provide any level of substantial service outside of the scope of Measure E requirements. The loss of Measure E money would be detrimental to EDI. Maintaining operations requires EDI to implement an internal control system that ensures it uses taxpayer money in accordance with stated criteria.

More active board leadership could lead to program expansion

EDI is limited in its capacity to perform monitoring, oversight, and program development activities. An active board of involved members with business and financial expertise can help in these areas. The current EDI board must take steps to recruit and cultivate a strong board of qualified people able to provide oversight and constructive criticism, and make operational decisions. If successful, EDI has the potential to expand its services beyond those defined by Measure E.

**We appreciate and thank EDI and City personnel for taking time to assist with our audit**

We would like to thank Easy Does It personnel for their continued cooperation during this audit. We appreciate EDI's receptiveness to our finding and recommendations, and their willingness to make improvements despite the challenges ahead.

We would also like to thank the City Manager and Health, Housing, and Community Services personnel for their assistance, and their continued commitment to supporting and improving City services.

## APPENDIX A:

### Scope and Methodology

We audited Easy Does It's compliance with their City contract for fiscal year 2017 (July 1, 2016 through June 30, 2017). Specifically, we assessed if Easy Does It used Measure E and Measure B funds as intended by taxpayers. We performed a risk assessment of internal controls to identify potential weaknesses, including significant fraud risks, in relation to the use of Measure E and B funding. We performed examinations of transactions to obtain reasonable assurance of detecting such fraud. To achieve our objective, we:

- Met with HHCS staff in charge of EDI contract oversight to gain an understanding of management concerns, oversight limitations, and contract monitoring findings.
- Met with EDI personnel to gain an understanding of program and administrative operations: service delivery, client eligibility evaluations, client information and data intake processes, case management practices, payroll processing, gas card use, and client billing. We also gained an understanding of EDI operational challenges, staff and board member turnover, and obstacles to providing service.
- Reviewed the City contract granting EDI the Measure E and Measure B funding, and outlining the scope of services and reporting requirements; and the City Council reports and resolutions granting use of the funds.
- Reviewed Berkeley Municipal Code Sections 13.99 (Minimum Wage) and 7.88 (Measure E); the November 1998 Ballot; and Alameda County's Measure B guidelines and forms.
- Reviewed HHCS' monitoring reports to identify known concerns and potential weaknesses in EDI's procedures and operations.
- Reviewed EDI policies, procedures, and forms; performance reports; and financial reports.
- Performed site visits at the EDI administrative office and the Emeryville warehouse.
- Reviewed professional literature to identify common threats to the stability of nonprofit organizations and best practices for applying basic economic and financial concepts to manage resources effectively and improve financial planning.
- Analyzed EDI service data to understand service volume, service types, data-collection practices, and data accuracy.

#### *Examination of Records; Data Population; Sample Selection*

Client service examination: We obtained service data from EDI's database containing 5,555 records for service in fiscal year 2017. We sequentially numbered the records for our sampling needs. We separated the data by service type codes for Measure E and Measure B, and for those lacking service

codes, to create three record subsets. For each subset, we used the sample size calculator, [Macorr](#),<sup>5</sup> to select samples sizes for records examination using a confidence level of 95% and confidence interval of 10%. The result was 94 Measure E, 84 Measure B, and 89 non-coded records. We used the Excel random function to select the transactions to examine from each subset. We obtained, to the extent available, client intake forms and service agreements, invoices, and call logs to compare to the data records. We assessed service appropriateness against the correlating funding requirements to determine compliance, and checked for data errors and fraud indicators.

Payroll examination: We obtained 21 payroll registers for fiscal year 2017. We compared payroll registers to service calls to look for variances between pay and hours worked. We reviewed the registers for overtime, double time, and bonus pay codes, and looked for erroneous hours and possible fraud. We identified irregular transactions indicative of fraud. We spoke to EDI personnel and requested documentation to support their explanations for the transactions. We examined the documentation EDI personnel were able to provide to confirm some of their assertions. We then expanded our examination to test for fraud: We judgmentally selected the four payroll registers with the highest total earnings as compared to all other registers. We obtained timesheets, to the extent available, to compare to payroll registers to assess for appropriateness.

Case management examination: We obtained EDI monthly service reports for Measure E services provided in fiscal year 2017. We identified all clients with 15 more or calls for service for each month of the fiscal year. We obtained, to the extent available, client case management files. We assessed documented case management efforts against the contract requirements to determine compliance.

We limited our review to identifying whether the case management files contained City contract required documents. We did not evaluate to what extent Easy Does It performed client status assessments, which could include private personal and health information. We concluded that determining whether client files contained the required documentation was sufficient for the purpose of addressing our audit objective.

Gas Cards and Van Use: We obtained EDI gas card statements for fiscal year 2017. We judgmentally selected the four statements with the highest balance as compared to the remaining eight statements. We examined each transaction recorded to the four statements by comparing it to gas card logs, receipts, and van mileage logs. We identified irregular transactions for closer inspection for possible fraud.

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<sup>5</sup> Macorr: <http://www.macorr.com/sample-size-calculator.htm>

*Data Reliability*

We assessed the reliability of EDI's payroll data by tracing to source documents; interviewing EDI staff; and gaining an understanding of EDI's access controls. We identified inconsistencies in the information, including calculation errors and erroneous payroll entries, and determined that payroll data was not sufficiently reliable to quantify the degree of error. We used data to provide only context.

We assessed the reliability of EDI's client data by tracing to source documents; interviewing EDI staff; and gaining an understanding of EDI's database access controls. We identified inconsistencies in the information and system controls, and determined that EDI's service data was not sufficiently reliable to quantify the instances of noncompliance. We used the data to provide only context.

*Fraud and Abuse Testing*

We included in our examination of EDI records specific analysis to look for indications of fraud and abuse, and to identify weaknesses in the control environment that would allow it to occur. We examined gas card and van use because of a City finding of misuse in this area. EDI's controls over gas cards and van use were insufficient. Therefore, we did not conclude that fraud had not occurred.

We examined payroll because it is a high-risk area by its nature, EDI's payroll practices are insufficient, and the majority of EDI expenditures are for payroll. We performed additional procedures to identify whether fraud had occurred after we identified irregular transactions indicative of fraud. EDI was unable to provide sufficient evidence supporting the reasonableness of all the transactions. Therefore, we did not conclude that fraud had not occurred.

*Auditor Independence*

Our office is mandated by the Berkeley City Charter to provide contract registration services. This includes facilitating the community agency contract process so that we may register the contract before it is executed and the City may release advance funding. We identified this potential independence impairment at the start of this audit. We determined we could proceed with the audit by excluding the areas overseen by our office.

*Standards Compliance Statement*

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## APPENDIX B

### Audit Finding, Recommendations, and Management Response Summary

#### EDI management summary of accomplishments, challenges, and other pertinent information relative to the audit finding and recommendations:

Easy Does It staff, management and board thank the City of Berkeley for their support through the years to provide this much needed service for people with disabilities and seniors. It is very rare for a city to make such a strong commitment to this population and the city is to be commended for that. Easy Does It is a small but mighty agency that provides a big service and there are many challenges to do this type of work. We see this audit as an opportunity to refine our policies and procedures and be better at what we do. We have already begun to make changes as a result of this audit and will continue to put new procedures and policies in place in line with the findings and recommendations.

We have begun using a new Salesforce database for more accurate data collection. We have already updated our service sheets and are using them with clients. We are enforcing the use of the written Measure B voucher processing procedures developed by HHCS personnel to capture information necessary to obtain reimbursement from the City of Berkeley. We have modified our bookkeeping system to delineate services to appropriate funding stream.

Below we have gone through each recommendation and stated what our plan is to address each of them. We are committed to the citizens of Berkeley to provide the best services possible to meet our contractual commitments.

Our board of directors have made several changes listed here:

Subsequent to the 6/30/17 close of the period audited by the City of Berkeley, but prior to receipt of COB's draft audit report, the EDI Board of Directors took the following measures:

- The Executive Director was given a written evaluation for the first time in her tenure.
- Subsequent to the evaluation, the evaluation form was revised to better align with the Board's priorities.
- The Executive Director was instructed to see that written evaluations are conducted for all employees. The evaluations are currently in progress.
- The Board (on 6/30/17) included in EDI's FY18 budget non-COB funds for bonuses tied to performance evaluations.

**EDI management summary of accomplishments, challenges, and other pertinent information relative to the audit finding and recommendations:**

- At the Board’s request, the Executive Director now provides the Board with EDI’s latest bank statement each month.
- At the Board’s request, the Executive Director now provides the Board with EDI’s latest Profit and Loss statement each month.
- At the Board’s request the Executive Director will now notify the Board should EDI borrow money via our line of credit or in any other manner.
- Board Minutes are now kept not only in a binder in the office, but also on Google Docs (accessible by Board members), and available by email to members of the public on an ongoing basis.
- The first Action & Discussion item on each month’s agenda is now always Follow-up, during which members can inquire into the status of previously discussed items.

During this same time period, in response to concerns expressed by the Board, the Executive Director made the following personnel changes:

- The bookkeeper was replaced.
- The receptionist was terminated and replaced by an Office Manager competent in multiple computer programs.

Submitted on behalf of the EDI Board of Directors 3/5/18.

Larry Rosenthal  
Board Secretary



| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons |                                                                                                                                                                                                                                                                                                                                                                                           |              |                                         |                                                             |                                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-----------------------------------------|-------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                           | Lead Dept.   | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date                      | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                           |
| <b>Finding 1: Easy Does It unable to substantiate compliance with funding requirements</b>                        |                                                                                                                                                                                                                                                                                                                                                                                           |              |                                         |                                                             |                                                                                                                                                                                                                                                                                                                                         |
| 1.1                                                                                                               | Recruit and cultivate qualified people with the business and financial expertise necessary to serve as active Easy Does It board members. Include a process for vetting and voting on nominees to ensure members have the required skills and time to commit to the development and support of Easy Does It.                                                                              | Easy Does It | Agree                                   | Expected: TBD<br><br>Ongoing; first steps taken immediately | <b>Initial Status 5.1.18: Partially implemented.</b> Easy Does It is actively recruiting qualified board members with business and financial expertise. All candidates will be required to submit resume, references and be interviewed by board. The board will vote on candidate and candidate will be accepted with a majority vote. |
| 1.2                                                                                                               | Have staff and board members jointly perform a risk assessment of all major processes to identify the operational weaknesses that leave Easy Does It vulnerable to fraud, misuse, and abuse, and result in noncompliance with funding requirements. Rate the risks to identify those most significant in preventing Easy Does It from achieving its mission and becoming fiscally stable. | Easy Does It | Agree                                   | Expected: July 1, 2018<br><br>Process started March 1, 2018 | <b>Initial Status 5.1.18: Not implemented.</b> We are currently reviewing all of our major processes to identify operational weaknesses and making changes to prevent fraud misuse and abuse in noncompliance with funding requirements.                                                                                                |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |              |                                         |                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| Findings and Recommendations                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Lead Dept.   | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date                                                     | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                                                                                   |
| 1.3                                                                                                               | Have management and board members jointly establish a written strategic plan that includes short- and long-term goals using the recommendations from this audit and the risk assessment performed in response to recommendation 1.2. Include target implementation dates in the strategic plan. Prioritize implementation of goals identified as presenting the highest risk. Use the plan to guide the changes needed for an adequate system of internal controls, including the recommendations in this report. | Easy Does It | Agree                                   | Expected: October 2018<br><br>Initial Phase Completion<br>Expected: May 10, 2018           | <b>Initial Status 5.1.18: Not implemented.</b> The board and management will be having a board retreat in May to discuss development, implementation, and timeline to complete strategic plan.                                                                                                                                                                                                                                  |
| 1.4                                                                                                               | Create and enforce written payroll processing and monitoring procedures that include practices for detecting and deterring fraud, waste, and abuse; and that ensure payroll accuracy. This includes but is not limited to:                                                                                                                                                                                                                                                                                        | Easy Does It | Agree                                   | Expected: May 31, 2018<br>[Revised employee handbook with updated policies and procedures] | <b>Initial Status 5.1.18: Not implemented.</b> We are writing up new payroll processing and monitoring procedures. We are dividing payroll tasks between office manager, program manager and bookkeeper so no single person performs all tasks. This segregation of duties will detect and deter fraud. We are also consulting our payroll company to aid in the development of these procedures. These procedures will then be |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons                                                                                                                                                                                          |                                                                                                                                                                                                     |                                         |                                                                               |                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                        |
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| Findings and Recommendations                                                                                                                                                                                                                                                                               | Lead Dept.                                                                                                                                                                                          | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date                                        | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                        |
| <ul style="list-style-type: none"> <li>Ensuring that no single person performs all the tasks related to a single transaction cycle.</li> <li>Designating a second person to review and sign off on approved timesheets, changes to payroll data, time entry, and payroll pre-process registers.</li> </ul> |                                                                                                                                                                                                     |                                         | Initial Phase Completion<br>Expected: April 30 2018<br>[Change in procedures] | <p>reviewed by the executive director and approved by board to eliminate risk of fraud.</p> <p>The employee handbook is in the process of being updated. Overtime reporting will be highlighted in the manual and all staff will be trained on overtime policy including disciplinary action for not getting prior approval for overtime.</p> |                                                                                                                                                                                                                                                                                                                                                        |
| 1.5                                                                                                                                                                                                                                                                                                        | Perform a staff scheduling and service needs analysis to establish optimal staffing schedules. Perform the analysis on a recurring basis, e.g., quarterly, to identify needed changes.              | Easy Does It                            | Agree                                                                         | Expected: June 1, 2018                                                                                                                                                                                                                                                                                                                        | <b>Initial Status 5.1.18: Not implemented.</b> Running an emergency service organization is uniquely challenging in that emergencies do not follow schedules so there may not be a consistent time when emergencies arise. However we will do a review and an analysis to determine staffing schedules quarterly to determine optimal staffing levels. |
| 1.6                                                                                                                                                                                                                                                                                                        | Create and enforce written procedures for analyzing and managing staff schedules. Include the requirement for conducting the analysis on a recurring basis to keep up with scheduling change needs. | Easy Does It                            | Agree                                                                         | Expected: June 1, 2018                                                                                                                                                                                                                                                                                                                        | <b>Initial Status 5.1.18: Not implemented.</b> A written procedure will be developed to do review quarterly.                                                                                                                                                                                                                                           |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |              |                                         |                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| Findings and Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Lead Dept.   | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date                                                                                                                                                                                               | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>1.7 Establish and enforce clear written procedures for evaluating individual eligibility for Measure E services during client intake and service delivery. Use the City contract as a guide in creating the procedures and include:</p> <ul style="list-style-type: none"> <li>• Definitions for severe physical disability and emergency that are in alignment with Measure E requirements.</li> <li>• Requirement to complete intake and evaluation forms, and to thoroughly document and data enter Measure E eligibility criteria: residency, severity and type of disability, and reason the client situation is an emergency.</li> </ul> | Easy Does It | Agree                                   | <p>Expected: April 6, 2018</p> <p>Intake form changed: March 31, 2018</p> <p>Dispatcher initial training: February 27, 2018</p> <p>Effective immediately: Data from intake and service sheets are entered in Salesforce database</p> | <p><b>Initial Status 5.1.18: Not implemented.</b> We will be redesigning new client intake form to include more detailed disability information to ensure alignment with Measure E definition of severe physical disability and to collect new data to coincide with new City Data Services information requirements. We usually ask clients to update their information yearly generally in the month of July. We are going to start updating client information as soon as new intake is complete. We will include questions:</p> <ul style="list-style-type: none"> <li>- Because of your disability do you experience substantial limitations and need personal assistance with activities of daily living such as dressing, meal prep, bathing, transferring, toileting, housekeeping, taking medication, mobility assistance?</li> <li>- Are you an IHSS recipient?</li> <li>- Are you a Regional Center client?</li> <li>- Do you use East Bay Paratransit?</li> <li>- Are you signed up with Berkeley Paratransit?</li> <li>- Do you know about the Berkeley Paratransit Voucher program?</li> </ul> |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons |            |                                         |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| Findings and Recommendations                                                                                      | Lead Dept. | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                                                                                                                   |            |                                         |                                        | <p>These changes to client intake will clearly show client has a severe physical disability even if they do not have an identified diagnosis.</p> <p>Some of our clients have cognitive and or intellectual disabilities and may not self-identify as having a severe physical disability but our highly experienced staff can clearly make that determination onsite. We will review with staff in an upcoming staff meeting what is considered a severe physical disability and will train new staff on making that determination.</p> <p>It is also difficult to complete an intake with our homeless clients. They are often very suspicious and reluctant to answer intake questions and quickly become agitated if they feel we are prying too much. We have created a streamlined version of intake for our homeless clients in order to get basic information. We always attempt to get the information but if a client is highly agitated we will not do a complete intake for the safety of our staff.</p> |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons |            |                                         |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| Findings and Recommendations                                                                                      | Lead Dept. | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                                                                   |            |                                         |                                        | <p>We will develop a written procedure for this process.</p> <p>During the dispatch process we are asking more questions to screen and triage emergency calls. We have updating our service sheets to include questions that will further determine if service call is an emergency. The following questions have been added:</p> <ul style="list-style-type: none"> <li>- I was unable to find assistance from other sources prompting my call to Easy Does It</li> <li>- Without this call I would have to call 911 for assistance.</li> <li>- I was unable to get assistance from other wheelchair repair shops within 24 hours</li> <li>- There was no other accessible transportation available to fill this urgent need</li> <li>- This is an urgent call because</li> </ul> <p>The changes to service sheet clearly identify this service request as an emergency need. Dispatchers have been trained on the new procedures.</p> |

| <b>Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons</b> |                                                                                                                                                                                                                                                                                                                                                                                          |                   |                                                |                                               |                                                                                                                                                                                                                                                                                                                    |
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| <b>Findings and Recommendations</b>                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                          | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Audit Recommendations, Corrective Action Plan, and Progress Summary</b>                                                                                                                                                                                                                               |
| 1.8                                                                                                                      | Update all forms used for client intake and eligibility evaluation with guidance for identifying the severe physical disability and emergency that are in alignment with Measure E requirements. Include on the intake form an area for staff to conclude as to whether the services provided are considered Measure E eligible. Use the City contract as a guide in creating the forms. | Easy Does It      | Agree                                          | Expected: April 6, 2018                       | <b>Initial Status 5.1.18: Not implemented.</b> We will be redesigning new client intake form to include more detailed disability information to ensure alignment with Measure E definition of severe physical disability and to collect new data to coincide with new City Data Services information requirements. |
| 1.9                                                                                                                      | Record services to the financial system to clearly account for expenditures that are funded by Measure E and those that are not. Use the information collected during the improved screening, intake, and eligibility evaluation processes to identify the appropriate funding source.                                                                                                   | Easy Does It      | Agree                                          | Actual: March 15, 2018; prior to audit issue  | <b>Initial Status 5.1.18: Implemented.</b> The bookkeeper has implemented cost centers into accounting system to delineate services to appropriate funding stream. New dispatch procedure and service sheets determine eligibility for Measure E and B funds.                                                      |
| 1.10                                                                                                                     | Create written case management procedures and enforce the requirements for Measure E clients when usage exceeds the threshold. Ensure the procedures and any related forms are                                                                                                                                                                                                           | Easy Does It      | Agree                                          | Expected: May 1, 2018                         | <b>Initial Status 5.1.18: Not Implemented.</b> We have established written case management procedures. We will review these procedures and make changes as necessary to comply with city contract. We have established a new Salesforce                                                                            |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                        |                                         |                                        |                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                    |
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| Findings and Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Lead Dept.                                                                                                                                                                             | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                    |
| <p>consistent with Measure E contract requirements for basic case management. Use the City contract as a guide in creating the procedures and include written processes for:</p> <ul style="list-style-type: none"> <li>Identifying and documenting client overuse</li> <li>Creating case management files</li> <li>Assessing client needs</li> <li>Developing a plan with the client</li> <li>Identifying and documenting clients who refuse assistance</li> <li>Documenting all support and intervention, including progress made in, or obstacles to, obtaining reliable attendant care</li> </ul> |                                                                                                                                                                                        |                                         |                                        | <p>database that will make it easier for case manager to track usage of service and identify high-users more quickly.</p> <p>An immediate change now requires case manager to include a case note when a file is closed documenting the outcome of case, referrals given if any and any follow up she intends to do.</p> |                                                                                                                                                                                                                                                                                                    |
| 1.11                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Enforce the use of the written Measure B voucher processing procedures developed by HHCS personnel to capture information necessary to obtain reimbursement from the City of Berkeley. | Easy Does It                            | Agree                                  | Actual: March 1, 2018                                                                                                                                                                                                                                                                                                    | <p><b>Initial Status 5.1.18: Not implemented.</b> We just received written Measure B voucher processing procedures from HHCS after this audit was performed. We will follow these procedures. HHCS has changed the vouchers multiple times in the last year and has not given us directions on</p> |



| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons |                                                                                                                                                                                                                                                                                                                      |              |                                         |                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| Findings and Recommendations                                                                                      |                                                                                                                                                                                                                                                                                                                      | Lead Dept.   | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date      | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                                                                   |                                                                                                                                                                                                                                                                                                                      |              |                                         |                                             | new processing procedures despite our request they do so. HHCS has never notified us when a voucher was completed incorrectly.                                                                                                                                                                                                                                                                                                                                                     |
| 1.12                                                                                                              | Create written and improved gas card and van use monitoring procedures that will allow management to detect fraud and misuse, and that require reconciliation of gas and van use to service data.                                                                                                                    | Easy Does It | Agree                                   | Actual: March 31, 2018                      | <b>Initial Status 5.1.18: Implemented.</b> We have reviewed our gas card procedures. We have revised our log sheet to include mileage so it will be easier to detect fraud. We are also designating a specific card for each vehicle. We will update our written procedures to reflect these changes. We will train staff on procedure changes. Logs will be reconciled by transportation manager monthly, and office manager will do a reconciliation to detect fraud and misuse. |
| 1.13                                                                                                              | Train staff on all procedures including those created in response to the recommendations in this audit and any developed as a result of the risk assessment performed in response to recommendation 1.2. Monitor staff's work and provide additional training as may be warranted to ensure staff follow procedures. | Easy Does It | Agree                                   | Expected: TBD<br><br>Initial: March 1, 2018 | <b>Initial Status 5.1.18: Partially implemented.</b> We have monthly all staff meetings. As part of monthly staff meetings we do and will continue to review Easy Does It personnel policies and will train staff of procedure changes as they are made. We also hold bimonthly office team meetings and we will train on procedure changes as they are made.                                                                                                                      |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons |                                                                                                                                                                                                                                                                                                                                            |              |                                         |                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| Findings and Recommendations                                                                                      |                                                                                                                                                                                                                                                                                                                                            | Lead Dept.   | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date                                                        | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                                   |                                                                                                                                                                                                                                                                                                                                            |              |                                         |                                                                                               | The executive director and program manager have an informal open door policy in which we welcome staff to discuss individual concerns about any Easy Does It policy or procedure.                                                                                                                                                                                                                                                              |
| 1.14                                                                                                              | Create informational literature that helps educate the public on why Easy Does It service is almost entirely limited to Measure E eligible services. Provide this literature to new clients and their families, as well as staff, to help clarify any misconceptions about Easy Does It's service delivery restrictions and capabilities.  | Easy Does It | Agree                                   | Expected: June 1, 2018<br><br>Immediate: Sending information to clients who over use service. | <b>Initial Status 5.1.18: Not implemented.</b> We will be sending out information packets to all clients when we update our client intake forms. Packet information will outline our services and the limitations Measure E places on Easy Does It as an emergency service. We have already begun sending information on the limits of Measure E to clients that overuse service.                                                              |
| 1.15                                                                                                              | If funding allows, implement a mobile, electronic data collection system that allows Easy Does It staff to capture and record client intake, service, and billing data to the central database. Train staff on the use of the system and enforce its requirements. Update procedures as may be necessary to reflect the use of the system. | Easy Does It | Agree                                   | Expected: TBD<br><br>Initial: March 2, 2018                                                   | <b>Initial Status 5.1.18: Partially Implemented.</b> We now have a new Salesforce database that is much more user friendly and easier to do data entry in than our previous Filemaker database. It is also easier to run reports and to determine if there is missing data. It allows us to enter service information when calls come into our dispatch program. We will continue to refine data capture as the database is fully implemented. |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons |                                                                                                                                                                                                                                                                                                                                                                                     |                                         |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                            |
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| Findings and Recommendations                                                                                      | Lead Dept.                                                                                                                                                                                                                                                                                                                                                                          | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                            |
|                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                     |                                         |                                        | <p>We have made some personnel changes and data is now being inputted in a more timely manner. Our dispatchers are also now able to input a call directly into the database making it easier to track calls. Each call is assigned a case number and the case number will now be put on the service sheet so we can track a service throughout the service process. We will be writing up a procedure for how this process will work and outlining staff responsibilities and duties.</p> <p>We are also testing Verizon Field Force phone app to do data collection at the time of service.</p> |                                                                                                                                                                                                                                                                                                                            |
| 1.16                                                                                                              | If funding allows, integrate an electronic scheduling and timekeeping software application with the current payroll system that will allow for a more efficient analysis of staffing trends as aligned with service delivery needs. Train staff on the use of the system and enforce its requirements. Update procedures as may be necessary to reflect the use of the application. | Easy Does It                            | Partially Agree                        | Expected: TBD                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Initial Status 5.1.18: Not implemented.</b> We will discuss with our Salesforce consultant if it is capable to do electronic scheduling and timekeeping and determine if it is appropriate for our agency. Funding permitting we will consider purchasing a system if Salesforce does not allow us to do this function. |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                             |                                         |                                        |                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|-----------------------------------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Lead Dept.                  | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                                                    |
| 1.17                                                                                                              | <p>Request an opinion from the City Attorney on whether the use of Measure E, per the governing legislation, is intended for:</p> <ul style="list-style-type: none"> <li>• Persons who work or go to school, but do not reside, in the City of Berkeley.</li> <li>• Ensuring one male and one female attendant are on staff or on call at all times.</li> <li>• Ensuring optional staff availability to work with clients who are known to be abusive or who refuse to work with specific attendants.</li> <li>• 24-hour service availability.</li> <li>• Other items HHCS believe require clarification.</li> </ul> <p>Maintain documented opinion to allow for transparency and reference.</p> | City Manager's Office; HHCS | Agree                                   | Expected: June 30, 2018                | <b>Initial Status 5.1.18: Not implemented.</b> HHCS will request the opinion of the City Attorney on the mentioned items. Housing and Community Services (HCS) has a standing monthly meeting with staff in the City Attorney's office and we will use this time to address the identified questions. We anticipate having a resolution prior to contract amendment for the FY19 contract cycle. |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |            |                                         |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| Findings and Recommendations                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Lead Dept. | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 1.18                                                                                                              | <p>Use the City Attorney opinion to:</p> <ul style="list-style-type: none"> <li>• Inform Easy Does It on whether or not Measure E money may be used for: non-Berkeley residents who work and/or go to school in Berkeley; staffing both a male and female attendant at all times; and providing 24-hour services.</li> <li>• Clarify in the scope of services of new City contracts using Measure E funding whether or not Measure E money may be used for: non-Berkeley residents who work and/or go to school in Berkeley; staffing both a male and female attendant at all times; and providing 24-hour services.</li> </ul> | HHCS       | Agree                                   | Expected: June 30, 2018                | <p><b>Initial Status 5.1.18: Not implemented.</b> HCS staff have already reached out to the City Attorney to alert them that we will be seeking advice on the issue pertaining to residency.</p> <p>Additionally, HHCS will request the opinion of the City Attorney on the mentioned items. HCS has standing monthly meetings with staff in the City Attorney’s office and we will use this time to address the identified questions. We anticipate having a resolution prior to contract amendment for the FY19 contract cycle.</p> |
| 1.19                                                                                                              | <p>Work with EDI to lower the thresholds for high-use clients. For example, identify high-use clients as those with 10 or more calls a month, and require clients obtain case management services once they</p>                                                                                                                                                                                                                                                                                                                                                                                                                 | HHCS       | Agree                                   | Expected: June 30, 2018                | <p><b>Initial Status 5.1.18: Not implemented.</b> HCS staff will work with EDI staff to re-define high-use clients per the Auditor’s guidance, and will do so in time for incorporation into the FY19 contract amendment.</p>                                                                                                                                                                                                                                                                                                         |

| Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons |                                                                                                                                                            |            |                                         |                                             |                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------------------------------------|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                      |                                                                                                                                                            | Lead Dept. | Agree, Partially Agree, or Do Not Agree | Expected or Actual Implementation Date      | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                               |
|                                                                                                                   | reach 20 calls in one month. Incorporate those thresholds into new City contracts for Measure E funding.                                                   |            |                                         |                                             |                                                                                                                                                                                                                                                                                                                                                                             |
| 1.20                                                                                                              | Communicate with Easy Does it when there are changes to Measure B requirements and provide EDI with updated Measure B procedures discussing those changes. | HHCS       | Agree                                   | Actual: March 1, 2018; prior to audit issue | <b>Initial Status 5.1.18: Implemented.</b> Aging Services staff will keep Easy Does It staff abreast of any changes to Measure B requirements by regularly attending monthly PAPCO (Paratransit Advisory and Planning Committee) meetings, and communicating pertinent information – including any updated Measure B procedures – to Easy Does It staff in a timely manner. |

**Easy Does It: Audit Findings and Recommendations Responses**

|     | <u>Action</u>                      | <u>Description</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <u>EDI RESPONSE</u><br><u>4.1.21</u> | <u>Notes</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <u>CITY RESPONSE</u><br><u>6.30.20</u><br><u>Agree/Disagree</u> | <u>CITY RESPONSE 4.19.21 Agree/Disagree</u>                                                                                       | <u>Progress to date: 3.30.21</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.1 | Recruit qualified Board Members    | Recruit and cultivate qualified people with the business and financial expertise necessary to serve as active Easy Does It board members. Include a process for vetting and voting on nominees to ensure members have the required skills and time to commit to the development and support of Easy Does It.                                                                                                                                                                                                      | YES                                  | The rules for adding members to the Board are spelled out in Article 4 sections 1 and 4. Board membership has completely turned over since the COB 2017 audit. Our Treasurer, who has extensive bookkeeping experience, has overseen the complete reorganization of our financial records by our new bookkeeper. Our vice president is Chairman of the Board of a nonprofit active in more than 40 countries. Our President and Secretary have extensive experience working for government in programs serving the disabled. We continue to seek new qualified Directors. | Disagree                                                        | Agree; supporting documentation is sufficient.                                                                                    | <p><b>See Attachments 1-3.</b></p> <ol style="list-style-type: none"> <li>1. Board Recruitment process.</li> <li>2. Resume of Treasurer, Jocelyn Robinson recruited and joined the board in August 2020 after Frank Rini resigned in June 2020.</li> <li>3. Resume of Jan Garrett whom EDI board is considering to join the board in April.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1.2 | Perform a risk assessment          | Have staff and board members jointly perform a risk assessment of all major processes to identify the operational weaknesses that leave Easy Does It vulnerable to fraud, misuse, and abuse, and result in noncompliance with funding requirements. Rate the risks to identify those most significant in preventing Easy Does It from achieving its mission and becoming fiscally stable.                                                                                                                         | NOT COMPLETE - in progress           | Easy Does It upated the Client Intake form to capture client's need for services and updated our Payroll Procedures.                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Disagree                                                        | Partially agree; recommendation confirmed to be in process.                                                                       | See 1.3 below - Strategic planning process has identified Personnel, Program and Operating procedures as high priority areas that need to be regularly reviewed and updated. Plan will include a matrix that will identify primary and sub-tasks necessary to adress these issues (and more), person(s) responsible, and timeline(s) for completion.                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1.3 | Establish a written strategic plan | Have management and board members jointly establish a written strategic plan that includes short- and long-term goals using the recommendations from this audit and the risk assessment performed in response to recommendation 1.2. Include target implementation dates in the strategic plan. Prioritize implementation of goals identified as presenting the highest risk. Use the plan to guide the changes needed for an adequate system of internal controls, including the recommendations in this report. | NOT COMPLETE - in progress           | We intend to have our new Executive Director hired by April 1. Once the new Director becomes familiar with the needs of EDI we will organize a Board retreat, this summer and develop a strategic plan. A consultant hired by the City (as authorized by City Council) and experienced in developing strategic plans, would be of invaluable assistance.                                                                                                                                                                                                                  | Agree                                                           | Partially agree; recommendation confirmed to be in process. EDI needs to provide final written strategic plan for full agreement. | The EDI Board hired a consultant to facilitate a strategic planning process. Over the course of several meetings, Board and Management Consultant met with Client's Executive Director, Board Chair, Board of Directors and key staff members to conceive of the future direction of the organization, agree on strategic approaches and develop business model & funding strategy. By the end of 2022, Easy Does It (EDI) envisions becoming an organization with a strong culture of integrity, diversity, community and sustainability. EDI's three top strategic priorities are: People & Systems Development, Program Development and Growing Resources. The Board expects to adopt the 1-year plan at it's April 2021 meeting and will submit to COB early May, 2021. |

|     |                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                            |                                                                                                                                                                                        |                        |                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| 1.4 | Create and enforce written payroll procedures to deter and detect fraud | Create and enforce written payroll processing and monitoring procedures that include practices for detecting and deterring fraud, waste, and abuse; and that ensure payroll accuracy. This includes but is not limited to:<br><ul style="list-style-type: none"> <li>• Ensuring that no single person performs all the tasks related to a single transaction cycle.</li> <li>• Designating a second person to review and sign off on approved timesheets, changes to payroll data, time entry, and payroll pre-process registers. [format change, per contract]</li> </ul> | YES                                        | See payroll procedures                                                                                                                                                                 | Agree                  | Partially agree; provide updated documentation.                                                                                        | Payroll procedures are updated as needed to ensure adequate checks and balances. See attachment 7.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 1.5 | Perform regular scheduling analysis                                     | Perform a staff scheduling and service needs analysis to establish optimal staffing schedules. Perform the analysis on a recurring basis, e.g., quarterly, to identify needed changes.                                                                                                                                                                                                                                                                                                                                                                                     | YES                                        | A Salesforce report inaugurated December 2019 breaks down service requests by type on an hourly basis. The report is reviewed by the Program Director monthly and the Board quarterly. | Cannot verify response | Partially agree; provide supporting documentation requested including outputs from Salesforce and documentation from ED to board, etc. | Schedule analysis is conducted as part of the annual budget process. In FY 21, staffing was reduced by approximately 50 hours per week. Adjustments were made to ensure two staff available only during "high needs" times of the day (e.g. morning attendants don't show up, evening attendants don't show up, etc.). Repair staff and Drivers have been cross trained and respond to attendant calls if/when other staff are providing service and an urgent request is made. Attendant staff are asked to come in outside of their regular shifts to cover single services (e.g. serve Jane Doe for 2 hours as there is no other staff person available). The limited staffing poses challenges: most staff are working close to 40 hours/week so go into overtime when covering extra shifts, staff may not always get relieved for duty free breaks. Most of our employees hold multiple jobs so do not have flexibility to come in outside of regularly scheduled hours, and it is difficult to hire back-up staff as people want to be "guaranteed" a certain number of hours per week to make a commitment to EDI. |
| 1.6 | Create and enforce analysis procedures                                  | Create and enforce written procedures for analyzing and managing staff schedules. Include the requirement for conducting the analysis on a recurring basis to keep up with scheduling change needs.                                                                                                                                                                                                                                                                                                                                                                        | in progress, expected completion June 2020 | From our Salesforce database we can review service requests hour by hour. Written procedures still need to be developed now that we have a report to show hour by hour usage.          | Cannot verify response | Partially agree; draft supporting documentation sufficient to show progress, EDI to provide final draft for full agreement.            | See item 14. schedule plan and analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |



|     |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                            |                                                                                                                                                |          |                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| 1.7 | Establish and enforce written procedures for determining client eligibility | Establish and enforce clear written procedures for evaluating individual eligibility for Measure E services during client intake and service delivery. Use the City contract as a guide in creating the procedures and include: <ul style="list-style-type: none"> <li>Definitions for severe physical disability and emergency that are in alignment with Measure E requirements.</li> <li>Requirement to complete intake and evaluation forms, and to thoroughly document and data enter Measure E eligibility criteria: residency, severity and type of disability, and reason the client situation is an emergency.</li> </ul> | in progress, expected completion June 2020 | See Client Handbook, Client intake form and Service sheets                                                                                     | Agree    | Partially agree; provide supporting documentation requested including outputs from salesforce and written info from ED to board, etc.                                                                                                                                                                                                                                              | See attachment 6. Dispatch Salesforce Case Entry Measure E attachment 8. Completed Service Agreement redacted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 1.8 | Update forms with Measure E information                                     | Update all forms used for client intake and eligibility evaluation with guidance for identifying the severe physical disability and emergency that are in alignment with Measure E requirements. Include on the intake form an area for staff to conclude as to whether the services provided are considered Measure E eligible. Use the City contract as a guide in creating the forms.                                                                                                                                                                                                                                           | YES                                        | See Client Handook, Client Intake form and Service Agreement                                                                                   |          | Partially agree; client intake form does not include specific area for staff to conclude whether services are Meas E eligible. EDI will add this to form for COB agreement.                                                                                                                                                                                                        | Every person that contacts EDI must complete a registration (intake) form <u>prior</u> to receiving services and annually thereafter. It is the responsibility of Dispatchers to verify/ensure that the registration information is collected before staff is assigned to provide service. There are several ways recipient may complete the registration process: 1) with the dispatcher over the phone 2) online: <a href="https://docs.google.com/forms/d/e/1FAIpQLScbGO-TivGEAxLjBikuLgmNHoctv1vtjfrzxaj9PKgM3DwwgQ/viewform?embedded=true">https://docs.google.com/forms/d/e/1FAIpQLScbGO-TivGEAxLjBikuLgmNHoctv1vtjfrzxaj9PKgM3DwwgQ/viewform?embedded=true</a> 3) requesting paper and mailing to EDI. |
| 1.9 | Account for Measure Expenditures; record to financial system accordingly    | Record services to the financial system to clearly account for expenditures that are funded by Measure E and those that are not. Use the information collected during the improved screening, intake, and eligibility evaluation processes to identify the appropriate funding source.                                                                                                                                                                                                                                                                                                                                             | YES                                        | Supported Living services and Measure E services are recorded in seperate logs. Non-Measure E expenditures are charged to non Measure E funds. | Disagree | Partially agree; do not see where Measure E is specified in payroll procedures, timesheets or Salesforce. Need a list of service type/list of drop downs in Salesforce as documentation. Provide documentation on how EDI justifies emergency in the list on the service agreement, and provide up to date service agreement. Key for timesheets and/or procedure document needed. | See 1.8 above related to intake requirements and assessment of Measure E eligibility together with attachment 4. Payroll procedures (updated) and attachment 5. timesheet example. Services that are provided by Measure E vs. other funding sources are clearly delineated on timesheets, in Salesforce, etc. Employee's hours worked are allocated in payroll system per program/funding source and recorded in EDI's accounting system accordingly.                                                                                                                                                                                                                                                        |

|      |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                            |                                                                                                                                                                                                                                                                                                                                                                                                                   |                 |                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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| 1.10 | Enforce case management rules                 | Create written case management procedures and enforce the requirements for Measure E clients when usage exceeds the threshold. Ensure the procedures and any related forms are consistent with Measure E contract requirements for basic case management. Use the City contract as a guide in creating the procedures and include written processes for:<br><ul style="list-style-type: none"> <li>Identifying and documenting client overuse</li> <li>Creating case management files</li> <li>Assessing client needs</li> <li>Developing a plan with the client</li> <li>Identifying and documenting clients who refuse assistance</li> <li>Documenting all support and intervention, including progress made in, or obstacles to, obtaining reliable attendant care</li> </ul> | YES                                        | Please see several case management letters and forms                                                                                                                                                                                                                                                                                                                                                              | Partially Agree | Partially agree; draft supporting documentation sufficient to show progress, EDI to provide final draft for full agreement. | Case Manager determines usage patterns on a regular basis in a number of ways: 1) monthly report from Salesforce 2) Call Logs (Google spreadsheets) 3) communication with EDI employees that provide direct service. See attachment 11. draft case management procedures. EDI is working to further develop and utilize Salesforce as a single source of information for all service delivery including case management activities.                 |
| 1.11 | Use City's Measure B vouchers procedures      | Enforce the use of the written Measure B voucher processing procedures developed by HHCS personnel to capture information necessary to obtain reimbursement from the City of Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | YES                                        | HHCS updated their procedures last year and we are in compliance with those procedures. As a result EDI recently received \$4,000 from Measure B and we are expecting another \$16,000 very soon. The office manager reviews vouchers for completeness, and submits completed voucher with necessary HHCS Form. The office manager works closely with HHCS and stay abreast of changes in reporting requirements. | N/A             | N/A                                                                                                                         | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 1.12 | Improve gas card use monitoring               | Create written and improved gas card and van use monitoring procedures that will allow management to detect fraud and misuse, and that require reconciliation of gas and van use to service data.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | YES                                        | See Gas Card Policy                                                                                                                                                                                                                                                                                                                                                                                               | Agree           | Agree; supporting documentation is sufficient.                                                                              | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 1.13 | Train personnel on all procedures             | Train staff on all procedures including those created in response the recommendations in this audit and any developed as a result of the risk assessment performed in response to recommendation 1.2. Monitor staff's work and provide additional training as may be warranted to ensure staff follow procedures.                                                                                                                                                                                                                                                                                                                                                                                                                                                                | on-going                                   | As we develop procedures, staff gets trained.                                                                                                                                                                                                                                                                                                                                                                     | Partially Agree | Agree; supporting documentation is sufficient.                                                                              | Staff are required to attend monthly all-staff, regular department, and periodic 1:1 supervision meetings. Each of these is designed to connect staff, share information, provide tools to ensure completion of work duties, acknowledge importance of the work we do. See attachment 9. All-Staff Meeting Agenda Attachment 6. Dispatch Salesforce Case Entry Measure E. 12. June 2020 Staff Meeting Agenda 13. Employee Identification procedure. |
| 1.14 | Inform public on service delivery limitations | Create informational literature that helps educate the public on why Easy Does It service is almost entirely limited to Measure E eligible services. Provide this literature to new clients and their families, as well as staff, to help clarify any misconceptions about Easy Does It's service delivery restrictions and capabilities.                                                                                                                                                                                                                                                                                                                                                                                                                                        | in progress, expected completion June 2020 | See Client Handbook (page 7 final paragraph) , Client Intake form and Service Agreement. We will incorporate this Measure E language into our Service Agreement                                                                                                                                                                                                                                                   | Disagree        | Disagree; EDI to provide final public outreach documentation for COB agreement.                                             | See attachment 7. Measure E Eligibility letter which is mailed to all clients who receive our services. Our client registration form<br><a href="https://docs.google.com/forms/d/e/1FAIpQLScbGO-TivGEAxLjBlkuLgmNHoctv1vtjfrxaj9PKgM3DwwgQ/viewform?embedded=true">https://docs.google.com/forms/d/e/1FAIpQLScbGO-TivGEAxLjBlkuLgmNHoctv1vtjfrxaj9PKgM3DwwgQ/viewform?embedded=true</a>                                                             |

|      |                                                           |                                                                                                                                                                                                                                                                                                                                                                                     |              |                                                                                                                                                                                                                                                                     |             |             |                                                                                                                                                                                                                                 |
|------|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.15 | Implement electronic data collection system               | If funding allows, implement a mobile, electronic data collection system that allows Easy Does It staff to capture and record client intake, service, and billing data to the central database. Train staff on the use of the system and enforce its requirements. Update procedures as may be necessary to reflect the use of the system.                                          | NOT COMPLETE | We have a robust Salesforce database. With a consultant (as approved by City Council) we can integrate our existing database to communicate with field staff and capture services provided, payments and other necessary data in real time at the time of services. | Incomplete. | Incomplete. | Some electronic data collection systems are in place, we are working with a Salesforce consultant to find ways to further automate some functions (e.g. service agreements).                                                    |
| 1.16 | Integrate an electronic scheduling and timekeeping system | If funding allows, integrate an electronic scheduling and timekeeping software application with the current payroll system that will allow for a more efficient analysis of staffing trends as aligned with service delivery needs. Train staff on the use of the system and enforce its requirements. Update procedures as may be necessary to reflect the use of the application. | NOT COMPLETE | We have a robust Salesforce database. With a consultant (as approved by City Council) we can integrate our existing database to communicate with field staff and capture services provided, payments and other necessary data in real time at the time of services. | Incomplete. | Incomplete. | Electronic scheduling and timekeeping software is available through our existing payroll company, implementation is later than expected (we hoped to implement this fiscal year) we will begin to use this system in July 2021. |





Office of the City Manager

CONSENT CALENDAR

June 29, 2021

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: Fiscal Year 2022 and Fiscal Year 2023 Housing Retention Program Contract

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to:

1. Allocate the Fiscal Year (FY) 2022 and FY 2023 City of Berkeley Housing Retention Program (HRP) contract to the Eviction Defense Center (EDC), which operates the COVID-19 HRP; and
2. Amend Contract No. 32100023 with EDC to use General Fund U1 HRP funds for utility arrears or other expenses that would enable applicants to retain or obtain housing and/or employment.

FISCAL IMPACTS OF RECOMMENDATION

There is no new fiscal impact to the City of Berkeley as the HRP was approved on March 10, 2020 for continued FY 2022 and FY 2023 funding using General Fund collected pursuant to Measure U1.

CURRENT SITUATION AND ITS EFFECTS

The HRP is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support services for our most vulnerable community members.

The Eviction Defense Center (EDC) currently manages the Community Development Block Grant-funded COVID-19 Housing Retention Program for the City of Berkeley and also receives federal and state Emergency Rental Assistance Program (ERAP) funds through Alameda County. The East Bay Community Law Center (EBCLC) currently manages the core, U1 funded City HRP program. EDC, however, is in the unique position of being able to manage all of these rental assistance funds to ensure there is no duplication of benefits to applicants. EDC has the capacity to manage the City's HRP in conjunction with the COVID-HRP program, including any new sources of funding (both federal and county) and the anticipated increase in community need when the COVID-19 rent moratorium expires on June 30, 2021.

Some applicants for rental assistance may have other debts that would keep them from retaining their housing. We recommend, therefore, that a portion of the City funds be used to pay utility bills, because of the understanding that a utility shut off will cause

housing instability and could lead to an eviction for health and safety, as well as other bills, such as internet access costs, to enable applicants to apply for jobs and benefits and for families with school age children doing remote learning. EDC has recommended that we broaden the use of these funds in this way to prevent displacement.

### BACKGROUND

The Housing Retention Program was administered by City staff for over a decade and in 2018 funds increased and were allocated to the East Bay Community Law Center (EBCLC) to prevent evictions for Berkeley residents through one-time housing assistance grants. EBCLC was the sole administrator of the program until the start of the COVID-19 pandemic; at which time EBCLC and EDC collaborated to distribute additional rental assistance funding allocated by City Council through the Berkeley Relief Program<sup>1</sup>. Over time, EDC took on nearly all responsibility of administering these COVID-19 rental assistance grants, including the addition of CDBG COVID-19 funds, from client applications to the disbursement of checks.

When EDC receives an application, they assess which program a household is most suited for (Berkeley's HRP or Alameda County's Emergency Rental Assistance Program [ERAP]) and helps to process the application with the appropriate funding. Because EDC has taken on the majority of this application processing, EBCLC refers most applications back to EDC. Therefore, staff recommends formally transitioning the HRP program to EDC. This transition will increase efficiency, reduce the possibility of errors, and ensure that all qualifying households receive rent relief as quickly and seamlessly as possible. EDC has demonstrated capacity to manage the full HRP portfolio, including COVID-19 specific HRP, core HRP, new sources of funding, and an anticipated increase in community need when the Covid-19 rent moratorium expires on June 30, 2021. As of May 13, 2021, through the Berkeley Housing Retention Program, EDC has provided services to 470 unduplicated clients, which includes income assessment, financial planning, housing consultations, and paying monthly rent directly to landlords. In addition, EDC has pushed out approximately \$1.4 million from the County's ERAP program to Berkeley tenants, which has allowed them to further stretch the City of Berkeley's investment and prevent even more anti-displacement.

### ENVIRONMENTAL SUSTAINABILITY

There are no environmental effects associated with the recommendations in this report.

### RATIONALE FOR RECOMMENDATION

EDC has an excellent track record of expanding its administration of rental assistance funds to meet the increasing demand for rental assistance. It is also uniquely positioned in Berkeley as having access to federal and state funding allocated through Alameda County. Having one agency administer all rental assistance funds in Berkeley will help

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<sup>1</sup> See [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/03\\_Mar/Documents/2020-03-17\\_Special\\_Item\\_03\\_Berkeley\\_COVID-19\\_Relief\\_Fund\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/03_Mar/Documents/2020-03-17_Special_Item_03_Berkeley_COVID-19_Relief_Fund_pdf.aspx)

avoid duplication of benefits and will streamline the application process for residents who may be able to benefit from one program or the other. After conferring with both agencies, all agree that this recommendation allows for the highest quality of service to rental assistance applicants.

ALTERNATIVE ACTIONS CONSIDERED

HRP funds could remain allocated to the EBCLC. This would result in an additional administrative burden for EBCLC since it would be required to collaborate with EDC to ensure non-duplication of benefits.

CONTACT PERSON

Mary-Claire Katz, Associate Management Analyst, HHCS, 510-981-5414

Attachments:

1: Resolution

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

FISCAL YEAR 2022 and FISCAL YEAR 2023 HOUSING RETENTION PROGRAM;  
AND CONTRACT NO. 32100023 AMENDMENT WITH EVICTION DEFENSE CENTER

WHEREAS, the City of Berkeley and East Bay Community Law Center (EBCLC) previously entered into Contract Number 31900232 for the Housing Retention Program (HRP), dated July 1, 2019, for Fiscal Year (FY) 2020 and FY 2021 only, which was authorized by Berkeley City Council Resolution No. 69,010 – N.S.; and

WHEREAS, on March 10, 2020, City Council approved \$250,000 of U1 funds (Budget Code 016-51-504-530-0000-000-444-636110-) for the HRP program for both FY 2022 and FY 2023; and

WHEREAS, the Eviction Defense Center (EDC) collaborated with EBCLC to distribute housing retention grants during the COVID-19 pandemic; and

WHEREAS, EDC has an existing City of Berkeley contract (No. 32100023) to manage COVID-19-specific HRP grants; and

WHEREAS, EDC is working with the Alameda County Emergency Rental Assistance Program (ERAP); and

WHEREAS, EDC has the capacity to continue to manage the HRP.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley continue to fund the HRP for FY 2022 and FY 2023 at its current level of \$250,000 and reallocate HRP funds to the Eviction Defense Center.

BE IT FURTHER RESOLVED that the City Manager or her designee is authorized to amend Contract No. 32100023 with Eviction Defense Center to use General Fund U1 HRP funds for utility arrears or other expenses that would enable applicants to retain or obtain housing and/or employment. A record copy of said agreement will be on file with the City Clerk.





Energy Commission

## CONSENT CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council

From: Berkeley Energy Commission

Submitted by: Janet Stromberg, Chair, Berkeley Energy Commission

Subject: Adopt a Resolution to Upgrade Residential and Commercial Customers to East Bay Community Energy (EBCE) *Renewable 100* Plan

### RECOMMENDATION

Adopt a time-sensitive Resolution to upgrade all current and new Berkeley residential and commercial customer accounts from *Bright Choice* - 86% Green House Gas (GHG)-free including substantial hydroelectric and nuclear - to *Renewable 100* (100% renewable energy from California solar and wind) for their default electricity service plan, excluding residential customers in low-income assistance programs. The Berkeley Energy Commission (Commission) recommends that the City Council adopt the resolution now to meet East Bay Community Energy's (EBCE) schedule of requiring an extensive lead time needed for the transition to be effective April 1, 2022 for residential customers and October 1, 2022 for commercial customers.

### FISCAL IMPACTS OF RECOMMENDATION

The Commission anticipates minimal fiscal impact. EBCE will cover the costs associated with a municipality member's first change to a default rate product. Staff is currently engaged in outreach and education around EBCE service plans. Outreach and education for the opt-up period can be incorporated into ongoing efforts. Berkeley residents and businesses can opt to choose a different EBCE or PG&E service plan at any time.

Based on 2019 data for an average EBCE E1 Rate Schedule, residential customer consuming 359 kWh/month, the switch from *Bright Choice* to *Renewable 100* will cost an average \$4.02 more per month as compared to *Bright Choice*, and \$3.59 more than PG&E's basic service rate.

Based on 2019 data for an average EBCE A1 Rate Schedule, business customer consuming 1518 kWh/month, the switch from *Bright Choice* to *Renewable 100* will cost an average \$17 more per month as compared to *Bright Choice*, and \$15 more than PG&E's basic service rate.

### CURRENT SITUATION AND ITS EFFECTS

On April 28, 2021, the Berkeley Energy Commission voted to send this recommendation to upgrade residential and commercial customers to EBCE's *Renewable 100* electricity plan, moved by Commissioner Guliasi, second by Commissioner O'Hare, motion carried by vote 6-0-2-0; Ayes: Stromberg, Moore, O'Hare, Gil, Guliasi, Leger. Noes: None. Abstain: Paulos, Zuckerman. Absent: None.

EBCE established a new Default Rate Product Change Policy in March 2021. This new policy allows for any EBCE member agency to change the default rate product only one (1) time every two (2) years. EBCE will cover the costs associated with a JPA member's first change to a default rate product. For any subsequent approved change, the member agency must cover EBCE's administrative costs, such as operational adjustments and customer notification.

City of Berkeley has a unique opportunity to opt-up all accounts, excluding residential customers in low income assistance programs<sup>1</sup>, into *Renewable 100* electricity service plan, with minimal cost to the City while empowering residents to opt-down at any time. Energy procurement is a central piece of Berkeley's path to meeting its Climate Action Goals.

By adjusting the default service to Renewable 100, this single action could result in as much as a 7% immediate reduction (an unknown number of commercial accounts buy electricity on the open market via PG&E's direct access program) in Berkeley's greenhouse gas emissions contingent upon the number of accounts that agree to keep the *Renewable 100* plan.<sup>2</sup> Additionally, through higher participation in the *Renewable 100* service plan, City of Berkeley is supporting the California solar and wind sectors, as well as continuing to support EBCE's local green jobs program.

Implementation of approved requests to change the default rate product for certain customers will occur only in March or October. Implementing product changes in March and October minimizes the potential financial impact to customers as the rates are lower in these non-summer months. Requests must be approved by the Board six (6) months in advance of implementation (i.e., Board approval in September for March implementation and April for October implementation).

EBCE will mail two co-branded notifications, with at least one sent prior to the changed rates. In addition to the two required notices, EBCE staff will coordinate with Berkeley to develop and distribute additional customer notices and/or conduct additional communications such as social media campaigns, jurisdictional newsletters, and Member press release. Berkeley will be responsible for the costs of additional communications

## BACKGROUND

In June 2018, City of Berkeley joined neighboring cities to establish EBCE as the default electricity provider. As a public agency serving the majority of Alameda County, EBCE reinvests its profits into our community's economy, supporting good green energy jobs and building a more resilient local grid. EBCE buys its power from clean energy sources and its greenhouse gas emissions rate for *Renewable 100* is less than PGE's emissions rates per kWh given that it includes no large hydroelectric power, which is known to release GHGs through the release of methane as a result of decaying organic matter trapped at the bottom of reservoirs. As compared to PG&E's power mix, which includes 44% nuclear power,

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<sup>1</sup> CARE and FERA are state discount programs; eligibility requirements are shown in the Appendix B. The Medical Baseline Program assists residential customers who have qualifying medical conditions with a lower rate on monthly energy bills and extra notifications in advance of a Public Safety Power Shutoff.

<sup>2</sup> OESD July 2020 Climate Action Plan and Resilience Update.

*Renewable 100* is 100% nuclear-free. 100% renewable energy from our CCA also makes our region more resilient and participation in *Renewable 100* promotes the green economy.

The EBCE Board of Directors established three levels of service or products for its customers in 2018 and has subsequently set the value proposition for each product as follows:

- Bright Choice – basic service (includes large hydro-electric and nuclear).
- Brilliant 100 – 100% carbon-free service (includes large hydro-electric).
- Renewable 100 – 100% California wind and solar power.

EBCE has since eliminated the Brilliant 100 option.

As of this time, *Renewable 100* for residential customers on the E-1 Rate Schedule, is 1 cent more than PG&E's default product and 1.12 cents more than EBCE's default (*Bright Choice*). The average non-CARE residential customer uses about 359 kWh per month so the average monthly increase is estimated at \$4.02. CARE, FERA and medical baseline customers will not be opted-up and will experience no change in their current rates.

*Renewable 100* for A-1 business customers, is 1 cent more than PG&E's default product and between 1.09 – 1.13 cents more than EBCE's default (*Bright Choice*). The average business customer uses about 1518 kWh/month, so the average monthly increase is \$16.85.

This action can be seen as guidance to Berkeley ratepayers on a cost-effective means of reducing greenhouse gas emissions. It does not constitute a new tax. Rate payers may opt-out of *Renewable 100* at any time. Research has shown time and again, only a very small percentage of rate payers will change their enrollment, even if they support paying more for a cleaner product. In fact, it is because of this inertia that the community choice program was established as an opt-out program rather than an opt-in one.

In January 2021, the City Council of Dublin passed a resolution requesting that East Bay Community Energy opt-up all residential accounts to *Renewable 100* service to meet their greenhouse gas emission reduction goals adopted in their "Climate Action Plan 2030 and Beyond." This change excluded customers in the CARE, FERA, and medical baseline programs (which would remain on Bright Choice). The City of Dublin's request to change default service plans sparked a new precedent and EBCE established a Default Rate Product Change Policy (Attachment 2).

Currently, Berkeley's city-wide default at enrollment for residential and commercial customers was EBCE's *Bright Choice* (86% carbon-free, including hydroelectric, nuclear and an amount of system power generated from mixed sources that may include those producing GHGs, such as natural gas. Since 2020, the City's municipal accounts are enrolled in the top tier of renewable energy, *Renewable 100* (100% renewable energy from California solar and wind).

#### ENVIRONMENTAL SUSTAINABILITY

Energy procurement is a central piece of Berkeley's path to decarbonization. This single action of changing Berkeley's accounts to *Renewable 100* service could result in an immediate

reduction of as much as 7% in Berkeley’s greenhouse gas emissions,<sup>3</sup> with minimal cost to the City of Berkeley. Because of the reinforcing feedback loop effects of carbon emissions in the atmosphere, these immediate near-term reductions in emission will have a more significant impact on climate change than policies that go into effect in the longer term. In addition, defaulting to *Renewable 100* will set the stage for even greater reductions with time as a larger and larger percentage of buildings and transport are electrified, consistent with Berkeley’s ban on natural gas in new buildings and its Electric Mobility Roadmap.

The City Council has the opportunity and obligation to execute this meaningful and achievable climate action.

#### RATIONALE FOR RECOMMENDATION

On June 12, 2018, the Berkeley City Council passed item 49 “Declaration of a Climate Emergency” which refers “to the Energy Commission to study and report back to Council on a path for Berkeley to become a “Carbon Sink” as quickly as possible, and to propose a deadline for Berkeley to achieve this goal” ideally by 2030.

Despite the trajectory of the Berkeley Climate Action Plan’s 2030 emission reduction targets, Berkeley is significantly behind in achieving the Climate Action Plan 2020 and 2030 reduction goals.<sup>4</sup>

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

The need for reducing greenhouse gas emission is urgent and 100% renewable electricity is an important element of Berkeley’s goal to be Fossil Fuel Free. Nevertheless, there are equity implications for even small increases to electricity costs that could exacerbate pre-existing wealth and racial disparities. City Council might consider modifying the action to phase in the effective date for different types of customer accounts. According to studies:

- Black renters pay an average of 16% more in energy costs than white renters (controlling for factors such as income and household size).<sup>5</sup>
- Black and Latino communities, as well as older adults, renters, and those residing in low-income multifamily buildings, are disproportionately impacted by high and severe energy cost burdens.<sup>6</sup> High energy burden is associated with poor health outcomes and housing insecurity.<sup>7</sup>

<sup>3</sup> OESD July 2020 Climate Action Plan and Resilience Update

<sup>4</sup> OESD July 2020 Climate Action Plan and Resilience Update

<sup>5</sup> Lyubich, Eva, [The Race Gap in Residential Energy Expenditures](#), Energy Institute at Haas, June 2020.

<sup>6</sup> High energy burdens are often defined as greater than 6% of income, while severe energy burdens are those greater than 10% of income (APPRISE 2005). Referenced in Ross, Drehobl, and Stickles, *How High Are Household Energy Burdens?*, ACEEE, 2020.

<sup>7</sup> Ross, Drehobl, and Stickles, [How High Are Household Energy Burdens?](#), ACEEE, 2020.

- A national study conducted by the NAACP in 2017 found utility shutoff policies disproportionately impact low-income and Black households.<sup>8</sup> According to EBCE, there were 1,160 customers who had their electricity disconnected in 2019, and data is still pending on shutoffs that have occurred during the COVID-19 pandemic.

Concerns about the negative impacts of electricity cost increases come at a time when the California Public Utilities Commission reports residential electricity usage has increased by 15-20%<sup>9</sup>, due to the increased number of students and adults working and learning from home. Hopefully that will significantly decrease as pre covid patterns re-emerge. Increased electricity bills will challenge commercial customers, as many small businesses have suffered economic losses due to a year of closures under COVID-19 restrictions. Electricity usage varies widely in the commercial sector and therefore the cost of opting up will vary greatly from one business to the next.

If City Council takes action to opt up customer accounts in Berkeley, staff would plan to partner with EBCE to analyze the effects of this policy on different population segments – both households and businesses – in order to tailor outreach to customers who may be disproportionately impacted by higher energy cost. Staff would develop outreach strategies focused on reducing cost impacts by enrolling eligible households in low-income programs, opting down to *Bright Choice* for low income households that exceed the income threshold for low income programs, and educating customers to understand ways to shift electricity use and manage bills under the new Time-of-Use rates. Given the challenges of reaching the most vulnerable community members, which include language and technology barriers, this outreach will require significant staff resources and close collaboration with community partners. Staff preliminarily estimates the additional cost of this outreach at up to \$50,000, which would include funding for community partners to assist with direct outreach; the Planning & Development Department would likely seek to budget for these costs during the FY22 mid-year budget process in November 2021.

#### CONTACT PERSON

Billi Romain, Secretary, Energy Commission, 510-981-7432

#### Attachments:

- 1: Resolution
- 2: EBCE Policy on Member Requests to Change the Default Rate Product for Certain Customers, 03.17.2021

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<sup>8</sup> Daniel, Joseph, [Should the Electric Grid be Antiracist?](#), Union of Concerned Scientists Blog, January 2021.

<sup>9</sup> Referenced in Ross, Drehobl, and Stickles, ACEEE, 2020, pg. 6.

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

REQUESTING THE EAST BAY COMMUNITY ENERGY ENROLL CITY OF  
BERKELEY RESIDENTIAL AND COMMERCIAL ACCOUNTS IN RENEWABLE 100 AS  
THE DEFAULT ELECTRICITY PRODUCT

WHEREAS, Fossil fuel extraction and combustion is a primary cause of the present climate emergency that threatens the well-being of all living things; and

WHEREAS, according to scientists and engineers, transitioning society to less greenhouse gas (GHG) intensive forms of energy, namely cleaner electricity, is fundamental to decarbonization; and

WHEREAS, according to City data from 2018, Berkeley's residential electricity sector accounts for 3% of city-wide emissions, the commercial electricity sector accounts for 4% of city-wide emissions, while another 31% and 59% of emissions are attributed respectively to natural gas appliances and fossil fuel-powered transportation that can be cleanly phased out through electrification fueled by 100% GHG-free electricity; and

WHEREAS, the City of Berkeley has committed to a policy of decarbonization, including through Measure G (Resolution No. 63,518-N.S.) in 2006, calling for the City to reduce greenhouse gas emissions by 33% below 2000 levels by 2020, and 80% by 2050, the 2009 Berkeley Climate Action Plan (Resolution No. 64,480-N.S.), the Berkeley Climate Emergency Declaration (Resolution No. 68,486-N.S.), and the Fossil Free Referral; and

WHEREAS, Berkeley's Climate Action Plan identifies Community Choice Aggregation (CCA) agencies such as East Bay Community Energy (EBCE), which procure cleaner electric power from low-carbon sources on behalf of electricity customers, as a key strategy to meet local clean energy goals and greenhouse gas reduction targets; and

WHEREAS, on November 1, 2016, the City of Berkeley City Council adopted Resolution No. 67,730-N.S. authorizing Berkeley's participation in Alameda County's Community Choice Aggregation program known as East Bay Community Energy (EBCE) and subsequently appointed representatives to its Board of Directors; and

WHEREAS, on October 27, 2020 the City Council adopted Resolution No. 68,404-N.S., selecting the *Renewable 100* (100% GHG-free) electric service plan for all municipal accounts in recognition of the importance of supporting California's expanding solar and wind energy sector; and

WHEREAS, Cities have the authority to designate greenhouse gas-free default electric service plans as the default plan for eligible residential and commercial customers, allowing those customers to return to Bright Choice; and

WHEREAS, the City Councils of other EBCE participating jurisdictions such as Albany, Piedmont and Hayward selected default service plans featuring 100% GHG-free electricity for their customers; and

Attachment 1

WHEREAS, on March 17, 2021, EBCE approved the City Council of Dublin request to opt up all residential customers, excluding those in the CARE, FERA, and medical baseline programs, to *Renewable 100* service to meet their greenhouse gas emission reduction goals adopted in their “Climate Action Plan 2030 and Beyond;” and

WHEREAS, given the present climate emergency and the fact that the City of Berkeley is behind in meeting its Climate Action Plan targets, establishing a new default for residential and commercial customers while maintain current plans for price sensitive groups will likely yield substantially more GHG savings than the best marketing campaign aimed at encouraging customers to opt-up individually; and

WHEREAS, it is in the public interest to position city-wide residential and commercial customers to take advantage of electricity service with the lowest emissions factor and best environmental profile by replacing *Bright Choice* with *Renewable 100* as the default service plan and would cost the average homeowner approximately four dollars per month and the average commercial customer seventeen dollars per month more than current electricity rates; and

WHEREAS, customers receiving subsidies through the California Alternate Rates for Energy Program, Family Electric Rate Assistance, and Medical Baseline Allowance Programs will see no change in their plans or service; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley requests that East Bay Community Energy hereby enroll the City of Berkeley in the Renewable 100 electric power portfolio as the default electricity product for all residential accounts, except for CARE, FERA, and medical baseline accounts which would remain on the Bright Choice electric power portfolio, as of April 1, 2022 and all commercial accounts as of October 1, 2022.

BE IT FURTHER RESOLVED that the City Council of the City of Berkeley requests that the EBCE Board consider Berkeley’s Renewable 100 default power portfolio request at the earliest possible upcoming EBCE Board Meeting.

BE IT FURTHER RESOLVED, the City of Berkeley commits to working with EBCE staff to develop and implement a customer communication plan and agrees to co-brand customer notifications with the City of Berkeley’s seal to communicate the change in service plans in accordance with East Bay Community Energy’s Default Rate Product Change Policy adopted March 17, 2021.



### Staff Report Item 13

TO: East Bay Community Energy Board of Directors

FROM: Annie Henderson, VP Marketing and Account Services

SUBJECT: Policy on Member Requests to Change the Default Rate Product for Certain Customers (Action Item)

DATE: March 17, 2021

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#### Recommendation

Review and adopt a Resolution approving a policy on Joint Powers Authority (JPA) member requests to change the default rate product for certain customers within their jurisdiction ("Default Rate Product Change Policy").

#### Background

The EBCE Board of Directors established three levels of service or products for its customers in 2018 and has subsequently set the value proposition for each product as follows:

- **Bright Choice** - basic service level at a 1% discount to PG&E rates with 5% more renewable energy than PG&E's annual forecast
- **Brilliant 100** - 100% carbon-free service set at the same rate as PG&E, closed to new customers in original service territory as of August 1, 2020 and set to close for all customers January 2022.
- **Renewable 100** - 100% California wind and solar power set at \$0.01 per kWh over PG&E rates

There are certain member jurisdictions that selected a product other than *Bright Choice* to be the default selection at the time of initial customer enrollment. Specifically, Albany, Hayward, and Pleasanton selected *Brilliant 100* and Piedmont selected *Renewable 100*.

On January 12, 2021, the City Council of Dublin considered selecting *Renewable 100* as the default electricity product for most Dublin residents to facilitate meeting



greenhouse gas emissions reductions goals adopted in their “Climate Action Plan 2030 and Beyond”.

The City Council of Dublin passed a resolution requesting that East Bay Community Energy opt up all residential accounts to *Renewable 100* service except for customers in the CARE, FERA, and medical baseline programs (which would remain on *Bright Choice*). This request marks the first time a JPA member within EBCE has requested a default rate product change of customer accounts after initial enrollment. EBCE does not currently have a standard process or policy for facilitating rate product changes by JPA members.

Changes to the product default after enrollment have been implemented by only one other community choice energy program. The Clean Power Alliance (CPA) changed the residential and commercial default products for the cities of Malibu and Sierra Madre in October 2020, per the CPA “Policy on Default Product Changes”<sup>1</sup>. As part of this transition, CPA sent two customer notifications via the mail in August and October. The City of Malibu issued a press release which was covered by the local Patch news website and a couple other local media outlets. Materials provided to the CPA Board of Directors indicated a low opt out rate during the time following the transition in Malibu and Sierra Madre, with 0.5% of customers opting-out and 3% of customers choosing a different service option.

### Analysis & Discussion

The proposed EBCE Default Rate Product Change Policy is included as Exhibit A to the attached Resolution. A summary of the Policy is as follows:

- Implementation of approved requests to change the default rate product for certain customers will occur only in March or October. Implementing product changes in March and October minimizes the potential financial impact to customers as the rates are lower in these non-summer months.
- Requests must be approved by the Board six (6) months in advance of implementation (i.e. Board approval in September for March implementation and April for October implementation). This timeline gives EBCE staff sufficient time to plan for additional renewable energy procurement and other operational adjustments and to notify customers.
- A JPA Member may change the default rate product only one (1) time every two (2) years.
- The requesting JPA Member must work with EBCE on a customer communication plan and co-brand customer notifications.
- EBCE will cover the costs associated with a JPA member’s first change to a default rate product. For any subsequent approved change, the JPA Member

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<sup>1</sup> [https://cleanpoweralliance.org/wp-content/uploads/2020/02/CPA2020-013\\_Policy-for-Changes-to-Default-Rate-Product.pdf](https://cleanpoweralliance.org/wp-content/uploads/2020/02/CPA2020-013_Policy-for-Changes-to-Default-Rate-Product.pdf)

must cover EBCE's costs associated with implementation such as operational adjustments and customer notification.

This Policy was presented as an informational and discussion item at the February 2021 EBCE Board meeting. At that time, it was requested that the report and Policy be amended to provide potential cost estimates and address default product changes when a product is being closed. The potential cost estimates are listed below under Financial Impact. The scenario of a product closures is addressed in the introduction section of the Policy.

### **Financial Impact**

The initial implementation of a default rate product change may incur costs for operational adjustments (~\$15,000) and for the cost of customer notification mailers (~\$40,000 for a customer base of 40,000 accounts). The Policy proposes that costs associated with subsequent default rate product changes are covered by the JPA Member.

Based on the results in CPA, there may be a small increase in customer opt outs following a default rate product change and therefore a small reduction in revenue.

### **Attachments**

- A. Resolution to Approve a Default Rate Product Change Policy
- B. Exhibit A to Resolution: EBCE Default Rate Product Change Policy

RESOLUTION NO. R-2021-xxA RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO APPROVE A  
DEFAULT RATE PRODUCT CHANGE POLICY

WHEREAS, the East Bay Community Energy Authority (“EBCE”) was formed on December 1, 2016, under the Joint Exercise of Power Act, California Government Code sections 6500 *et seq.*, among the County of Alameda, and the Cities of Albany, Berkeley, Castro Valley, Dublin, Emeryville, Fremont, Hayward, Livermore, Oakland, San Leandro, and Union City, to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs in all the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of EBCE and parties to the JPA in March of 2020.

WHEREAS, in 2018, the Board of Directors approved three product offerings—a product called Bright Choice offered at a discounted price, a product called Brilliant 100 that is 100% carbon-free at price parity with PG&E rates, and a 100% renewable energy product called Renewable 100 offered at a premium cost.

WHEREAS, in 2020, the Board of Directors voted to eliminate the Brilliant 100 product as of 2022.

WHEREAS, on January 12, 2021, the City Council for the City of Dublin adopted a resolution requesting that the EBCE Board of Directors change the default product for its residential customers to Renewable 100.

WHEREAS, although EBCE’s Joint Powers Agreement contemplates that JPA members may change their default rate products, the Joint Powers Agreement does not specify a process or policy.

WHEREAS, changes to JPA members’ default rate products can have a fiscal impact on EBCE due to the need for additional renewable energy procurement, customer notification requirements, and other operational adjustments.

WHEREAS, EBCE will benefit from having a standard policy for addressing requests of default rate product changes from its JPA members.

**THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY  
DOES HEREBY FIND, RESOLVE, AND ORDER AS FOLLOWS:**

Section 1. The Board of Directors hereby approves the Default Rate Product Change Policy attached hereto as Exhibit A.

Section 2. This resolution shall become effective immediately upon its adoption.

ADOPTED AND APPROVED this 17<sup>th</sup> day of March 2021.

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Dan Kalb, Chair

ATTEST:

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Adrian Bankhead, Assistant Clerk of the Board

**EAST BAY COMMUNITY ENERGY**  
**DEFAULT RATE PRODUCT CHANGE POLICY**

The purpose of this Default Rate Product Change Policy is to specify a process for a Joint Powers Authority (JPA) member agency (“Member”) to change its Default Rate Product<sup>1</sup> and to ensure that East Bay Community Energy (EBCE) is provided with sufficient notice and time to prepare for the change.

When approving a request from a Member to change the Default Rate Product (“Default Rate Product Change”) after the Member’s initial service enrollment, the EBCE Board (“Board”) and Member shall adhere to this Policy, which requires specific cooperation from the Member. This Policy shall not apply to a change in the Default Rate Product which is the result of a rate product closure.

Under this Policy, the Default Rate Product Change request from a Member and subsequent implementation must comply with the following requirements:

1. **Timeline for Board Approval and Implementation:** Any request for a Default Rate Product Change must be approved by the Board. The Board will consider Members’ requests for Default Rate Product changes in the spring and the fall, based on the following schedule:
  - a. If the Board approves a Member’s request for a Default Rate Product Change by April 30 the Default Rate Change will be implemented in October of the same year.
  - b. If the Board approves a Member’s request for a Default Rate Change by September 30, the Default Rate Change will be implemented in March of the following year.
  - c. Notwithstanding the foregoing, the EBCE Chief Executive Officer (“CEO”) and the Member may mutually agree upon a different implementation schedule, provided that the CEO provides the Board with notification of the agreed-upon schedule.

| Board Approval By      | Implementation By    |
|------------------------|----------------------|
| April 30 of Year A     | October 31 of Year A |
| September 30 of Year A | March 31 of Year A+1 |

2. **Exceptions to Implementation of Default Rate Product Change:** Notwithstanding anything contained in this Policy, in no event shall a Member’s Board-approved Default Rate Product Change affect the following:

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<sup>1</sup> For purposes of this Policy, the “Default Rate Product” is the EBCE rate product option that each Member selected as the default for EBCE customers within the Member’s jurisdiction.

- a. Prior customer enrollment actions. Any customer account that has affirmatively taken action to change its rate product will remain on the selected product.
  - b. Prior customer opt-out actions. Any customer account that has affirmatively taken action to opt out of EBCE service will remain opted out.
3. **Frequency of Default Rate Product Change by a Member:** A Member may not change its Default Rate Product more than one (1) time every two (2) years.
4. **EBCE Agency Requirements:** Upon the Board's approval of a Member's request for a Default Rate Product Change, EBCE staff may engage in any of the following activities:
  - a. Purchase or prepare to purchase the appropriate amount of resources to meet the expected change in demand associated with the Default Rate Product Change;
  - b. Complete or prepare to complete additional regulatory compliance and reporting requirements, if any;
  - c. Coordinate with EBCE's data and call center services manager to make necessary operational adjustments;
  - d. Evaluate fiscal impacts of the Default Rate Product Change;
  - e. Examine EBCE rates and any rate impacts;
  - f. Coordinate and work with PG&E on billing considerations, if any;
  - g. Prepare for and deploy customer communication efforts;
  - h. Identify and address any other operational impacts or issues and take steps to mitigate those impacts/issues; or,
  - i. Take any other action necessary to effectuate the Member's approved Default Rate Product Change.
5. **Member Requirements:** The Member requesting a Default Rate Product Change must commit to the following conditions for the change to be implemented:
  - a. Collaboration. The Member shall work with EBCE staff to develop and implement a customer communication plan;
  - b. Co-Branding. The Member must agree to co-brand customer notifications with the Member's seal; and,
  - c. Cost Coverage. EBCE will cover the cost of any operational adjustments and the required customer notices, as detailed in Section 6.a, for the Member's first approved Default Rate Product Change. Costs associated with any subsequent Default Rate Product Changes will be charged to the Member.
6. **Customer Communication:** EBCE will notify customers subject to a Member's approved Default Rate Product Change. EBCE will lead, with support from the Member, the development and dissemination of customer notices.
  - a. Required Notifications. Any customer accounts subject to a Member's approved Default Rate Product Change shall be sent a minimum of two

(2) notifications. A minimum of one (1) notice shall be sent prior to the change going into effect.

- b. Optional Additional Notifications. In addition to the two (2) required notices referenced in Section 6.a., above, EBCE staff will coordinate with a Member who wishes to develop and distribute additional customer notices and/or conduct additional communications such as social media campaigns, jurisdictional newsletters, Member press release, etc. The Member shall be responsible for the costs of such additional communications.
7. A customer may take an enrollment action to change their EBCE rate product, to opt in to EBCE service, or to opt out of EBCE service at any time by notifying EBCE through the standard channels of phone, interactive voice recording, or online form.





CONSENT CALENDAR

June 29, 2021

**To:** Honorable Mayor and Members of the City Council

**From:** Jenny Wong, City Auditor *zw*

**Subject:** Berkeley's Fleet Replacement: Fund Short by Millions

RECOMMENDATION

We recommend City Council request that the City Manager report back by the first City Council meeting in January 2022, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Public Works Department.

FISCAL IMPACTS OF RECOMMENDATION

Upon adjusting the fleet funding model, Public Works may request a higher or lower contribution from departments to account for their fleet replacement and management needs.

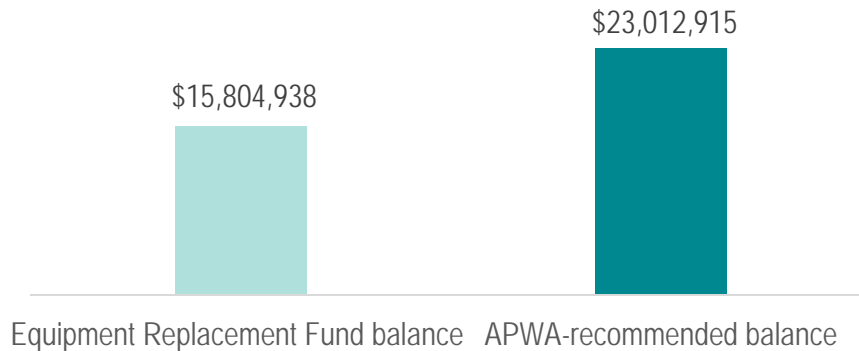
CURRENT SITUATION AND ITS EFFECTS

The Equipment Replacement Fund (Replacement Fund), an internal service fund made up of contributions from City departments to replace their fleet of vehicles and equipment, is underfunded. Its funding model is not working and may delay the City in accomplishing its goal to transition to an electric fleet. Additionally, Public Works lacks accurate information for replacing fleet units.

**Replacement Fund Is Insufficient and Underfunded**

The current funding level is not sufficient to address replacement needs. According to guidance from the American Public Works Association (APWA), the Replacement Fund is short by about \$7.2 million. Berkeley's Public Works Department is accredited by APWA, which recommends a local municipal fleet replacement fund have a reserve of 15 percent of the total fleet replacement value. Based on that guidance, in FY 2020, the City's Replacement Fund should have had a balance of approximately \$23 million including the funds collected towards the replacement of backlogged vehicles. However, the fund only had \$15.8 million.

**The Equipment Replacement Fund fell \$7.2 million short of American Public Works Association's recommended level in FY 2020.**



Source: Auditor's analysis of the City of Berkeley's vehicle and equipment data, end of FY 2020

In addition, the backlog of fleet units that surpassed their replacement date has grown from 54 to 174 fleet units between FY 2010 and 2020, or 36 percent of the fleet funded through the Replacement Fund. The estimated replacement cost for these 174 backlogged vehicles is \$13.2 million.

The Replacement Fund is underfunded because it was used for items beyond the direct cost of fleet replacement including personnel, reallocation of replacement funds, customization of vehicles, and purchase of replacement fleet without funding. There is gap of \$18.6 million between what was collected towards replacing fleet units and the existing balance in the fund. The Public Works Department did not have an accounting for how the \$18.6 million was spent, but the report highlighted a few ways that the City has spent fleet funds for other purposes that accounts for a large part of the discrepancy:

- The City charged a total of \$7.2 million in personnel costs to the Replacement Fund in 2006-2020. In the past 15 years, personnel costs averaged about \$477,000 annually. According to Public Works, the department is now working with a consultant to conduct a rate study that would clarify what its services should cost, including positions assigned to fleet management and replacement.
- In FY 2006, the City reallocated \$2 million from the Replacement Fund but did not replenish those funds. More recently, in FY 2021, the City budgeted to use over \$1 million from the Replacement Fund to lease fire vehicles. The City usually pays for these leases from the General Fund, but reallocated the \$1 million when it suffered low revenues caused by the COVID-19 pandemic.
- Public Works stated that historically, some fleet customization costs were paid for with Replacement Fund. Public Works does not have data on fleet customization costs, but staff reported that, in some cases, customization can cost about 40 percent or more of the purchase cost.
- According to its own data, Public Works may have used up to \$3 million from the Replacement Fund over the past 22 years to replace vehicles that departments had not funded.

The City's fleet replacement funding model is not aligned with how funding decisions are made. Any funding that departments contribute to the Replacement Fund goes into one account and may be spent on fleet throughout the City. The Budget Office may approve funding for proposed fleet replacements based on whether funds are available overall and does not have information about how much each department has contributed. We recommend that Public Works adjust the fleet funding model to ensure appropriate funding for fleet replacements and an accounting of the true costs of managing the fleet.

The underfunding may prevent the City from accomplishing its goal of transitioning its fleet to electric vehicles by 2030 in an effort to reduce greenhouse gas emissions. In July 2020, Public Works presented the City's Municipal Fleet Electrification Assessment, prepared by East Bay Community Energy, on the timeline and cost of transitioning to an electric fleet by 2030. The assessment estimated that it would cost about \$1.2 million to buy electric vehicles to replace 32 gas-powered and hybrid light-duty vehicles due for replacement in FY 2021, 29 of which are funded by the Replacement Fund. According to the City's fleet data, Public Works has only collected \$747,000 to replace those 29 vehicles with electric ones in FY 2021. Even if Public Works had collected enough funding, there is no guarantee that the City would have used those funds to purchase the specified electric vehicles due to the current funding model. Eight of the 174 fleet units overdue for replacement are scheduled to be replaced with new electric vehicles but there have been no contributions for their replacement. We recommend Public Works update its electric vehicle transition plan to take into consideration available funding.

### **Public Works Lacks Adequate Data and Information for Decision Making**

Public Works has incomplete and sometimes erroneous information in the current data system including fleet unit original and revised replacement dates, rationale for deferring or prioritizing replacement, estimated replacement costs, and how much a specific department has contributed towards and spent on replacing its fleet. Public Works stated that they started a contract with AssetWorks, a vehicle and equipment management system, which is expected to be capable of tracking accurate information once it is configured.

It will be important for staff to have policies and procedures in place to manage the data to ensure accuracy, transparency and accountability in the City's vehicle replacement process. Among our recommendations is that Public Works should conduct a needs assessment of vehicles overdue for replacement and create a plan that documents a timeline and cost for replacement in order to provide a more accurate estimate of funding needs to Council. Public Works should also fix errors and update the information in the current database prior to migrating it to the new one from AssetWorks. Additional recommendations are detailed in the report.

BACKGROUND

The City maintains a Replacement Fund that Public Works' Equipment Maintenance Division manages to replace the City's fleet. Departments make monthly payments into the Replacement Fund that are proportional to the estimated cost to replace their current fleet, and 75 percent of the City's fleet is funded through it. The Replacement Fund is an internal service fund. Internal service funds are used to account for the financing of goods or services provided by one department or program to other departments or programs on a cost-reimbursement basis.

ENVIRONMENTAL SUSTAINABILITY

The underfunding may prevent the City from accomplishing its goal of transitioning its fleet to electric vehicles by 2030 in an effort to reduce greenhouse gas emissions.

RATIONALE FOR RECOMMENDATION

Implementing our recommendations will ensure appropriate funding for fleet replacements and accurate information to enable decision makers to make efficient and effective replacement decisions.

CONTACT PERSON

Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

Attachments:

- 1: Audit Report: Fleet Replacement Fund Short Millions

Audit Report

June 2, 2021

# Fleet Replacement Fund Short Millions



BERKELEY CITY AUDITOR





# Fleet Replacement Fund Short Millions



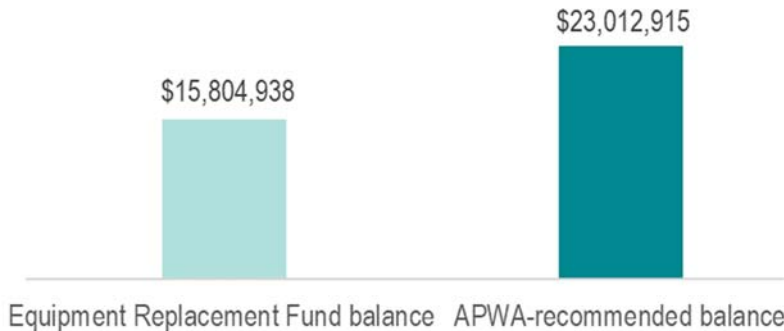
## Report Highlights

June 2, 2021



### Findings

The Equipment Replacement Fund fell \$7.2 million short of American Public Works Association’s recommended level in FY 2020.



Source: Auditor’s analysis of the City of Berkeley’s vehicle and equipment data as of the end of FY 2020

The City’s fleet replacement funding model is not working to ensure sufficient funding for timely replacement. The \$13.2 million needed to replace vehicles and equipment overdue for replacement would use most of the \$15.8 million fund balance, and the remaining funds would not be enough for future replacement needs. The funding shortage may have contributed to the threefold increase in backlogged fleet units that surpassed their replacement date between FY 2010 and FY 2020. This shortfall may also prevent the City from adhering to its plan to transition to an electric fleet by 2030. The fund also has a balance \$18.6 million lower than what departments have contributed, which is the result of paying for the following without contributions:

- Personnel costs
- Reallocation of funds to cover budget shortfalls
- Customization and specialized fleet gear
- Replacement of fleet units that have not been funded

It is difficult to know the exact cost of the City’s current fleet replacement funding needs because Public Works’ data about the number of vehicles and units of equipment that need to be replaced is not always accurate. Public Works cannot show that decisions to keep vehicles and equipment past their replacement date are beneficial or cost effective.

### Objectives

1. Is the City’s fund to replace its fleet of vehicles and equipment sufficient?
2. Does Public Works have key information about the City’s fleet replacement and funding needs?

### Why This Audit Is Important

The City of Berkeley maintains a Replacement Fund for 486 vehicles and units of equipment to provide citywide services from public safety to park maintenance. If the Replacement Fund is not sufficient to replace vehicles and equipment on time, it can cost the City more in the long run due to the excess maintenance and repair costs to keep an aging fleet running. It could also jeopardize the City’s goal to transition to an electric fleet by 2030.

### Recommendations

We recommend that Public Works work with the City Manager’s Office to adjust the fleet funding model to ensure appropriate funding for fleet replacements and account for the true costs of managing the fleet. Public Works should also update its electric vehicle transition plan to take into consideration available funding. We also recommend that Public Works ensure the new fleet and equipment management system has the accurate data needed to manage the Replacement Fund. Public Works management agreed with our recommendations.



BERKELEY CITY AUDITOR

For the full report, visit:  
<http://www.cityofberkeley.info/auditor>

CONSENT CALENDAR

June 29, 2021

**To:** Honorable Mayor and Members of the City Council

**From:** Jenny Wong, City Auditor *zw*

**Subject:** Berkeley’s Fleet Replacement: Fund Short by Millions

RECOMMENDATION

We recommend City Council request that the City Manager report back by the first City Council meeting in January 2022, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Public Works Department.

FISCAL IMPACTS OF RECOMMENDATION

Upon adjusting the fleet funding model, Public Works may request a higher or lower contribution from departments to account for their fleet replacement and management needs.

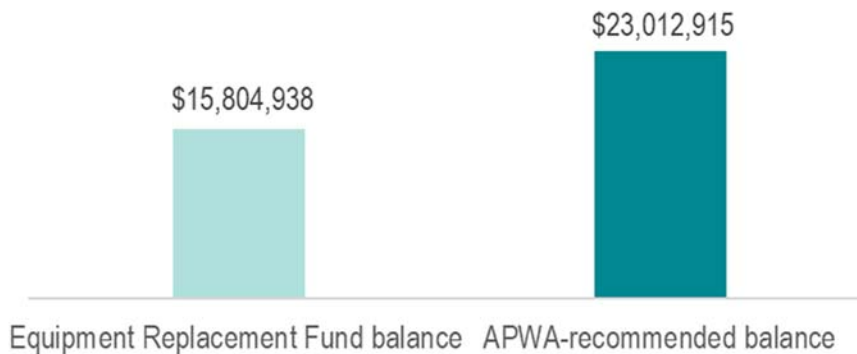
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The current funding level is not sufficient to address replacement needs. According to guidance from the American Public Works Association (APWA), the Replacement Fund is short by about \$7.2 million. Berkeley’s Public Works Department is accredited by APWA, which recommends a local municipal fleet replacement fund have a reserve of 15 percent of the total fleet replacement value. Based on that guidance, in FY 2020, the City’s Replacement Fund should have had a balance of approximately \$23 million including the funds collected towards the replacement of backlogged vehicles. However, the Fund only had \$15.8 million.

**The Equipment Replacement Fund fell \$7.2 million short of American Public Works Association’s recommended level in FY 2020.**



Source: Auditor’s analysis of the City of Berkeley’s vehicle and equipment data, end of FY 2020

In addition, the backlog of fleet units that surpassed their replacement date between FY 2010 and 2020 has grown from 54 to 174 fleet units, or 36 percent of the fleet funded through the Replacement Fund. The estimated replacement cost for these 174 backlogged vehicles is \$13.2 million.

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- In FY 2006, the City reallocated \$2 million from the Replacement Fund but did not replenish those funds. More recently, in FY 2021 the City budgeted to use over \$1 million from the Replacement Fund to lease fire vehicles. The City usually pays for these leases from the General Fund, but reallocated the \$1 million when it suffered low revenues caused by the COVID-19 pandemic.
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The City's fleet replacement funding model is not aligned with how funding decisions are made. Any funding that departments contribute to the Replacement Fund goes into one account and may be spent on fleet throughout the City. The Budget Office may approve funding for proposed fleet replacements based on whether funds are available overall and does not have information about how much each department has contributed. We recommend that Public Works adjust the fleet funding model to ensure appropriate funding for fleet replacements and an accounting of the true costs of managing the fleet.

The underfunding may prevent the City from accomplishing its goal of transitioning its fleet to electric vehicles by 2030 in an effort to reduce greenhouse gas emissions. In July 2020, Public Works presented the City's Municipal Fleet Electrification Assessment (assessment), prepared by East Bay Community Energy, on the timeline and cost of transitioning to an electric fleet by 2030. The assessment estimated that it would cost about \$1.2 million to buy electric vehicles to replace 32 gas-powered and hybrid light-duty vehicles due for replacement in FY 2021, 29 of which are funded by the Replacement Fund. According to the City's fleet data, Public Works has only collected \$747,000 to replace those 29 vehicles with electric ones in FY 2021. Even if Public Works had collected enough funding, there is no guarantee that the City would have used those funds to purchase the specified electric vehicles due to the current funding model. Eight of the 174 fleet units overdue for



replacement are scheduled to be replaced with new electric vehicles but there have been no contributions for their replacement. We recommend Public Works update its electric vehicle transition plan to take into consideration available funding.

### **Public Works Lacks Adequate Data and Information for Decision Making**

Public Works has incomplete and sometimes erroneous information in the current data system including fleet unit original and revised replacement dates, rationale for deferring or prioritizing replacement, estimated replacement costs, and how much a specific department has contributed towards and spent on replacing its fleet. Public Works stated that they started a contract with AssetWorks, a vehicle and equipment management system, which is expected to be capable of tracking accurate information once it is configured.

It will be important for staff to have policies and procedures in place to manage the data to ensure accuracy, transparency and accountability in the City's vehicle replacement process. Among our recommendations is that Public Works should conduct a needs assessment of vehicles overdue for replacement and create a plan that documents a timeline and cost for replacement in order to provide a more accurate estimate of funding needs to Council. Public Works should also fix errors and update the information in the current database prior to migrating it to the new one from AssetWorks. Additional recommendations are detailed in the report.

### BACKGROUND

The City maintains a Replacement Fund that Public Works' Equipment Maintenance Division manages to replace the City's fleet. Departments make monthly payments into the Replacement Fund that are proportional to the estimated cost to replace their current fleet, and 75 percent of the City's fleet is funded through it. The Replacement Fund is an internal service fund. Internal service funds are used to account for the financing of goods or services provided by one department or program to other departments or programs on a cost-reimbursement basis.

### ENVIRONMENTAL SUSTAINABILITY

The underfunding may prevent the City from accomplishing its goal of transitioning its fleet to electric vehicles by 2030 in an effort to reduce greenhouse gas emissions.

### RATIONALE FOR RECOMMENDATION

Implementing our recommendations will ensure appropriate funding for fleet replacements and accurate information to enable decision makers to make efficient and effective replacement decisions.

### CONTACT PERSON

Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

Attachments:

1: Audit Report: Fleet Replacement Fund Short Millions

## Table of Contents

|         |                                                                                                     |
|---------|-----------------------------------------------------------------------------------------------------|
| Page 6  | Introduction; Objectives, Scope, and Methodology; Background                                        |
| Page 10 | Finding 1: The Replacement Fund is underfunded by millions of dollars                               |
| Page 21 | Finding 2: Public Works lacks information on vehicle and equipment replacement for decision making. |
| Page 28 | Appendix I: Recommendations and Management Response                                                 |
| Page 33 | Appendix II: Methodology and Statement of Compliance                                                |

## Introduction

The City of Berkeley used a fleet of 730 vehicles and units of equipment (e.g., trailers, generators, grass mowers) in FY 2020 to provide services from public safety to park maintenance. The City maintains an Equipment Replacement Fund (Replacement Fund) to replace some of these units as needed. In FY 2020, the City had 486 units that were originally purchased through the Replacement Fund. If the Replacement Fund is not sufficient to replace fleet as scheduled, it can cost the City more in the long run due to the excess maintenance and repair costs needed to keep an aging fleet running. Without sufficient funds, the City may not adhere to its plan to replace fossil-fuel vehicles with electric by 2030. To secure sufficient funding, the City needs accurate information about replacement costs. It is also important that the City takes care of and invests in its capital assets. Neglecting investments in capital assets such as fleet may increase maintenance and repairs costs for the City in the long run.

The City Auditor audited the Replacement Fund in 2010 and found that it was not sustainable to meet the City's future fleet replacement needs. The audit recommended that the City develop a plan to increase its fund and reduce its backlog. In this current audit, we revisited the Replacement Fund and found that it is still not sufficient. We also found that Public Works lacked key information about the City's fleet replacement funding needs.

To ensure that the City has sufficient funds to replace its fleet of vehicles and equipment on time and adhere to the plan of fleet electrification by 2030, we recommend that Public Works addresses ongoing funding shortages and improves its data management.

## Objectives, Scope, and Methodology

Our objectives were:

1. Is the City's fund to replace its fleet of vehicles and equipment sufficient?
2. Does Public Works have key information about the City's fleet replacement and funding needs?

The scope of our analysis included fleet units purchased through the Equipment Replacement Fund, and did not include those purchased through other funding sources except to describe the total fleet size. We analyzed the City's fleet database using a point-in-time dataset from May 29, 2020. We analyzed fleet funding and expenditures in FY 2020 and FY 2021. We examined the data for selected fleet units recorded in the database, reviewed documents for selected units, interviewed Public Works staff, and checked inventory for selected units. For more information about our methodology, see p. 33.

## Background

### Equipment Replacement Fund

The City has a fleet of vehicles and equipment units used to provide city services. Public Works' Equipment Maintenance Division manages an Equipment Replacement Fund (Replacement Fund) to replace vehicles and equipment as needed.

The Replacement Fund is an internal service fund. Internal service funds are used to account for the financing of goods or services provided by one department or program to another on a cost-reimbursement basis. Departments make monthly payments into the Replacement Fund based on the estimated cost to replace their current units.<sup>1</sup> Public Works determines departments' monthly fleet replacement charges based on purchase cost, estimated economic life, and an inflation factor. It is important to note that the City's Budget Office considers that these funds are not necessarily tied to any specific unit or department even though the fleet management data shows that the money is allocated to a specific fleet unit.

**Economic life**, sometimes referred to as useful life, is an estimate of the average number of years a unit is considered useable before its value is fully depreciated. By determining when units become less effective and uneconomic, agencies can effectively plan to replace such units with new ones at appropriate intervals and reduce maintenance and overall costs.

Public Works manages the Replacement Fund and buys new or replacement vehicles. The current Public Works' fleet replacement policy lists the economic life for vehicles that range from as low as four years to as high as 15 years. Public Works provides maintenance and repair services and bills departments directly for such services. These services are not funded through the Replacement Fund.

Public Works currently uses FUNDS, the City's financial and accounting system, to record information about fleet units including the estimated replacement cost and the total fees paid towards replacement per unit. The FUNDS database tracks general information including the fleet unit's description, registration, purchase cost, estimated economic life, and replacement date. Public Works also enters billing information including account number and departments' monthly replacement fees.

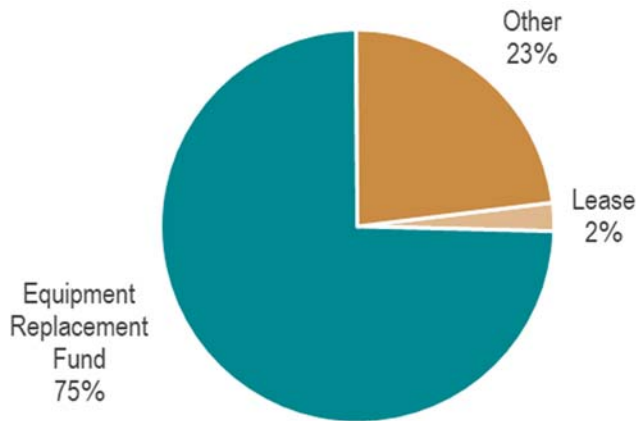
When a fleet unit approaches its estimated replacement date, Public Works' replacement policy states that staff assess it based on operating costs such as maintenance and repair costs, labor, part, fuel, and supply costs. Public Works stated that, based on their assessment, they inform departments about whether the fleet

<sup>1</sup> Public Works calculates the monthly payments based on the estimated cost of an equivalent fleet unit multiplied by an inflation factor, depending on the number of years in its economic life.

is in good enough condition to defer replacement or whether it should be replaced. We did not verify the communication between Public Works and departments about this because it was beyond the scope of this audit. The decision to replace fleet units is ultimately up to the departments.

The Replacement Fund does not pay for all fleet units (Figure 1). For some units such as trailers, mowers, generators, departments pay directly from their budgets or other funding sources such as grants. For leased fleet, the City transfers money from other funds into the Replacement Fund, from which Public Works makes lease payments. For example, the City transfers money from the General Fund to the Replacement Fund to make lease payments for fire engines.

Figure 1. Most of the City’s fleet is funded through the Equipment Replacement Fund.<sup>2</sup>



Note: “Other” includes funding sources such as department budgets or grants.  
Source: Auditor’s analysis of the City of Berkeley’s vehicle and equipment data as of end of FY 2020.



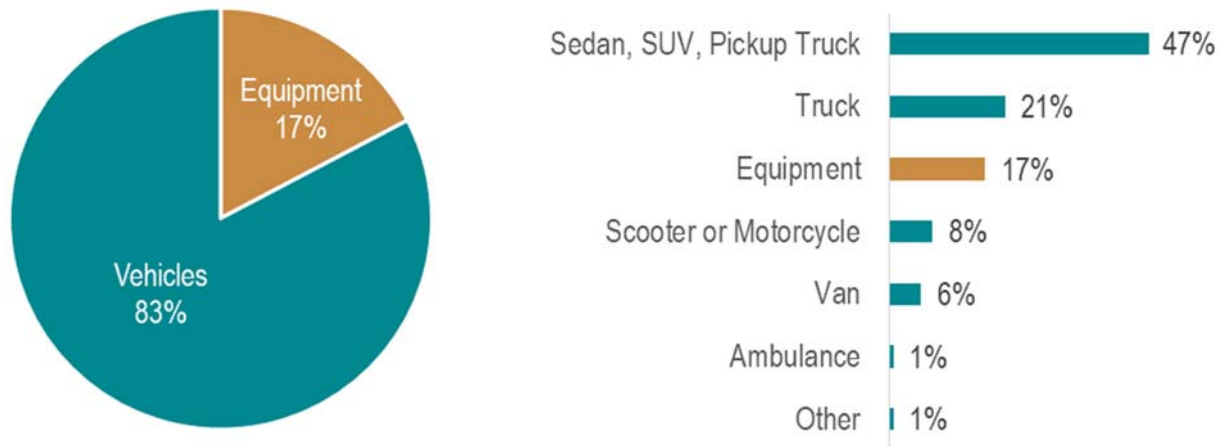
<sup>2</sup> These values do not include units kept as backups that are replaced with other retired units and not paid for through the Replacement Fund.

## Fleet Funded by the Equipment Replacement Fund

Berkeley’s entire fleet of city of vehicles and equipment can be funded through the leases or other funding, but most of the fleet, 486 units, is replaced through the Replacement Fund. About 83 percent of units funded through the fleet replacement fund are vehicles and include police sedans and SUVs, fire engines, refuse trucks, and pickup trucks (Figure 2). In this report, equipment units include construction and maintenance tools such as trailers, stump grinders, aerators, large grass mowers, generators, and high-pressure washers.

For the purposes of this report “fleet” refers to both vehicles and equipment. The City’s equipment Replacement Fund pays for the replacement of vehicles and equipment. Vehicles make up the majority of these units.

Figure 2. In FY 2020, the majority of the City’s Equipment Replacement Fund units were vehicles.



Source: Auditor’s analysis of the City of Berkeley’s fleet data at the end of FY 2020.

According to the fleet database, the departments that had the highest all time spending in the Replacement Fund were Public Works, Police, and Fire (Figure 3).

Figure 3. Public Works’ share of the fleet has the greatest estimated replacement cost.



Note: “Other” includes the City Manager’s Office, Library, Finance, and Information Technology. The Fire Department total does not include 17 leased fire trucks that are reimbursed through the General Fund. The total replacement cost for these fire trucks was estimated to be \$11.1 million as of May 2020.

Source: Auditor’s analysis of the City of Berkeley’s vehicle and equipment data at the end of FY 2020



## Finding 1: The Replacement Fund is underfunded by millions of dollars.

The City's Replacement Fund is short by \$7.2 million based on guidance from the American Public Works Association. The fleet replacement funding model is not working to ensure sufficient funding for timely replacement. The Replacement Fund also cannot cover the cost to replace the growing number of vehicles that have surpassed their estimated replacement date. The funding shortfall is in part due to the use of the Replacement Fund for other purposes. This lack of funding may increase delays in replacement leading to excessive maintenance and repair costs. It may also prevent the City from achieving its goal to transition from fossil fuel vehicles to an electric fleet by 2030.

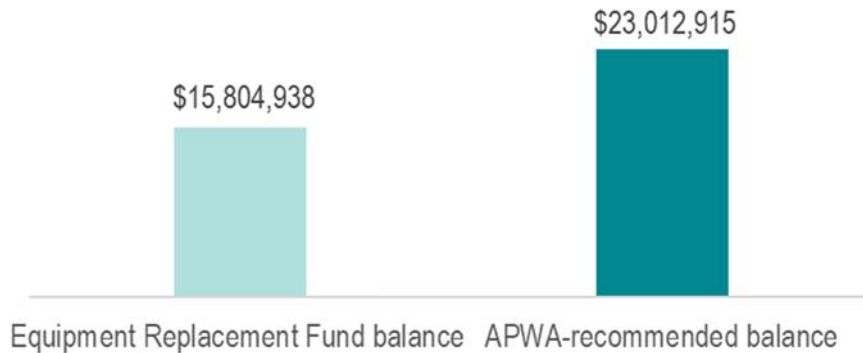
### The Replacement Fund is underfunded by \$7.2 million.

According to guidance from the American Public Works Association (APWA), the Replacement Fund is short by \$7.2 million. This estimate was used given that Public Works does not track the total fleet replacement needs and some data may be inaccurate, as we will discuss in the next finding (page 21). Public Works also does not have information about the total dollar value of the City's fleet replacement needs, so it is not possible to easily determine the exact amount of underfunding. However, the fund appears insufficient by a large margin based on APWA guidelines and the total fund balance compared to what was collected.

Public Works is accredited by the APWA, which recommends that local municipalities maintain a reserve of 15 percent of the total fleet replacement value for timely replacement and unexpected or changing needs. Based on Berkeley's fleet data, for 2020, that would require a total fund balance of \$23 million which would consist of a reserve of \$7.5 million plus the \$15.5 million that departments already contributed toward the replacement of 174 vehicles past due for replacement. However, the total fund balance of \$15.8 million falls below the level recommended by APWA, yielding a shortfall of \$7.2 million (Figure 4).

The American Public Works Association (APWA) is a professional accreditation organization for public works agencies. APWA provides varied educational and networking opportunities that help public works personnel grow in their professionalism and improve the quality of life in the communities they serve. Berkeley's Public Works department is an APWA-accredited agency.

Figure 4. The Equipment Replacement Fund fell \$7.2 million short of American Public Works Association's recommended level in FY 2020.



Source: Auditor's analysis of the City of Berkeley's vehicle and equipment data as of the end of FY 2020

### The current funding model is not working.

The City's fleet replacement funding model is not aligned with how funding decisions are made. Public Works, which manages the fund, bases decisions to replace fleet units in part on whether departments have paid enough towards the replacement of a specific vehicle. However, the City's Budget Office makes decisions about whether to approve funding for proposed fleet replacements based on whether funds are available overall. Public Works does not provide the Budget Office with information about whether departments have paid enough per unit into the fund to cover the replacement costs or what the overall fleet funding needs are for the year. In the Capital Improvement Program biennial budget, the City lists the vehicles that need to be replaced over the next five years, but the list does not match the vehicles that are purchased. Without information about the City's overall fleet replacement funding needs, it is difficult to determine how best to prioritize fleet replacement needs to avoid impacts such as delays in replacement.

Although it may be reasonable for the City to use the Replacement Fund as a central funding source rather than tying it to specific vehicles and departments, this use of the Replacement Fund does not line up with how it is funded, which is by specific vehicles. As an internal service fund, contributions to the Replacement Fund from departments are to fund specific vehicles. However, any funding that departments contribute goes into one central account, the Replacement Fund, which in practice may not be dedicated to any specific department's vehicles, and has been spent on other fleet throughout the City. It is also difficult to determine how best to prioritize fleet replacement needs to avoid impacts such as delays in replacement without information about the City's overall fleet replacement funding needs.

Public Works is generally responsible for the ultimate decision about when to replace a fleet unit. According to Public Works, there are some cases when departments make a different decision, such as replacing a unit but keeping it as a backup or replacing with a different type of unit. The current fleet replacement policy does not clarify Public Works' authority and responsibilities in making decisions about fleet replacement.

**Timely fleet replacement:** The fleet replacement funding shortage may have contributed to the more than threefold increase in the number of backlogged fleet units that surpassed their replacement date between FY 2010 and FY 2020.<sup>3</sup> According to Public Works' data, the number has grown to 174 fleet units. This represents 36 percent of the fleet funded through the Replacement Fund. The estimated replacement cost for these 174 vehicles is \$13.2 million. Replacing the backlog would take up most of the Replacement Fund's balance of \$15.8 million, leaving only \$2.6 million for the rest of the City's fleet replacement. This would fall short of the \$4.2 million spent to replace vehicles in FY 2020 and \$9 million planned for replacements in FY 2021. The \$13.2 million backlog replacement cost also represents a nearly \$10 million increase in the cost reported in the 2010 audit.

It should be noted that the actual number of overdue fleet may be higher or lower due to inaccuracies in the data which we will discuss in more detail in the our second finding (page 21). According to Public Works, one reason for delays in fleet replacement is that they are not expecting to receive new police vehicles until early 2021 as the Ford Motor Company was retooling its plants in the fall of 2019. However, police vehicles make up only 51 vehicles, or 29 percent, of the total 174 vehicles. Public Works also stated that they did not replace the fleet right away because they were waiting for the results of the City's fleet electrification assessment which took eight months to complete and was issued in May of 2020. Nevertheless, even if Public Works did not face these setbacks, the current funding level is not sufficient to address all overdue vehicles and equipment.

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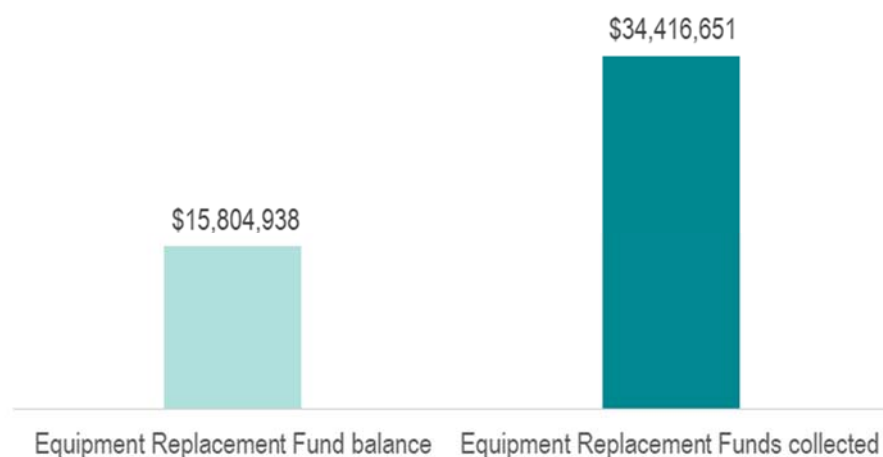
<sup>3</sup> These figures only refer to the backlogged vehicles to be replaced with the Replacement Fund. The total fleet backlog is greater.



This underfunding also poses a risk that the Replacement Fund cannot cover the City's fleet needs in the coming years without other funding sources to cover the funding shortages. Such reallocations have already occurred. For example, in November of 2019, the City requested that City Council allow the use of \$48,000 from the Zero Waste Fund to cover a funding shortage for the total replacement cost for seven refuse vehicles. According to the Budget Office staff, they usually consider such requests based on funding availability.

**Total fund balance compared to what was collected:** The Replacement Fund has a balance significantly lower than what departments have contributed for the replacement of their fleet. As of the end of FY 2020, departments had contributed over \$34.4 million toward the replacement of 486 units,<sup>4</sup> but the Replacement Fund had a balance of only \$15.8 million, which is \$18.6 million less than what was collected (Figure 5). The \$34.4 million collected is higher than the estimated APWA-recommended balance of \$23 million and may be more than is needed for vehicle replacement only. Based on the current funding model, the \$34.4 million does not include the total cost of fleet management, including personnel, as we will discuss in the following section.

Figure 5. The Equipment Replacement Fund was short of what was collected by \$18.6 million at the end of FY 2020.



Source: Auditor's analysis of the City of Berkeley's vehicle and equipment data as of the end of FY 2020

The gap between the Replacement Fund balance and the total funding collected may be due in large part to the City's use of the Replacement Fund

<sup>4</sup> Though the entire fleet is comprised of 730 units, only 486 of them are funded through the City's Replacement Fund. This number excludes vehicles that are replaced but kept as backups and are not funded, but does include 10 such vehicles planned to be replaced with new electric vehicles in FY 2021 using Replacement Fund dollars.

for other purposes. According to Public Works, it is difficult to determine from the current data and historical records exactly what happened to the \$18.6 million. We estimate that several categories of spending could explain most of the gap, which we will discuss in more detail in the next section.

### The Replacement Fund has been used for other purposes.

The Replacement Fund is underfunded in large part because the City uses the Replacement Fund to pay for expenses other than the direct cost of fleet replacements, but does not factor those costs into charging departments for fleet units and fleet management services. Departments make monthly payments towards the eventual replacement of their fleet.<sup>5</sup> However, the formula does not factor in the following significant expenditures made with the Replacement Fund. Without a funding model that accounts for how the fund is used, it is difficult to ensure funding sufficiency, transparency and accountability.

**Personnel costs:** The City charged a total of \$7.2 million in personnel costs to the Replacement Fund in 2006-2020. While it may make sense to use the Replacement Fund for this purpose, Public Works does not factor personnel costs into the calculation of departments' contributions to the Replacement Fund. Each year, the City has used the Replacement Fund to pay for personnel costs related to managing fleet replacement. However, it is not accounted for as a regular expense from the Replacement Fund. In the past 15 years, personnel costs averaged about \$477,000 annually. Without revenue to cover these expenses, they add up to a significant amount of funds that cannot be used for fleet replacement over time.



Additionally, some of these personnel costs may not be related to fleet replacement. For example, the City currently pays 100 percent of a senior buyer's salary from the Replacement Fund though fleet purchasing responsibilities make up less than 100 percent of their time. In FY 2020, the Finance Department also erroneously charged \$133,207 to the Replacement Fund for the salary and benefits of an employee who worked as an interim General Services Manager in Finance for six months, a position that is normally not charged to the Replacement Fund. This error went unnoticed until this audit.

According to the Public Works director, the department is working with a consultant to conduct a rate study that would clarify what its services should cost, including positions assigned to fleet management and replacement. The Public Works director stated that the rate study is intended to make costs associated with fleet management more transparent by providing a breakdown of the costs charged to departments. The outcomes of the rate study could provide information about how much fleet-related personnel time should be accounted for and charged to departments.

It is important to note that this personnel cost issue is not new. The earliest records available show that the City has paid an average of \$477,000 in personnel costs each year since 2006. The 2010 audit found that from FY 2008 to FY 2010, the City paid over \$1.3 million for personnel costs from the Replacement Fund and recommended that the City consider establishing administrative fees to cover personnel costs. The City decided not to establish a fee but did not provide a rationale for its decision, and continued paying personnel costs from the Replacement Fund.

**Funding reallocation:** In FY 2006, the City reallocated \$2 million from the Replacement Fund, but did not replenish those funds. The Budget Office stated that the City repays inter-fund loans but generally does not replenish funds that are reallocated from one internal service fund to another to support City operations. To cover a budget shortfall in FY 2021 due to the impact of COVID-19 on City revenues, the City budgeted to use over \$1 million from the Replacement Fund to pay for a lease of fire vehicles, which the City usually pays from the General Fund. The City also budgeted to defer the Police Department's payments into the Replacement Fund in the amount of \$412,483. The Public Works' vehicle and equipment replacement policy does not provide any guidance on managing the fund to ensure that it is sufficient to meet the City's needs.

According to Budget Office staff, the City makes decisions to reallocate the money from the Replacement Fund for other, non-fleet purposes with input from Public Works based on the available Replacement Fund balance. They also reported that Public Works does not provide any analysis of the impact of using Replacement Funds for non-fleet purposes, such as delays in fleet replacement or increased maintenance and repair costs as the fleet ages. This can lead the Budget Office to approve expenditures from this fund based on if there are available funds to cover the expenditure. However, available funds are a misleading indicator of the fund's sufficiency if they do not also have information about what the annual fleet funding needs are citywide.

**Fleet customization costs:** According to Public Works, some of the funding gap could be due to substantial vehicle customization costs charged to the Replacement Fund. Over the years, this could account for millions of dollars in the gap, particularly for public safety vehicles. However, Public Works does not have data on these costs.

Customization can include installing specialized detailing and gear needed to provide services, such as painting the exterior or installing radios, safety features, and light bars. These costs are not included in the payments that Public Works collects from departments, but they can be significant. Public Works staff reported that in some cases, customization can cost about 40 percent or more of the purchase cost. After this audit was initiated, Public Works stated that they have begun including customization costs in the estimated replacement costs for all fleet purchased in FY 2020 and later, but have not adjusted costs for all other fleet and did not include it in the past.

**Purchase of replacement fleet without funding:** According to its own data, Public Works may have used up to \$3 million from the Replacement Fund over the past 22 years to replace 50 vehicles that departments had not funded. Of the \$3 million, over \$1.7 million, or 58 percent, was spent on vehicles for Public Works.

For context, Public Works' share of the fleet makes up 65 percent of the total fleet replacement value. Nearly one third was spent on vehicles for the Police Department. Given the insufficiency of the fund, it is likely that using



the Replacement Fund to replace unfunded vehicles contributed significantly to the funding gap we identified. According to Budget Office staff, the money that departments contribute may fund any City fleet replacement depending on priority, and funding of their own replacements is not guaranteed. In practice, Public Works considers funds contributed towards the replacement of a specific vehicle to be dedicated to that vehicle. It is important to note that Public Works cannot verify the \$3 million because it does not track Replacement Fund use by department as we discuss in more detail on page 25. However, this is another example of the misalignment between the funding model and use of the fund that may contribute to a funding shortfall.

Using the Replacement Fund to replace unfunded vehicles with new ones can increase the size of fleet, along with the cost to maintain and replace those added vehicles. According to the fleet data, there are 68 vehicles initially purchased with the Replacement Fund that have been replaced but are still in use. Currently, Public Works does not have a documented optimal fleet size that can ensure efficient and effective service at a reasonable cost. The City also does not have a policy that specifies how to manage vehicles that are replaced but kept as backups or require that departments secure new funding to cover the cost to replace those backup vehicles with new ones.<sup>5</sup>

### Lack of funds may delay the transition to an electric fleet.

The underfunding may prevent the City from accomplishing its goal of transitioning its fleet to electric vehicles by 2030 in an effort to reduce greenhouse gas emissions. Transportation is responsible for 60 percent of Berkeley's greenhouse gas emissions. In 2006, Berkeley voters endorsed a ballot measure to reduce the community's greenhouse gas emissions by 80 percent by 2050. In 2018, City Council passed a resolution endorsing the declaration of a climate emergency to mobilize efforts to reduce greenhouse gas emissions. In response, the City adopted a Climate Action Plan in 2009, which focused on actions to help the City reach this goal. Understanding that it cannot reach the 80 percent goal by 2050 without transitioning to electric transportation options, in 2019, the City adopted a Berkeley Electric Mobility Roadmap that set goals and strategies to do so. The roadmap included a goal of transitioning the City's fleet to electric vehicles by 2030.

The City's funding need for electric vehicles is more clearly defined than the City's overall fleet funding needs. Recognizing the urgency in reducing the City fleet's greenhouse gas emissions, the City Council also directed the City to

<sup>5</sup> These vehicles are sometimes referred to as reserve, backup, or pool vehicles.



create a plan to “aggressively accelerate” electrification of the City’s fleet and phase out fossil fuel vehicles by 2030. In July 2020, Public Works presented the City’s Municipal Fleet Electrification Assessment (assessment) prepared by East Bay Community Energy on the timeline and cost to transition to an electric fleet by 2030. The assessment estimated that it would cost about \$1,156,200 to buy electric vehicles to replace 32 gas-powered and hybrid light-duty vehicles in FY 2021. Some of the City’s 174 backlogged vehicles are medium-, heavy-duty, or emergency vehicles that the City cannot currently replace with electric vehicles because the current market does not offer practical electric alternatives.

The City of Berkeley Municipal Fleet Electrification Assessment (assessment) evaluates the short- and long-term cost savings associated with the transition to electric vehicles, determines impacts and benefits to the City, and outlines steps to efficiently integrate electric vehicles and charging infrastructure at municipal facilities in a fiscally responsible manner.

According to the City’s fleet data, Public Works has only collected \$747,000 to replace 29 vehicles scheduled to be replaced with electric ones in 2021.<sup>6</sup> Even if Public Works had collected enough funding, there is no guarantee that the City would have used those funds to purchase the specified electric vehicles. According to Budget Office staff, the money departments contribute into the Replacement Fund may not necessarily be used for replacement of their vehicles. As discussed earlier, the Replacement Fund’s current balance is not sufficient to cover the cost to replace 174 vehicles that have surpassed their estimated replacement date. Eight of those 174 are scheduled to be replaced with new electric vehicles but do not have any funding for replacement. One vehicle that has been decommissioned and auctioned is also scheduled to be replaced with an electric vehicle.

Given the City’s use of the Replacement Fund for purposes other than fleet replacement, there is a risk that the City may not have all the funds collected for electric vehicles when it is time to replace them. Additionally, Public Works stated that competing fleet needs and an effort to reduce the vehicle backlog may mean that there are not enough funds overall to buy all the electric vehicles due for purchase in FY 2021 even though some of those vehicles appear to be funded. If these delays continue, it is possible that the City will fall behind its goal of transitioning to an electric fleet by 2030.

Light-duty vehicles include all sedans, sport utility vehicles (SUVs), and parking enforcement scooters. Medium-duty vehicles include pickup trucks, cargo vans, and passenger buses. Heavy-duty vehicles include refuse collection vehicles and dump trucks.

<sup>6</sup> East Bay Community Energy’s plan estimated the cost to buy electric vehicles to replace 32 gas-powered vehicles in FY 2021, but only 29 of those vehicles are funded through the Replacement Fund.

Further, how Public Works prioritizes vehicle replacements may further delay the City in reaching its fleet electrification goal. Public Works does not have a consistent, documented method for prioritizing which vehicles to replace with the limited funding. While it is reasonable that priorities need to be flexible to adapt to the City's changing fleet needs, it is difficult to ensure that funding will be available for high-priority initiatives like fleet electrification without a transparent method for prioritizing the use of replacement funds.

Another barrier to meeting the City's fleet electrification goal is the funding needed to install the charging infrastructure to provide power to electric vehicles. This is a capital expense that would not normally be paid for through the equipment Replacement Fund. In FY 2021, Public Works requested a budget allocation to pay for electric vehicle charging infrastructure.

## Recommendations

To address the challenges identified, we recommend that Public Works:

- 1.1 Calculate the dollar value of the City's replacement needs. Use results from the recent rate study to adjust departments' replacement fees to cover their share of the costs associated with vehicle replacement, including customization and personnel.
- 1.2 Conduct an analysis of the City's current fleet and determine the optimal fleet size to provide services efficiently and effectively. This analysis should include fleet units identified as reserve, backup, and "pool" vehicles. The outcome of the analysis should be a plan to achieve and provide funding for the optimal fleet size.
- 1.3 Work with the City Manager's Office to adjust the funding model of the Equipment Replacement Fund or adopt a new one to ensure appropriate funding for timely fleet replacement, such as annually transferring money from the General Fund based on an assessment of the City's overall fleet needs and priorities. Expand the current vehicle and equipment replacement policy to ensure transparency of key provisions of the new or updated model.
- 1.4 Revise the vehicle and equipment replacement policy to include that Public Works should regularly assess the personnel expenditures related to vehicle and equipment replacement and ensure that they are appropriate and proportional to their duties.
- 1.5 Revise the vehicle and equipment replacement policy to prevent replacing unfunded vehicles by ensuring that contributed funds are available for the purchase.

- 1.6 Develop an Administrative Regulation that clarifies Public Works' responsibilities to manage the fleet and maintain sufficient fleet replacement funding. Include the following provisions:
- Public Works should provide an analysis of the impact on fleet replacement and overall costs when the City considers reallocating replacement funds or stopping payments into the Fund.
  - The City Manager should provide documented justification when deciding to use the Equipment Replacement Fund for non-replacement needs. The decision must be supported with a documented cost analysis from Public Works showing potential impact of insufficient funds on fleet replacement.
  - Public Works should report to Council annually on fleet funding needs and Replacement Fund sufficiency.
  - Public Works has the ultimate authority to make decisions about fleet replacement in consultation with departments and with consideration for departments' fleet needs. Departments can appeal decisions to the City Manager if they disagree with the decision.
  - The Replacement Fund is an internal service fund. Internal service funds are used to account for goods or services provided by one department or program to another on a cost-reimbursement basis. Any funding departments contribute to the Replacement Fund is not dedicated to any specific department, but can be spent on fleet units throughout the City.
- 1.7 To help secure the funding needed for transitioning to electric vehicles by 2030, work with the City Manager's Office to develop a budgetary plan to purchase electric vehicles. The plan should align with the City's fleet electrification goals and take into consideration the current economic downturn, funding availability, available infrastructure, and electric vehicle availability.





## Finding 2: Public Works lacks information on vehicle and equipment replacement and funding.

Public Works cannot accurately determine the City’s current Replacement Funding needs because its data is sometimes inaccurate or incomplete. Public Works also cannot show that decisions to keep vehicles and equipment units past their replacement date are beneficial or cost effective. There is also a lack of information about whether funds are distributed based on priority or department needs. Some of the information issues may stem from the fact that Public Works’ fleet replacement policy does not provide guidance on managing the fleet data to ensure accuracy and transparency.

### Public Works lacks accurate information about the City’s vehicle and equipment replacement needs.

Public Works cannot accurately determine the City’s current replacement funding needs because data about when vehicles and equipment should be replaced is often inaccurate. All City vehicles have an estimated replacement date based on vehicle type, which is automatically recorded when staff enter a new vehicle into the database (Table 1).

Table 1. Vehicles’ estimated economic life varies by type.<sup>7</sup>

| Vehicle Type      | Estimated Economic Life               |
|-------------------|---------------------------------------|
| Police Cars       | 4 years or 100,000 miles              |
| Ambulances        | 5 years or 100,000 miles              |
| Fire Trucks       | 10 years or 100,000 miles             |
| Refuse Trucks     | 10 years or 25,000 hours              |
| Dump Trucks       | 15 years or 75,000 miles              |
| Light Duty Trucks | 10 years or 100,000 miles             |
| Sedans            | 4 years or 100,000 miles <sup>7</sup> |

Source: Public Works Equipment Maintenance Management Practices/Replacement Policy

When a vehicle nears its replacement date, Public Works stated that its staff examine the vehicle based on the estimated economic life (years, miles, or

<sup>7</sup> The policy states that the estimated economic life of sedans is four years, but the Director of Public Works informed us that this has been updated to 10 years.

hours of use), operating costs, user needs, and current condition to decide whether it can remain in service or needs to be replaced. Public Works stated that departments may decide to defer replacement if they have limited funding or would prefer to continue using a vehicle. However, Public Works does not provide departments with total maintenance and repair costs of a vehicle to determine whether it is cost-effective to keep it or replace it.

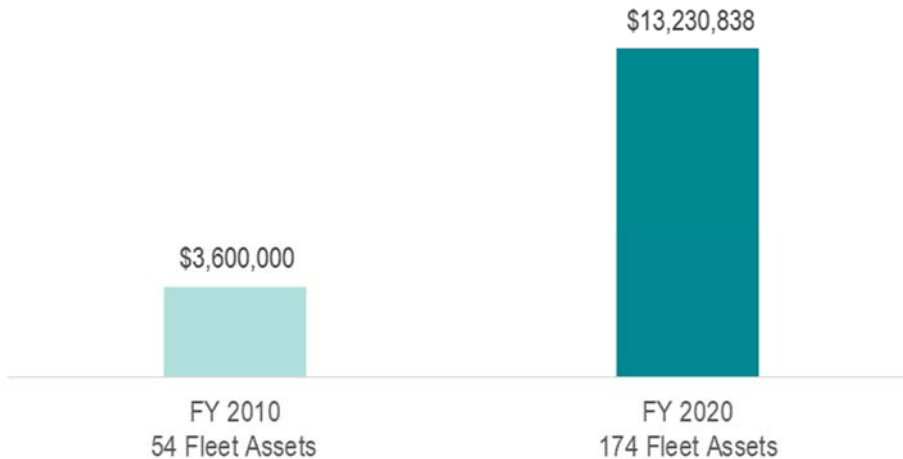
It is unclear from the data how many vehicles have been intentionally deferred and how many would be more cost-effective or practical to replace. If a decision is made to defer replacement for any reason, Public Works staff does not update the estimated replacement date in the database. According to Public Works, the database does not easily allow such a change.

Incorrect replacement dates mean that Public Works cannot determine exactly when vehicles should be replaced and what level of funding is needed in a fiscal year. According to the data, the number of vehicle and equipment units that have met or exceeded their estimated replacement date has increased (Figure



6). In December 2009, 54 vehicles had surpassed their replacement date with a total replacement value of \$3.6 million. By the end of FY 2020, the number had grown by more than 222 percent to 174 units at an estimated replacement cost of \$13.2 million. In the 2010 audit, the City Auditor recommended that Public Works identify all fleet units due and past due for replacement at least annually. Today, Public Works lists the vehicles that it plans to replace in its Capital Improvement Program budget, but does not report the total number of vehicles due and past due for replacement. As a result, though the fund appears to be underfunded overall, it is not clear what the City's actual vehicle and equipment funding needs are.

Figure 6. The cost of vehicles past their estimated replacement date has substantially increased since FY 2010.



Source: Auditor's analysis of the City of Berkeley's vehicle and equipment data as of the end of FY2017 and FY 2020. Data for FY 2010 comes from the 2010 audit report.

Public Works cannot show that decisions to keep vehicles past their replacement date are beneficial or cost-effective because it does not document why such decisions are made. According to APWA guidance, it may be reasonable for some vehicles to still be in service if they do not incur excessive maintenance and repair costs and are in good condition to maintain operations and service delivery. On the other hand, APWA states that using fleet units beyond their economic useful life is generally a short-term budget fix that invariably will lead to a long-term increase in cost and a degradation of the unit's overall effectiveness and efficiency. For example, by June 2020, the City spent nearly \$1.5 million in maintenance and repair costs on seven refuse trucks and a wheel-loader after they surpassed their replacement dates between fiscal years 2014 and 2019. For some deferred replacements, the cost of avoidable maintenance and repair in the long run may exceed any short term savings.

According to APWA, retaining units after they surpass their replacement time leads to the following adverse conditions:

- Increase in total operating cost and fleet budget
- Increase in turnaround time as the complexity of repairs increase and parts availability decreases
- Decrease in overall unit availability
- Increase in fleet failure—the older the fleet, the greater the opportunity a catastrophic failure will occur
- Decrease in salvage (residual) value as a unit ages
- Customer satisfaction with the fleet will dissipate and it may become underutilized
- Diminished public perception of the entity as a whole
- Operator safety is compromised as vehicle and equipment components are subject to increased wear and tear; safety enhancements available on new units are bypassed when fleet units are not replaced
- Fleet creep occurs as customers seek to have more backup units to fill the void created when fleet units are in for service more often and for longer periods of time
- Potential non-compliance with new regulatory requirements (i.e. emissions)
- Defer implementation of “green” sustainability initiatives for fuel economy and greenhouse gas emissions reductions

Source: Adapted from the American Public Works Association

**It is not clear that the City is appropriately prioritizing vehicle replacements to reduce overall costs or ensure effective operations and service delivery. Given that the City has a funding shortage and a growing number of vehicles seemingly past due for replacement, it is important that the City make the best use of limited resources by prioritizing replacements to meet the City’s operational and service goals. Public Works states that staff assess vehicles to decide whether they should be replaced based on the estimated economic life, operating costs, user needs, and current conditions. However, it is not clear how that information leads to replacement priorities because Public Works does not have documentation supporting its decisions for replacement prioritization. Without a transparent method for prioritization, it is not clear that the City is appropriately prioritizing vehicle replacements to ensure effective operations and service delivery.**

Public Works staff reported that in light of competing fleet needs and limited funding, they have shifted to prioritizing reducing the backlog of old vehicles. The City's FY 2020-2021 Capital Improvement Program budget states that the goal is to replace backlogged equipment as of FY 2024 as funds become available. However, it does not include a specific plan for how Public Works plans to accomplish this. Further, the FY 2024 timeframe suggests there have been delays in addressing the backlog because the FY 2018-2019 Capital Improvement Program budget stated a timeframe of FY 2022. The backlog has also substantially increased since FY 2010 (page 12).

Public Works stated that they have just started a contract with AssetWorks, a vehicle and equipment management system, which is expected to be capable of tracking accurate information about replacement date, cost data to determine whether deferred replacements will be cost effective, and to help prioritize replacements. However, the vendor will need to configure the system to allow Public Works to track and report this information. It will also be important for staff to have procedures in place to manage the data to ensure transparency and accountability in the City's vehicle replacement process.

In addition to the data issues identified, there is a risk that Public Works relies on information from the vehicle and equipment database that contains errors when assessing the City's funding needs. We found that the vehicle and equipment database shows some incorrect replacement fees. For example, from May of 2016, through January of 2017, Public Works contributed \$18.63 instead of \$29.88 in monthly replacement fees for a generator before it corrected the amount. Incorrect amounts may contribute to insufficient or excessive funding.

There is also a risk that Public Works does not have the complete data it needs to make funding and replacement decisions. Our review of the database shows that numerous database fields were empty. For example, as of May 2020, out of 730 records, 100 records did not have a purchase cost and 110 records did not have a replacement cost.

### **The current system does not track replacement funds by department.**

Public Works does not know how much funding each department has paid toward replacement of their fleet because the current system does not allow Public Works to track funding contributed by department. As a result, Public

Works cannot verify how much money departments have contributed towards the replacement of their fleet. However, Public Works bases its decisions to schedule a vehicle replacement based on whether departments have contributed enough funding to cover the cost of the new one. Overall, this fleet funding model in which Public Works assesses sufficiency of replacement funds based on what departments have contributed is at odds with how funding is used. Funding distribution may not be based on need or priority among departments. The fleet funding model also makes it difficult to ensure transparency and accountability in how the fund is used.

Public Works also stated that departments sometimes purchase vehicles that are cheaper than the amount they contributed and used the leftover funds to purchase other vehicles. However, they cannot verify this because the current system does not report total collected funds by department nor does it capture when departments have leftover funds.

Additionally, the current fleet management system does not automatically update when departments use the Replacement Fund to replace a vehicle. This can create the appearance that funding is still available even after a department has replaced a vehicle and exhausted the funds they contributed. Public Works may have used up to \$3 million from departments that had contributed funds to the Replacement Fund for their own vehicle replacements or to replace other departments' underfunded or unfunded vehicles, as we discussed in the first finding. Public Works staff stated that records of these purchases were created by staff who are no longer working with the City. Public Works states that the new AssetWorks fleet management system it plans to implement in FY 2021 is expected to allow the tracking of funding by department.

### Public Works has no written policies or procedures for how to manage the data.

Public Works does not have a policy guiding its fleet data management. Without a policy, there is a risk of inconsistency in decisions about vehicle replacements. Additionally, the current database is out-of-date and does not have the functionality for effective replacement. Specifically, the department uses database fields that does not capture key information. For example, under current management, Public Works enters years "1977" or "2077" into a replacement year field to identify a vehicle that does not have sufficient funding. Under previous management, Public Works used those years to identify vehicles that are replaced but kept as backups. According to the

Public Works staff, a new fleet management software should address the shortcomings in the current database if they configure the system to do so.

## Recommendations

To ensure that Public Works has key information about the City's vehicle and equipment and funding needs, we recommend Public Works:

- 2.1 Conduct a needs assessment of vehicles overdue for replacement and create a plan that documents a timeline and cost for replacement. Report the findings to City Council.
- 2.2 Update the vehicle and equipment replacement policy to include criteria for prioritizing fleet replacement. The policy should include a requirement to communicate a delay in replacement of their fleet to affected departments. In Administrative Regulation described in recommendation 1.6, specify that the vehicle and equipment replacement policy should include such criteria.
- 2.3 Work with the vendor of the new fleet management system to configure it to address the data issues identified in this report, including:
  - Tracking Replacement Funds collected and leftover funds by department;
  - Zeroing out the balance after a vehicle is replaced;
  - Adjusting the replacement date and reporting the rationale if a replacement is deferred; and
  - Displaying any information needed to prioritize replacements based on specified criteria.
- 2.4 Clean and update the vehicle and equipment database before migrating it to the new fleet management system to ensure accuracy and data integrity.
- 2.5 Update the vehicle and equipment replacement policy or develop a separate policy to require staff manage the City's data appropriately to ensure accurate complete information to support management decisions.



## Appendix I. Recommendations and Management Response

Public Works agreed with our findings, conclusions, and recommendations.

To address the challenges identified, we recommend that Public Works:

- 1.1** Calculate the dollar value of the City's replacement needs. Use results from the recent rate study to adjust departments' replacement fees to cover their share of the costs associated with vehicle replacement, including customization and personnel.

**Management Response:** Agree

**Proposed Implementation Plan:** Accept and share results of recent Equipment Replacement Fund and Equipment Maintenance Fund rate study with City Manager's Office and customer City Departments. Adjust as necessary amortization values for vehicles to incorporate adjusted rates.

**Proposed Implementation Date:** July 1, 2022

- 1.2** Conduct an analysis of the City's current fleet and determine the optimal fleet size to provide services efficiently and effectively. This analysis should include fleet units identified as reserve, backup, and "pool" vehicles. The outcome of the analysis should be a plan to achieve and provide funding for the optimal fleet size.

**Management Response:** Agree

**Proposed Implementation Plan:** Issue RFP for a consultant to evaluate fleet size and standardization, develop recommendations. Incorporate recommended changes into FY 23 & 24 Budget Development.

**Proposed Implementation Date:** December 1, 2022

- 1.3** Work with the City Manager's Office to adjust the funding model of the Equipment Replacement Fund or adopt a new one to ensure appropriate funding for timely fleet replacement, such as annually transferring money from the General Fund based on an assessment of the City's overall fleet needs and priorities. Expand the current vehicle and equipment replacement policy to ensure transparency of key provisions of the new or updated model.

**Management Response:** Agree

**Proposed Implementation Plan:** Implementation of any proposed changes to Equipment Replacement rates will be part of a budget adoption process. Staff will evaluate replacement schedule and model for vehicle amortization, implement Assetworks fleet management tool and integration with ERMA financial software. Propose changes for adoption in FY 2023 Budget.

**Proposed Implementation Date:** July 1, 2022



**1.4** Revise the vehicle and equipment replacement policy to include that Public Works should regularly assess the personnel expenditures related to vehicle and equipment replacement and ensure that they are appropriate and proportional to their duties.

**Management Response:** Agree

**Proposed Implementation Plan:** Department will review, revise the current draft policy to incorporate appropriate language, and distribute to the City Manager's Office for complete policy approval.

**Proposed Implementation Date:** September 1, 2021

**1.5** Revise the vehicle and equipment replacement policy to prevent replacing unfunded vehicles by ensuring that contributed funds are available for the purchase.

**Management Response:** Agree

**Proposed Implementation Plan:** Department will review, revise the current draft policy to incorporate appropriate language, and distribute to the City Manager's Office for complete policy approval.

**Proposed Implementation Date:** September 1, 2021

**1.6** Develop an Administrative Regulation that clarifies Public Works' responsibilities to manage the fleet and maintain sufficient fleet replacement funding. Include the following provisions:

- Public Works should provide an analysis of the impact on fleet replacement and overall costs when the City considers reallocating replacement funds or stopping payments into the Fund.
- The City Manager should provide documented justification when deciding to use the Equipment Replacement Fund for non-replacement needs. The decision must be supported with a documented cost analysis from Public Works showing potential impact of insufficient funds on fleet replacement.
- Public Works should report to Council annually on fleet funding needs and Replacement Fund sufficiency.
- Public Works has the ultimate authority to make decisions about fleet replacement in consultation with departments and with consideration for departments' fleet needs. Departments can appeal decisions to the City Manager if they disagree with the decision.
- The Replacement Fund is an internal service fund. Internal service funds are used to account for goods or services provided by one department or program to another on a cost-reimbursement basis. Any funding departments contribute to the Replacement Fund is not dedicated to any specific department, but can be spent on fleet units throughout the City.

**Management Response:** Public Works agreed that the items in this recommendation could be addressed by an administrative regulation or a policy as described in the proposed implementation plan.

**Proposed Implementation Plan:** Evaluate with City Manager's Office the benefits of an AR vs a well communicated Equipment Replacement Policy document. Items recommended in 1.6 could be adopted in either an AR or Policy document.

**Proposed Implementation Date:** September 1, 2021

## 1.7

To help secure the funding needed for transitioning to electric vehicles by 2030, work with the City Manager's Office to develop a budgetary plan to purchase electric vehicles. The plan should align with the City's fleet electrification goals and take into consideration the current economic downturn, funding availability, available infrastructure, and electric vehicle availability.

**Management Response:** Agree

**Proposed Implementation Plan:** Staff will develop estimates and projections for electrification, beginning with the current fleet and available technology on the market. The cost for installation of infrastructure will be part of the costs estimates. Timing of plan will align with FY 23 & 24 Budget Development. Full fleet electrification as electric options may not be available yet, so budgetary estimates may be very preliminary.

**Proposed Implementation Date:** March 1, 2022

To ensure that Public Works has key information about the City's vehicle and equipment and funding needs, we recommend Public Works:

**2.1** Conduct a needs assessment of vehicles overdue for replacement and create a plan that documents a timeline and cost for replacement. Report the findings to City Council.

**Management Response:** Agree

**Proposed Implementation Plan:** Staff will create a fleet inventory report and note vehicles still in the fleet past their scheduled replacement date based on expected life. The reporting will include information on replacement funds collected to date and note any shortfalls that would require additional funds to be budgeted at the time of replacement. Report will include explanation/justification as appropriate for each vehicle it was kept past replacement date.

**Proposed Implementation Date:** September 1, 2021

**2.2** Update the vehicle and equipment replacement policy to include criteria for prioritizing fleet replacement. The policy should include a requirement to communicate a delay in replacement of their fleet to affected departments. In Administrative Regulation described in recommendation 1.6, specify that the vehicle and equipment replacement policy should include such criteria.

**Management Response:** Agree

**Proposed Implementation Plan:** Department will revise the current draft policy to incorporate appropriate language, and distribute to the City Manager's Office for complete policy approval. Development of AR vs Policy pending further staff evaluation.

**Proposed Implementation Date:** September 1, 2021

**2.3** Work with the vendor of the new fleet management system to configure it to address the data issues identified in this report, including:

- Tracking Replacement Funds collected and leftover funds by department;
- Zeroing out the balance after a vehicle is replaced;
- Adjusting the replacement date and reporting the rationale if a replacement is deferred; and
- Displaying any information needed to prioritize replacements based on specified criteria.

**Management Response:** Agree

**Proposed Implementation Plan:** Assetworks fleet management system project kickoff scheduled for March 2021, project/implementation schedule to be developed soon.

Implementation plan with vendor will include items listed above.

**Proposed Implementation Date:** January 30, 2022 (tentative)

## 2.4

Clean and update the vehicle and equipment database before migrating it to the new fleet management system to ensure accuracy and data integrity.

**Management Response:** Agree

**Proposed Implementation Plan:** Assetworks fleet management system project kickoff scheduled for March 2021, project/implementation schedule to be developed soon.

Equipment information will be reviewed and validated before entry into Assetworks.

**Proposed Implementation Date:** July 1, 2021 (tentative)

## 2.5

Update the vehicle and equipment replacement policy or develop a separate policy to require staff manage the City's data appropriately to ensure accurate complete information to support management decisions.

**Management Response:** Agree

**Proposed Implementation Plan:** Update the draft replacement policy to include language committing Public Works Fleet staff to track and manage equipment replacement funds, and is trackable per vehicle and by department. Data should be reportable and regularly shared with departments and the City Manager's Office. Finalization of policy language and implementation timing will depend on implementation of Assetworks fleet management system, and department's understanding and development of its tracking and reporting tools.

**Proposed Implementation Date:** July 1, 2022

## Appendix II. Methodology and Statement of Compliance

### Methodology

To meet our audit objectives, we reviewed the following:

- The Equipment Replacement Fund (Replacement Fund) audit report issued in 2010
- Six information items the City reported to the Council from 2011 through 2017 on implementation of 2010 audit recommendations
- The Standards for Internal Control in the Federal Government
- FY 2018 – 2019, FY 2020 – 2021 Adopted Biennial Budget Capital Improvement Programs
- FY 2022 Proposed Annual Budget
- City Council resolutions for climate change
- Plans and policies for fighting climate change and fleet electrification
- Policies and procedures Public Works uses for managing vehicle and equipment replacement
- Forms Public Works uses in managing the City's vehicles and equipment
- Another municipality's vehicle and equipment management assessment

We also conducted interviews with:

- Staff from departments responsible for monitoring their vehicles and equipment
- Public Works staff responsible for managing the Replacement Fund, purchasing new vehicles and equipment, and disposing of aged vehicles and equipment
- Special advisor from Management Partners, a professional management consulting firm, to gain their perspective on backlog

We analyzed:

- Data for selected City's vehicles and equipment as of FY 2017 and FY 2020 recorded in the FUNDS\$ vehicle and equipment management database
- Maintenance and repair costs for seven refuse trucks and one wheel loader
- Data for personnel costs charged to the Replacement Fund
- Physical inventory check for 82 selected vehicles and equipment

We performed a risk assessment of the City's practices and procedures in managing the Replacement Fund to identify potential internal control weaknesses, including fraud risks, within the context of our audit objectives. We reviewed the action plans the City reported it had put in place to address the recommendations from the Replacement Fund audit issued in 2010 to determine whether these plans are still in use and, if not, why.

## Data Reliability

We assessed the reliability of FUNDS vehicle and equipment management data by reviewing it for accuracy and completeness, interviewing data and data-system owners and managers, gaining an understanding of data access controls, conducting a physical inventory, and tracing to and from source documents. Our review of the data revealed the following errors and system limitations:

- The system does not allow Public Works staff to capture all the relevant information needed to manage the City's vehicle and equipment, so they work around these limitations by entering information into other fields not designated for it.
- Some fields need to be manually entered, which creates a risk for errors.
- Public Works does not consistently enter information into fields.
- Public Works does not consistently update information to reflect fleet changes.
- The system does not prevent a user from entering a wrong equipment number in the "equipment number replaced" field.
- The system does not allow to easily update replacement dates.
- The system does not allow to track funding by a department.
- The system does allow to zero out amounts used for replacement.
- Some estimated replacement costs are inaccurate because Public Works staff does not update them if replacement costs change.

We assessed the reliability of the data by tracing a selection of the records to the source documents and did not find any significant issues in the context of our audit objectives that would make the data unreliable for our audit purposes. Therefore, we determined that the data was sufficiently reliable for the purposes of this report. Where we could not rely on the data, we clearly identified it in the report.

## Statement of Compliance

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**Mission Statement**

Promoting transparency and accountability in Berkeley government.

**Audit Team**

Claudette Biemeret, Audit Manager (Former)  
Caitlin Palmer, Senior Auditor  
Farkhad Askarov, Auditor II (Former)

**City Auditor**

Jenny Wong

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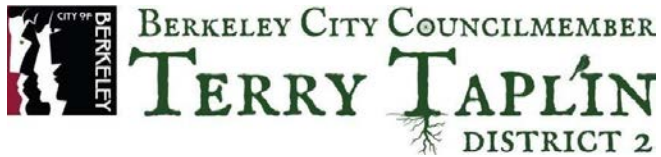
Copies of our audit reports are available at  
[www.cityofberkeley.info/Auditor/Home/Audit\\_Reports.aspx](http://www.cityofberkeley.info/Auditor/Home/Audit_Reports.aspx)



BERKELEY CITY AUDITOR







CONSENT CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin

Subject: Resolution Supporting Freedom for Nasrin Sotoudeh

RECOMMENDATION

Adopt a Resolution in Support of Freedom for Nasrin Sotoudeh and All Other Political Prisoners and Prisoners of Conscience in the Islamic Republic of Iran.

FINANCIAL IMPLICATIONS

None.

CURRENT SITUATION AND ITS EFFECTS

According to the Iran Prisoners Atlas, there are currently 586 political prisoners detained in the Islamic Republic of Iran.<sup>1</sup> Feminist and human rights attorney Nasrin Sotoudeh has been imprisoned since 2018, and despite being told she was taken to the hospital, was moved to the Qarchak Women's Prison in October 2020—an overcrowded prison with 1,400 female inmates that has been described as “hell on earth,”<sup>2</sup> with no proper sewage, where she contracted COVID-19.<sup>3</sup>

According to Amnesty International, the government of Iran has suppressed information on the COVID-19 pandemic, while regularly inflicting torture on political prisoners and restricting inmates' access to adequate healthcare and due process.<sup>4</sup>

BACKGROUND

Sotoudeh was granted a brief medical leave in January 2020, but it was abruptly ended on January 19, 2020, when the government of Iran also froze her family's bank accounts.<sup>5</sup> Known as “Iran's Nelson Mandela,” a documentary about Sotoudeh's activism and imprisonment, *Nasrin*, was released in 2020.

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<sup>1</sup> <https://ipa.united4iran.org/en/prisoner/>

<sup>2</sup> <https://msmagazine.com/2021/01/22/feminist-lawyer-nasrin-sotoudeh-returned-iran-qarchak-prison/>

<sup>3</sup> <https://msmagazine.com/2021/05/10/unbearable-reza-khandan-husband-of-nasrin-sotoudeh-on-the-ground-in-irans-qarchak-prison/>

<sup>4</sup> <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/>

<sup>5</sup> Kaufman, J. (2021, Jan. 26). Opinion: ‘Iran's Nelson Mandela’ is back in prison. Biden must push for her freedom. *The Washington Post*. Retrieved from <https://www.washingtonpost.com/opinions/2021/01/26/nasrin-sotoudeh-iran-prison-biden/>

[Title of Report]

CONSENT CALENDAR  
June 15, 2021

The Alameda County Democratic Party Central Committee approved a similar resolution on May 5, 2021, sponsored by Berkeley resident Igor Tregub. The European Parliament issued a resolution in support of Sotoudeh in December of 2018.<sup>6</sup>

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CONTACT PERSON

Councilmember Terry Taplin, District 2, 510-981-7120

Attachments:

1: Resolution

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<sup>6</sup> [https://www.europarl.europa.eu/doceo/document/TA-8-2018-0525\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2018-0525_EN.html)

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

RESOLUTION IN SUPPORT OF FREEDOM FOR NASRIN SOTOUDEH AND ALL  
OTHER POLITICAL PRISONERS AND PRISONERS OF CONSCIENCE IN THE  
ISLAMIC REPUBLIC OF IRAN

WHEREAS Nasrin Sotoudeh, widely recognized as Iran's Mandela, is currently imprisoned in Qarchak Women's Prison. A distinguished lawyer and human rights activist, Sotoudeh has become a symbol of the Iranian people's nonviolent struggle for justice, dignity and equality; and

WHEREAS women in Iran are systematically subject to an apartheid state with much harsher restrictions than men; and

WHEREAS many individuals have been imprisoned, tortured and executed for being defenders of human rights by the Islamic Republic of Iran;

BE IT RESOLVED that the City Council of the City of Berkeley supports the immediate release of Nasrin Sotoudeh and all other political prisoners and prisoners of conscience in the Islamic Republic of Iran; and

Be It Further Resolved, that the City Council of the City of Berkeley affirms its support of human rights in Iran, including equal rights for women and minorities and the end of apartheid against women and targeted religious, nonreligious and cultural minorities.





Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
June 29, 2021

To: Honorable Mayor and Members of the City Council  
From: Councilmember Harrison  
Subject: Resolution Urging the Metropolitan Transportation Commission to Program and Prioritize American Rescue Plan Act Funds

#### RECOMMENDATION

1. Adopt a resolution directing the Metropolitan Transportation Commission (MTC) to program \$1.67 billion in American Rescue Plan Act (ARPA) funds immediately and prioritize them for immediate use to support Bay Area Transit riders and an equitable pandemic recovery.
2. Send a copy of the Resolution and an accompanying letter to the MTC Commissioners.

#### CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

Over the duration of the COVID emergency, MTC has reduced its level of service in accordance with guidance from the state of California to ensure the safety of its employees and riders. With these reduced levels of service have come reduced income from fares. MTC has received and distributed funding from many sources to support local transit agencies; including nearly \$180 million from the Coronavirus Response and Relief Appropriations Act (CRRSAA), and \$1.3 billion from the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Now, the Agency has access to \$1.67 billion from the American Rescue Plan Act (ARPA) but has communicated that they will not program the funds immediately, even though many agencies, including AC Transit, are in desperate need of funding to return to pre-pandemic levels of service. As a result, these agencies would not be able to plan for this funding in the next fiscal year budgets that are forthcoming with the nearing end of the fiscal year.

Should these funds not be programmed, service will remain at current levels as the Bay Area begins to reopen, leaving many mass transit riders to look to other methods of transportation. This will decrease the chances of returning to pre-pandemic ridership levels in the near and long-term futures. This would represent an economic and environmental failure. An influx of new automobile drivers would increase congestion and wear on city streets, but this would also result in a loss of environmental gains accrued through use of mass transit.

With increasingly reassuring vaccination rates and falling infection, Berkeley and the Bay Area will need to focus on how to equitably recover. The recovery should not just be to pre-pandemic levels – the city and our region must take every possible opportunity to build back stronger. Delaying implementation of the use of possible funding to strengthen our public transit does not fit with the goals of a just and equitable recovery.

## BACKGROUND

Reliable and affordable public transportation plays a critical role in environmental sustainability, equal access to transportation and economic opportunities and economic recovery. Compared to personal gas-powered cars, buses, trains and shared micro-mobility options represent not only a vastly lighter carbon footprint for those using transportation but also provide cleaner air quality for the broader community. Use of mass transit is a net benefit for local businesses and the economy by providing workers and customers a means to reach their destinations. For Berkeley in particular, mass transit remains a primary source of transportation for many middle- and low-income riders

While the benefits of robust public transit to the environment and the public are undeniable, this has not resulted in an appropriate level of funding for Bay Area public transportation agencies.<sup>1</sup> Even before the pandemic, a cycle of funding cuts, reduced service and subsequent reduced ridership had affected many transit agencies in the Bay Area.<sup>2</sup> Although the Bay Area, like many other places, has decreased the level of public transit service it has offered as a result of the COVID-19 pandemic, continuing to do so, unless required for public health, will unnecessarily harm transit users.

The Coronavirus Aid, Relief, and Economic Security Act, provides public transit agencies with a path to recovery. Bay Area public transit providers received \$1.67 billion in federal stimulus funding to pay workers, and continue transit operations.<sup>3,4</sup> However, the Metropolitan Transportation Commission, which manages the money, has stated that it intends to save those funds for future use, as opposed to returning to pre-pandemic levels of transit service now. If stimulus funding is not used now, the Bay Area and Berkeley will continue to fall behind in its efforts to regain pre-COVID-19 levels of service and economic output.<sup>5</sup> Given that the next fiscal year for these transit agencies begins July 1, and that time is needed to budget funds for workers and operations, MTC should program these federal funds and prioritize them for immediate use as soon as possible.

## ENVIRONMENTAL SUSTAINABILITY

By using funds stimulus funds now, MTC can help bring about a decreased carbon footprint in the Berkeley and other cities, resulting from reduced vehicle emissions.

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<sup>1</sup> Baldassari, Erin. "For Struggling VTA, an Existential Crisis: How to Woo Riders amid Budget Cuts?" *The Mercury News*, The Mercury News, 20 June 2019, [www.mercurynews.com/2019/04/07/for-struggling-vta-an-existential-crisis-how-to-woo-riders-amid-budget-cuts/](http://www.mercurynews.com/2019/04/07/for-struggling-vta-an-existential-crisis-how-to-woo-riders-amid-budget-cuts/).

<sup>2</sup> Ibid

<sup>3</sup> United States, Congress. H.R. 748. *Coronavirus Aid, Relief, and Economic Security Act*. <https://www.congress.gov/116/bills/hr48/BILLS-116hr748enr.pdf>

<sup>4</sup> Staff, Curtis Driscoll Daily Journal. "Caltrain to Get Fed Money for Electrification." *San Mateo Daily Journal*, 12 Mar. 2021, [www.smdailyjournal.com/news/local/caltrain-to-get-fed-money-for-electrification/article\\_2dc563be-82ee-11eb-8862-d3452190bf38.html](http://www.smdailyjournal.com/news/local/caltrain-to-get-fed-money-for-electrification/article_2dc563be-82ee-11eb-8862-d3452190bf38.html).

<sup>5</sup> Srikant, Ahalya, and Julia Cooper. "Bay Area transit is running almost empty in midst of COVID-19 shutdown." *Bizjournals.com*, [www.bizjournals.com/sanfrancisco/news/2020/03/31/bay-area-transit-is-running-almost-empty-in-midst.html](http://www.bizjournals.com/sanfrancisco/news/2020/03/31/bay-area-transit-is-running-almost-empty-in-midst.html).

FISCAL IMPACTS OF RECOMMENDATION

None

CONTACT PERSON

Councilmember Kate Harrison  
KHarrison@cityofberkeley.info  
(510) 981-7140

ATTACHMENTS

1. Resolution
2. Letters to the MTC Commissioners

RESOLUTION NO. –N.S.

RESOLUTION URGING THE METROPOLITAN TRANSPORTATION COMMISSION (MTC) TO IMMEDIATELY PROGRAM \$1.67 BILLION IN AMERICAN RESCUE PLAN ACT (ARPA) TRANSIT FUNDS FOR USE IN RESTORING BAY AREA TRANSIT SERVICE

WHEREAS, public transit is an essential public service, especially for low-income and Black and brown community members, our frontline workers, and elders, students, and people with disabilities;

WHEREAS, transportation emissions are the highest source of greenhouse gas emissions in the country, as well as a source of toxic pollution that is hazardous to our constituents' health;

WHEREAS, public transit is a crucial method to drastically reduce transportation emissions;

WHEREAS, stimulating the economy through federal stimulus funds in the near-term is crucial;

WHEREAS, Congress has apportioned to Bay Area transit agencies a generous stimulus package of \$1.67 billion dollars to hire workers and restore service, but MTC is not planning to program these funds until late July, after agencies adopt fiscal year 2021-2022 budgets, resulting in an inability by transit agencies to factor the ARPA funds into next year's budget;

WHEREAS, MTC has publicly stated that it is prioritizing saving those funds for years in the future as opposed to restoring service to pre-pandemic levels by the end of fiscal year 2021-2022;

WHEREAS, the transit agencies in our districts need to budget these funds now in order to plan to hire workers, fund operations, and restore service in the fiscal year that begins July 1;

WHEREAS, as mid-pandemic stimulus funding, it should be distributed immediately to stimulate our local economies by hiring workers and taking shoppers and diners to their destinations to spend money in our communities;

WHEREAS, the longer service levels remain reduced, the more likely it is that riders will give up on transit and find permanent, more polluting alternatives;

WHEREAS, waiting to restore pre-pandemic service may lead to permanent damage to public transportation, lead to unnecessary congestion on our streets and freeways and undermine our climate, equity and economic recovery goals;

NOW, THEREFORE BE IT RESOLVED, that we urge MTC to appropriate ARPA funds immediately, so that it can be put to immediate use in restoring service and creating good union jobs;

BE IT FURTHER RESOLVED, that we urge MTC to prioritize the ARPA funds for immediate use and not years in the future.



June XX, 2021

[Commissioner Name]

Bay Area Metro Center  
375 Beale Street, Suite 800  
San Francisco, CA 94105-2066

**Re: Berkeley City Council Resolution Urging the Metropolitan Transportation Commission to Program and Prioritize American Rescue Plan Act Funds**

Dear Honorable Commissioners:

Public transit is an essential public service, especially for low-income and Black and brown community members, our frontline workers, and elders, students, and people with disabilities. Transportation emissions are the highest source of greenhouse gas emissions in the country, as well as a source of toxic pollution that is hazardous to our constituents' health. Mass public transit is a crucial method to drastically reduce transportation emissions.

Congress has apportioned to Bay Area transit agencies a generous stimulus package of \$1.67 billion dollars to hire workers and restore service, but we understand that MTC is not planning to program these funds until late July, after agencies adopt fiscal year 2021-2022 budgets, resulting in an inability by transit agencies to factor the ARPA funds into next year's budget. We also understand that MTC has publicly stated that it is prioritizing saving those funds for years in the future as opposed to restoring service to pre-pandemic levels by the end of fiscal year 2021-2022. However, the transit agencies that serve Berkeley need to budget these funds now in order to plan to hire workers, fund operations, and restore service in the fiscal year that begins July 1.

ARPA funds are intended as mid-pandemic stimulus funding, and as such, it should be distributed immediately to stimulate our local economies by hiring workers and taking shoppers and diners to their destinations to spend money in our communities. We are concerned that the longer service levels remain reduced, the more likely it is that riders will give up on transit and find permanent, more polluting alternatives. We are also concerned that waiting to restore pre-pandemic service may lead to permanent damage to public transportation, lead to unnecessary congestion on our streets and freeways and undermine our climate, equity and economic recovery goals.

As the elected representatives of the people of Berkeley, we urge MTC to appropriate ARPA funds immediately – not for use in future years – so that these funds can be put to immediate use in restoring service, creating good union jobs, supporting our local economy, and reducing our greenhouse gas emissions.

Sincerely,

The Berkeley City Council





Office of the City Manager

ACTION CALENDAR

June 29, 2021

*(Continued from June 1, 2021)*

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: Police Accountability Board – Appointment of Members

RECOMMENDATION

Adopt a Resolution appointing nine members to the Police Accountability Board nominated by the Mayor and City Councilmembers, and appointing one alternate member.

FISCAL IMPACTS OF RECOMMENDATION

All commissioners are eligible to receive a stipend of \$100 per meeting.

CURRENT SITUATION AND ITS EFFECTS

The City Charter provides for the appointment of members to the newly created Police Accountability Board. Article XVIII, Section 125, Part 6 states, “The Mayor and each City Councilmember shall nominate one candidate from an applicant pool at a meeting of the City Council and that each individual nominee must be approved by a majority vote of the City Council.”

Members of the Police Accountability Board must:

- Be a resident of the City;
- Be at least 18 years of age
- Not be an employee, officer, or contractor with the City, a current sworn police officer from any agency, or a current employee, official, or representative of an employee association representing sworn police officers; and
- Be fair minded and objective with a demonstrated commitment to community service.

The City Charter indicates that desirable qualities of a Board member are familiarity with human resources, law, police procedures, police oversight, or involvement in civil rights or community organizations and that the City Council shall endeavor to establish a Board that is broadly inclusive and reflective of race, ethnicity, age, gender identity, sexual orientation, economic status, neighborhoods, and various communities of interest in the City.

The Mayor and Members of the City Council were provided with a pool of eligible applicants that submitted applications by the March 29, 2021 deadline. From this pool of applicants, the following nominations were submitted to the City Clerk to present to the City Council for approval.

| Nominee         | Nominated By            |
|-----------------|-------------------------|
| Ismail Ramsey   | Mayor Arreguin          |
| Cheryl Owens    | Councilmember Kesarwani |
| Regina Harris   | Councilmember Taplin    |
| John Moore      | Councilmember Bartlett  |
| Kitty Calavita  | Councilmember Harrison  |
| Michael Chang   | Councilmember Hahn      |
| Juliet Leftwich | Councilmember Wengraf   |
| Nathan Mizell   | Councilmember Robinson  |
| Deborah Levine  | Councilmember Droste    |

The appointments to the Board represent a diverse group from the Berkeley Community. Demographic data obtained from the applications is as follows.

|                            |                              |
|----------------------------|------------------------------|
| <u>Gender</u>              | <u>Age Range</u>             |
| Female – 5                 | 18-25 – 1                    |
| Male – 4                   | 36-55 – 1                    |
|                            | 46-55 – 2                    |
| <u>Race/Ethnicity</u>      | 56-65 – 3                    |
| Black – 5                  | 66+ – 2                      |
| White – 3                  |                              |
| Asian/Pacific Islander – 1 | <u>Sexual Orientation</u>    |
|                            | Gay or Lesbian – 1           |
|                            | Heterosexual or Straight – 8 |

Pursuant to the recently adopted amendment to Section 3.02.035 of the Berkeley Municipal Code, at the time that City Council appoints the initial nine (9) commissioners to the Board, the City Council will also approve an alternate commissioner. This alternate will be required to undergo the same 40-hour training requirement as the regular Board members.

**BACKGROUND**

Measure II was adopted on November 3, 2020 by the voters of Berkeley to establish an Office of the Director of Police Accountability and create a new Police Accountability Board (hereafter “Board”), both of which are independent of the City Manager. The members of the Board are approved by vote of the full Council.

The City received a total of 37 applications for the Mayor and City Council to consider. These applications were reviewed and the eligibility of the applicants was verified by city staff against the requirements of the Charter.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable effects on sustainability or the environment associated with the recommendation in this report.

RATIONALE FOR RECOMMENDATION

The appointments are directed by the City Charter and pursuant to the nominations submitted by the Mayor and Councilmembers.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, (510) 981-6900  
Dave White, Deputy City Manager, (510) 981-7000

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

APPOINTMENT OF NINE MEMBERS TO THE POLICE ACCOUNTABILITY BOARD  
AND ONE ALTERNATE MEMBER

WHEREAS, Measure II was adopted on November 3, 2020 by the voters of Berkeley to create a new Police Accountability Board; and

WHEREAS, Article XVIII, Section 125, Part 6 provides for the Council's appointment of board members; and

WHEREAS, the Mayor and Councilmembers have submitted nominees for appointment by the full council; and

WHEREAS, the Municipal Code provides for the appointment of an alternate board member.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the following applicants are hereby appointed to the Police Accountability Board:

| <b>Nominee</b>  | <b>Nominated By</b>     |
|-----------------|-------------------------|
| Ismail Ramsey   | Mayor Arreguin          |
| Cheryl Owens    | Councilmember Kesarwani |
| Regina Harris   | Councilmember Taplin    |
| John Moore      | Councilmember Bartlett  |
| Kitty Calavita  | Councilmember Harrison  |
| Michael Chang   | Councilmember Hahn      |
| Juliet Leftwich | Councilmember Wengraf   |
| Nathan Mizell   | Councilmember Robinson  |
| Deborah Levine  | Councilmember Droste    |

BE IT FURTHER RESOLVED that <<<First Last>>> is hereby appointed as the alternate board member to the Police Accountability Board.



Office of the City Manager

ACTION CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Rama Murty, Acting Budget Manager

Subject: FY 2022 Budget Adoption

RECOMMENDATION

Adopt a Resolution:

1. Adopting the FY 2022 Budget as contained in the City Manager's FY 2022 Proposed Budget that includes the Proposed Capital Budget, presented to Council on May 25, 2021, and as amended by subsequent Council action.
2. Authorizing the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2022, as reflected in Attachment 2 to the report, and as amended by subsequent Council action.

FISCAL IMPACTS OF RECOMMENDATION

The proposed City expenditure budget for all funds in FY 2022 is \$668,825,973 (gross appropriations) and \$581,303,702 (net appropriations). The General Fund (Funds 011-099) total is \$236,688,390 and the balance of \$432,137,583 represents the other non-discretionary funds. This fiscal information will be reflected in a separate Annual Appropriation Ordinance on the City Council's agenda this evening.

CURRENT SITUATION AND ITS EFFECTS

The FY 2022 Proposed Budget process began in December 2020, almost 9 months after the COVID-19 pandemic began and the shelter-in-place orders were implemented. At that time, staff decided to shift from a regular 2 Year budget process to a 1 Year budget process for FY 2022. This decision was made to provide time to evaluate the impacts of COVID-19 on the local economy and finances and to develop an understanding of the impacts of vaccines.

The FY 2022 Proposed Budget<sup>1</sup> was presented to the City Council on May 25, 2021. This began a series of meetings in June with the Budget & Finance Policy Committee and the Council. The schedule of the meetings that were held is shown below:

| <b>FY 2022 Budget Calendar</b> |                                                                                                                                                                         |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Date</b>                    | <b>Action/Topic</b>                                                                                                                                                     |
| May 25, 2021                   | <ul style="list-style-type: none"> <li>• FY 2022 Proposed Budget Presentation</li> <li>• Public Hearing #1: Budget</li> <li>• FY 2022 Proposed Fee Increases</li> </ul> |
| May 27, 2021                   | <ul style="list-style-type: none"> <li>• Budget &amp; Finance Policy Committee Meeting</li> </ul>                                                                       |
| June 1, 2021                   | <ul style="list-style-type: none"> <li>• Public Hearing #2: Budget</li> <li>• Last date for formal budget referrals to the FY 2022 Budget Process</li> </ul>            |
| June 2, 2021                   | <ul style="list-style-type: none"> <li>• Budget &amp; Finance Policy Committee Meeting</li> </ul>                                                                       |
| June 10, 2021                  | <ul style="list-style-type: none"> <li>• Budget &amp; Finance Policy Committee Meeting</li> </ul>                                                                       |
| June 14, 2021                  | <ul style="list-style-type: none"> <li>• Budget &amp; Finance Policy Committee Meeting: FY 2022 Proposed Budget City Manager Recommendations</li> </ul>                 |
| June 15, 2021                  | <ul style="list-style-type: none"> <li>• FY 2022 Proposed Budget City Manager Recommendations</li> <li>• Council discussion on budget recommendations</li> </ul>        |
| June 22, 2021                  | <ul style="list-style-type: none"> <li>• Budget &amp; Finance Policy Committee Meeting</li> </ul>                                                                       |
| June 24, 2021                  | <ul style="list-style-type: none"> <li>• Budget &amp; Finance Policy Committee Meeting</li> </ul>                                                                       |
| June 29, 2021                  | <ul style="list-style-type: none"> <li>• Adopt FY 2022 Proposed Budget &amp; FY 2022 Annual Appropriations Ordinance</li> </ul>                                         |

The FY 2022 Proposed Budget City Manager Recommendations was developed around a collaborative process as in the diagram below:

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/05\\_May/Documents/2021-05-25\\_Item\\_38\\_Budget\\_Public\\_Hearing\\_-\\_Rev.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/05_May/Documents/2021-05-25_Item_38_Budget_Public_Hearing_-_Rev.aspx)





As the budget process calendar and the chart above show, the process to develop the City Manager's Proposed Budget Recommendations involved discussions with the Council and Budget & Finance Policy Committee and listening to the community. The process involved looking at our fiscal needs and discussing with departments what their needs are and what deferrals from FY 2021 could be continued to FY 2022 that would have little or no operational impact to the department and the City as a whole.

The FY 2022 Budget achieves certain themes by funding a wide range of programs in the following areas:

- Economic recovery
- Equity
- Continuity in government operations
- Critical, immediate infrastructure needs and planning for the future
- Addressing Climate Emergency and Sustainability Initiatives
- Focus on FY 2023

Detail information about the programs that were included in the each of these buckets was presented to the City Council on June 15, 2021 in the FY 2022 Proposed Budget City Manager Recommendations<sup>2</sup>.

The FY 2022 General Fund Budget as shown below is currently projected to have a deficit of \$22.7 million:

|                               |                     |
|-------------------------------|---------------------|
| FY 2022 Baseline Revenues     | 190,875,002         |
| FY 2022 Baseline Expenditures | 213,595,389         |
| <b>Surplus/Deficit</b>        | <b>(22,720,387)</b> |

The Proposed Budget City Manager Recommendations adds approximately \$2.2 million for selected department funding requests which increases the deficit to \$24.9 million as shown in the chart below:

| <b>FY 2022 City Manager Proposed Budget Recommendations</b> |              |
|-------------------------------------------------------------|--------------|
| FY 2022 General Fund Deficit                                | (22,720,387) |
| Tier 1 Funding Requests                                     | (2,153,580)  |
| Council Unfunded Budget Referrals                           | TBD          |
| Revised Surplus/Deficit                                     | (24,873,967) |
| Transfer in of American Rescue Plan Act Funds               | 24,873,967   |
| Revised Surplus/Deficit                                     | 0            |

The City is expected to receive \$66.6 million in American Rescue Plan Act (“ARPA”) Funds. Through the use of ARPA Funds to cover General Fund revenue losses suffered in FY 2020 and FY 2021, the City has been able to balance the FY 2022 General Fund budget as shown in the chart above.

<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/06\\_June/Documents/2021-06-15\\_Supp\\_3\\_Reports\\_Item\\_37\\_Supp\\_Budget\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/06_June/Documents/2021-06-15_Supp_3_Reports_Item_37_Supp_Budget_pdf.aspx)

The following chart provides an overview of the ARPA Funds and how they will be spent in FY 2022 and FY 2023:

|                               | <b>FY 2021</b>      | <b>FY 2022</b>      | <b>FY 2023</b>      |
|-------------------------------|---------------------|---------------------|---------------------|
| <b>Beginning Fund Balance</b> | <b>0</b>            | <b>\$33,323,144</b> | <b>\$18,691,322</b> |
| Projected Revenues            | \$33,323,144        | \$33,323,144        | 0                   |
| Projected Expenditures        | 0                   | \$47,954,967        | \$4,050,000         |
| <b>Ending Fund Balance</b>    | <b>\$33,323,144</b> | <b>\$18,691,322</b> | <b>\$14,641,322</b> |

The FY 2022 Budget also uses American Rescue Plan Funds to address significant revenue losses to the Marina Fund, both the On-Street and Off-Street Parking Funds, Camps Fund, and the Gilman Sports Field Fund. The chart below demonstrates the ARPA Fund allocations for the provision of government services:

| <b>FUND</b>             | <b>FY 2022</b>      | <b>FY 2023</b>     |
|-------------------------|---------------------|--------------------|
| General Fund            | \$24,873,967        | TBD                |
| Marina Fund             | \$1,400,000         | \$1,150,000        |
| Parking Meter Fund      | \$4,340,000         | \$2,700,000        |
| Off-Street Parking Fund | \$3,940,000         | \$200,000          |
| Camps Fund              | \$1,000,000         | 0                  |
| Sports Field Fund       | \$196,000           | 0                  |
| <b>Total</b>            | <b>\$35,784,967</b> | <b>\$4,050,000</b> |

The ARPA Funds are also being used to support economic recovery and the COVID-19 response as shown in the following chart:

| Program                                                                          | FY 2022 Allocation |
|----------------------------------------------------------------------------------|--------------------|
| Emergency Operations Center                                                      | \$1,500,000        |
| Programs Addressing Community Safety and Crisis Response (Specialized Care Unit) | \$8,000,000        |
| Program to Support Arts in their Re-Opening                                      | \$2,000,000        |
| Visit Berkeley                                                                   | \$500,000          |
| Business Retention Program / Small Business Technical Assistance                 | \$100,000          |
| #DiscoveredinBerkeley Campaign                                                   | \$50,000           |
| "Berkeley Ventures Berkeley Values" Initiative                                   | \$20,000           |

The proposal to address community safety concerns is a short-term solution until a community-informed Specialized Care Unit is developed and deployed. The details of this program are as follows:

- Expanding prevention and outreach
  - Leverage existing teams and community-based organizations
  - Address basic needs (wellness checks, food, shelter, clothing, etc.)
  - Equipment and supplies
  - Estimated cost - \$1.2 million
- Crime Prevention and Data Analysis to support data driven policing / identify areas of community need
  - Establish data analysis team (2 non-sworn positions)
  - Deploy Problem Oriented Policing Team (overtime)
  - Estimated cost - \$1.0 million

In terms of the overall budget, there are a number of issues to consider moving into FY 2022 as listed below:

- Future deficits / resource needs
  - General Fund
  - Marina Fund
  - Parking Meter Fund / Off-Street Parking Fund
  - Permit Service Center
  - Other Funds
- ARPA Funds spent quickly
- Pace of economic recovery

The City also has a number of unfunded needs that will need to be addressed as well and those items are listed below:

- Reserves Replenishment
  - General Fund (Stability and Catastrophic)
  - Parking Funds
- Section 115 Trust
- Workforce
  - Cost of living adjustments
  - PEPRAs employee pension contributions<sup>3</sup>
  - Unfunded Infrastructure
- Other post-employment benefits

Some potential sources of funds to address these unfunded needs are the following items:

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<sup>3</sup> For Miscellaneous employees (all employees with the exception of sworn police and fire employees), "Classic" employee pension contributions are 8% of salary, whereas employees that receive a pension under the Public Employees' Pension Reform Act of 2013 (PEPRA) contribute 15.25% of salary.

- Remaining American Rescue Plan Act Resources
- Adjust Transfer Tax Baseline
- Future revenue adjustments due to pace of economic recovery

Conclusion

Moving into FY 2022 and as things hopefully start to recover from the pandemic, City staff is committed to providing timely updates to City Council and reevaluating the City's budget and projections on a reoccurring basis. Staff will also be reviewing our use of the ARPA Funds and seeing if the initial plans to spend these funds can be adjusted.

The November AAO process will offer this opportunity as well as to evaluate the following other items:

- Unfunded citywide referrals
- Revisit Tier 2 and 3 Department requests
- Address capital needs (excess property transfer tax)
- Adjust revenue projections

Shortly after the FY 2022 Budget Adoption, staff will also begin the FY 2023 & FY 2024 Biennial Budget process.

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.

CONTACT PERSON

Rama Murty, Acting Budget Manager, City Manager's Office, 981-7000

Attachments:

1: Resolution

Exhibit A: Community Agency Contract Advances

RESOLUTION NO.

ADOPTING THE CITY OF BERKELEY BUDGET UPDATE FOR  
FISCAL YEAR 2022

WHEREAS, on May 25, 2021, the City Manager presented to the City Council the FY 2022 Proposed Budget; and

WHEREAS, the City Council held a series of meetings to consider the FY 2022 Proposed Budget Update, including public hearings held on May 25, 2021 and June 1, 2021; and

WHEREAS, members of the City Council presented recommended revisions to the Proposed Biennial Budget at the Council meetings on June 15, 2021 and June 29, 2021; and

WHEREAS, in addition to formal budget adoption, City Council action is required to authorize advances for select community agencies receiving funds in FY 2022. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED, that the Council of the City of Berkeley adopted the FY 2022 Budget contained in the City Manager's FY 2022 Proposed Budget presented to Council on May 25, 2021 and as amended by subsequent Council action on June 15, 2021 and June 29, 2021.

BE IT FURTHER RESOLVED that the appropriations constituting the FY 2022 Adopted Budget will be reflected in a separate FY 2022 Annual Appropriation Ordinance, as required by Charter.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute contracts and /or amendments, as necessary, to provide advances to selected community agencies receiving City funds in FY 2022.

BE IT FURTHER RESOLVED that the City Manager is authorized to advance the full allocation of Rebuilding Together East Bay-North's Community Facility Improvement Program's FY 2022 General Funds during the first quarter, per the agency's request.

BE IT FURTHER RESOLVED, that the City Manager is authorized to use the following invoicing/reporting system in contract administration, but maintains the discretion to amend these requirements depending on risk factors associated with past performance, the amount and type of funding an agency receives, and/or whether or not an agency is a new grantee:

Agencies receiving under \$50,000 in General Fund to provide the following services:

1. Drop-In services only with no intensive case management, meal programs, outreach programs, or recreation programs:
  - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
  - An end-of-year narrative summary of accomplishments.
2. All other agencies receiving General Fund only:
  - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
  - Program Reports are required semi-annually.
3. Agencies with State and/or Federal Funding:
  - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
  - Program Reports are required quarterly.

BE IT FURTHER RESOLVED, that the City Manager is authorized to refuse to execute or amend a contract with any agency that has not provided required contract exhibits and documentation within 60 days of award of funding.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute other resultant agreement and amendments with other agencies relating to receipt and expenditure under CDBG or CSBG Program in accordance with the proposals for community agency funding approved through the budget process. A record copy of said contracts and any amendments are on file with the Office of the City Clerk.

Exhibits

A: Community Agency Advances



## FY 2022 COMMUNITY AGENCY ADVANCES

| AGENCY NAME                                     | LEAD DEPT | FY 2022 ALLOCATION | FY 2022 ADVANCE |
|-------------------------------------------------|-----------|--------------------|-----------------|
| Alameda County Homeless Action Center           | HHCS      | 197,759            | 49,440          |
| Alameda County Network of Mental Health Clients | HHCS      | 117,737            | 29,434          |
| Bananas                                         | HHCS      | 388,637            | 97,159          |
| Bay Area Community Land Trust                   | HHCS      | 205,200            | 51,300          |
| Bay Area Community Resources                    | HHCS      | 94,964             | 23,741          |
| Bay Area Community Services                     | HHCS      | 4,681,310          | 1,170,328       |
| Bay Area Hispano Institute for Advancement      | HHCS      | 103,590            | 25,898          |
| Bay Area Outreach and Recreation Program        | HHCS      | 43,592             | 10,898          |
| Berkeley Community Gardening Collaborative      | HHCS      | 11,895             | 2,974           |
| Berkeley Community Media                        | IT        | 230,710            | 57,678          |
| Berkeley Convention & Visitors Bureau           | OED       | 422,500            | 105,625         |
| Berkeley Food & Housing Project                 | HHCS      | 390,655            | 97,664          |
| Berkeley Free Clinic                            | HHCS      | 15,858             | 3,965           |
| Berkeley High School Bridge Program             | HHCS      | 79,000             | 19,750          |
| Berkeley Project                                | PRW       | 32,000             | 8,000           |
| Berkeley Youth Alternatives                     | HHCS      | 60,000             | 15,000          |
| Biotech Partners                                | HHCS      | 91,750             | 22,938          |
| Bonita House                                    | HHCS      | 39,804             | 9,951           |
| Bread Project                                   | HHCS      | 57,850             | 14,463          |
| Building Opportunities for Self Sufficiency     | HHCS      | 1,228,291          | 307,073         |
| Center for Independent Living                   | HHCS      | 159,660            | 39,915          |
| Covenant House California (YEAH!)               | HHCS      | 318,388            | 79,597          |
| Dorothy Day                                     | HHCS      | 1,627,915          | 406,979         |
| Downtown Berkeley Association                   | HHCS      | 40,000             | 10,000          |
| Downtown Streets Team                           | PW        | 225,000            | 56,250          |
| East Bay Community Law Center                   | HHCS      | 33,644             | 8,411           |
| Easy Does It                                    | HHCS      | 1,432,011          | 358,003         |
| Eden Council for Hope and Opportunity           | HHCS      | 35,000             | 8,750           |
| Ephesians Children's Center                     | HHCS      | 85,347             | 21,337          |
| Eviction Defense Center                         | HHCS      | 250,000            | 62,500          |
| Family Violence Law Center                      | HHCS      | 61,842             | 15,461          |
| Fred Finch Youth Center                         | HHCS      | 189,255            | 47,314          |
| Habitat for Humanity East Bay/Silicon Valley    | HHCS      | 250,000            | 62,500          |
| Healthy Black Families, Inc.                    | HHCS      | 43,808             | 10,952          |
| Inter-City Services                             | HHCS      | 101,351            | 25,338          |
| J-Sei                                           | HHCS      | 9,110              | 2,278           |
| Lifelong Medical Care                           | HHCS      | 1,093,010          | 273,253         |
| McGee Avenue Baptist Church                     | HHCS      | 17,844             | 4,461           |
| Multicultural Institute                         | HHCS      | 101,739            | 25,435          |
| Options Recovery Services                       | HHCS      | 50,000             | n/a             |
| Nia House Learning Center                       | HHCS      | 39,999             | 10,000          |
| Pacific Center for Human Growth                 | HHCS      | 23,245             | 5,811           |
| Rebuilding Together                             | HHCS      | 122,850            | 49,144          |
| RISE Program                                    | HHCS      | 216,039            | 54,010          |
| Rising Sun                                      | HHCS      | 67,828             | 16,957          |
| SEEDS Community Resolution Center               | HHCS      | 22,553             | 5,638           |
| Stiles Hall                                     | HHCS      | 90,000             | 22,500          |
| The Suitcase Clinic                             | HHCS      | 9,828              | 2,457           |
| Through the Looking Glass                       | HHCS      | 52,206             | 13,052          |
| Toolworks Inc. Supportive Housing               | HHCS      | 47,665             | 11,916          |
| UC Berkeley                                     | HHCS      | 130,000            | 32,500          |
| Women's Daytime Drop-In Center                  | HHCS      | 267,071            | 66,768          |
| YMCA of the East Bay - Y Scholar Program        | HHCS      | 90,875             | 22,719          |

**FY 2022 COMMUNITY AGENCY ADVANCES**

| AGENCY NAME           | LEAD DEPT | FY 2022 ALLOCATION | FY 2022 ADVANCE  |
|-----------------------|-----------|--------------------|------------------|
| Youth Spirit Artworks | HHCS      | 78,000             | 19,500           |
|                       |           | <b>15,798,185</b>  | <b>3,955,478</b> |

HHCS = Health, Housing & Community Services

IT = Information Technology

OED = Office of Economic Development

PRW = Parks Recreation & Waterfront



Office of the City Manager

## ACTION CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Rama Murty, Acting Budget Manager  
 Subject: FY 2022 Annual Appropriations Ordinance

### RECOMMENDATION

Adopt first reading of an Ordinance adopting the FY 2022 Annual Appropriations Ordinance (AAO) in the amount of \$668,825,973 (gross appropriations) and \$581,303,702 (net appropriations).

### FISCAL IMPACTS OF RECOMMENDATION

The FY 2022 Annual Appropriations Ordinance authorizes gross appropriations of \$668,825,973 and net appropriations of \$581,303,702. The General Fund totals \$236,688,390 and the balance of \$432,137,583 represents the other non-discretionary funds.

### BACKGROUND

The City Charter states that at the time of budget adoption that the Council passes an annual appropriations ordinance, which shall be based upon the budget submitted by the City Manager and as amended by the City Council. The AAO establishes the expenditure limits by fund for FY 2022. Exhibit A provides a Fund-by-Fund summary of these limits for FY 2022.

The FY 2022 Annual Appropriations Ordinance is a Strategic Plan Priority, advancing our goal to provide an efficient and financially-healthy City government.

### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the act of adopting the budget/appropriations ordinance/amendments. 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

The recommendation allows the City to set the adopted funding limits for FY 2022.

### CONTACT PERSON

Rama Murty, Acting Budget Manager, City Manager's Office, 981-7000

Attachments:

1: Ordinance

Exhibit A: FY 2022 Annual Appropriation Ordinance Summary of Appropriations  
by Fund

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

ADOPTING THE ANNUAL APPROPRIATIONS ORDINANCE BASED ON THE ADOPTED BUDGET FOR FISCAL YEAR 2022 AS PROPOSED BY THE CITY MANAGER AND PASSED BY THE CITY COUNCIL

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

Section 1. That the Annual Appropriations Ordinance based on the budget for FY 2022 submitted by the City Manager and passed by the City Council be adopted as follows and as summarized in Exhibit A:

|                                                |                    |
|------------------------------------------------|--------------------|
| A. General Fund (Funds 001-099)                | 236,688,390        |
| B. Special Funds ( Funds 100-199)              | 115,503,584        |
| C. Grant Funds (Funds 300-399)                 | 82,898,771         |
| D. Capital Projects Funds (Funds 500-550)      | 31,777,455         |
| E. Debt Service Fund (Funds 551-599)           | 9,804,404          |
| F. Enterprise Funds (Funds 600-669)            | 132,334,744        |
| G. Internal Service Funds (Funds 146, 670-699) | 45,699,500         |
| H. Successor Agency (Funds 760-769)            | 57,120             |
| I. Agency Funds (Funds 771-799)                | 7,754,281          |
| J. Other Funds (Funds 800-899)                 | 6,307,724          |
| <u>K. Total</u>                                |                    |
| Total General Fund                             | 236,688,390        |
| Add: Total Other Than General Fund             | 432,137,583        |
| <b>Gross Revenue Appropriated</b>              | <b>668,825,973</b> |
| Less: Dual Appropriations                      | -41,036,113        |
| Less: Revolving/Internal Service Funds         | -46,486,158        |
| <b>Net Revenue Appropriated</b>                | <b>581,303,702</b> |

Section 2. The City Manager is hereby permitted, without further authority from the City Council, to make the following transfers by giving written notice to the Director of Finance:

- a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; PERS Savings Fund; Health State Aid Realignment; Fair Election Fund; Capital Improvement Fund; Phone System Replacement; Equipment Replacement Fund; Public Liability Fund; Catastrophic Loss Fund; IT Cost Allocation Fund; Police Employee Retiree Health Assistance Plan; Safety Members Pension Fund; and Sick Leave Entitlement Fund.
- b. To the General Fund from the General Fund – Stability Reserves Fund; Catastrophic Reserves Fund; Community Development Block Grant Fund; Street Lighting Assessment District Fund; Zero Waste Fund; Marina Operations and Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Unified Program (CUPA); and Health State Aid Realignment Fund.
- c. To the First Source Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- d. From Capital Improvement Fund to PERS Savings Fund; Berkeley Repertory Theater Fund; and 2010 COP (Animal Shelter) Fund.
- e. To the Public Art Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- f. To CFD#1 District Fire Protection Bond (Measure Q) from Special Tax Bonds CFD#1 ML-ROOS.
- g. To Private Sewer Lateral Fund from Sanitary Sewer Operation Fund.
- h. To Catastrophic Loss Fund from Permit Service Center Fund.
- i. To Catastrophic Loss Fund from Unified Program (CUPA) Fund.
- j. To the Building Purchases and Management Fund from General Fund; Health (General) Fund; Rental Housing Safety Program Fund; Measure B Local Streets & Road Fund; Employee Training Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Health State Aide Realignment Trust Fund.
- k. To Equipment Replacement Fund from General Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund;

Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.

- I. To the Equipment Maintenance Fund from General Fund; Health (General) Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Library - Discretionary Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; FEMA Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.
- m. To the Building Maintenance Fund from the General Fund; Health (General) Fund; Health (Short/Doyle) Fund; Measure B Local Street & Road Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Mental Health State Aid Realignment Fund.
- n. To the Central Services Fund from the General Fund; First Source Fund; Health (Short/Doyle) Fund; Library-Discretionary Fund; Playground Camp Fund; Rent Stabilization Board Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Mental Health State Aid Realignment Fund.
- o. To Information Technology Cost Allocation Plan Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Equipment Maintenance Fund; Building Maintenance Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; and Mental Health State Aid Realignment Fund.
- p. To the Workers' Compensation Self-Insurance Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund;

Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- q. To the Sick Leave and Vacation Leave Accrual Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm



Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- r. To the Payroll Deduction Trust Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 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.

**Attachment for Annual Appropriations Ordinance - Fiscal Year 2022****REVOLVING FUNDS/INTERNAL SERVICE FUNDS**

Appropriations are identified with revolving and internal service funds. Such funds derive revenue by virtue of payment from other fund sources as benefits are received by such funds, and the total is reflected in the "Less Revolving Funds and Internal Service Funds" in item I. The funds are:

**Revolving/Internal Service Funds**

|                                           |               |
|-------------------------------------------|---------------|
| Employee Training Fund                    | 64,889        |
| Equipment Replacement Fund                | 3,434,440     |
| Equipment Maintenance Fund                | 5,906,134     |
| Building Maintenance Fund                 | 9,812,320     |
| Central Services Fund                     | 4,463,546     |
| Workers' Compensation Fund                | 385,483       |
| Public Liability Fund                     | 6,593,924     |
| Information Technology Fund               | 3,843,932     |
| Subtotal Revolving/Internal Service Funds | \$ 34,504,668 |

**DUAL APPROPRIATIONS - WORKING BUDGET**

Dual appropriations are identified with revenues generated by one fund and transferred to another fund. Both funds are credited with the applicable revenue, and the total is reflected in the "Less Dual Appropriations" in item I. The dual appropriations are:

## Transfers to the General Fund

|                                       |              |
|---------------------------------------|--------------|
| <u>Indirect Cost Reimbursement</u>    |              |
| CDBG Fund                             | 138,719      |
| One-Time Grant: No Cap Exp            | 150,986      |
| Street Light Assessment District Fund | 96,775       |
| Zero Waste Fund                       | 2,001,399    |
| Marina Enterprise Fund                | 411,719      |
| Sanitary Sewer Fund                   | 971,959      |
| Clean Storm Water Fund                | 205,400      |
| Permit Service Center Fund            | 1,615,758    |
| Unified Program (CUPA) Fund           | 72,517       |
| Subtotal Transfers to General Fund:   | \$ 5,665,232 |

|                                                                                               |                      |
|-----------------------------------------------------------------------------------------------|----------------------|
| Transfer to Safety Members Pension Fund from General Fund                                     | 551,804              |
| Transfer to Measure U1 Fund from General Fund                                                 | 5,120,350            |
| Transfer to Stability Reserve Fund from General Fund                                          | 1,375,000            |
| Transfer to Catastrophic Reserve Fund from General Fund                                       | 1,125,000            |
| Transfer to PERS Savings Fund from General Fund                                               | 2,000,000            |
| Transfer to Health State Aid Realignment from General Fund                                    | 1,953,018            |
| Transfer to Fair Election Fund from General Fund                                              | 505,002              |
| Transfer to Capital Improvement Fund (CIP) from General Fund                                  | 4,950,905            |
| Transfer to Phone System Replacement - VOIP from General Fund                                 | 449,408              |
| Transfer to Equipment Replacement Fund from General Fund                                      | 1,081,699            |
| Transfer to Public Liability Fund from General Fund                                           | 3,895,888            |
| Transfer to Catastrophic Loss Fund from General Fund                                          | 3,873,559            |
| Transfer to IT Cost Allocation Fund from General Fund                                         | 145,640              |
| Transfer to Police Employee Retiree Health Assistance Plan from General Fund                  | 400,136              |
| Transfer to Sick Leave Entitlement Fund from General Fund                                     | 201,501              |
| Transfer to General Fund from Health State Aid Realignment Fund                               | 2,643,280            |
| Transfer from CIP Fund to PERS Savings Fund                                                   | 151,632              |
| Transfer to Berkeley Repertory Theater Debt Service Fund from CIP Fund                        | 499,802              |
| Transfer from CIP Fund to 2010 COP (Animal Shelter) Fund                                      | 402,613              |
| Transfer to Private Sewer Lateral Fund from Sewer Fund                                        | 90,501               |
| Transfer to Catastrophic Loss Fund from Permit Service Center Fund                            | 50,555               |
| Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund                           | 5,082                |
| Transfer to General Fund from Parking Meter Fund                                              | 1,742,288            |
| Transfer from Special Tax Bonds CFD#1 ML-ROOS to CFD#1 District Fire Protect Bond (Measure Q) | 2,048,940            |
| Transfer to First Source Fund from Parks Tax Fund                                             | 14,093               |
| Transfer to First Source Fund from Capital Improvement Fund                                   | 26,943               |
| Transfer to First Source Fund from Marina Fund                                                | 1,875                |
| Transfer to Public Art Fund from Parks Tax Fund                                               | 21,140               |
| Transfer to Public Art Fund from Capital Improvement Fund                                     | 40,414               |
| Transfer to Public Art Fund from Marina Fund                                                  | 2,813                |
| Subtotal Transfers to Other Funds:                                                            | <u>35,370,881</u>    |
| Sub-Total Dual Appropriations                                                                 | <u>\$ 41,036,113</u> |
| <b>Grand Total Dual Appropriations</b>                                                        | <b>\$ 75,540,781</b> |

## SUMMARY OF APPROPRIATIONS BY FUND

| ERMA<br>Fund # Fund                      | FY 2022<br>Adopted |
|------------------------------------------|--------------------|
| 11 General Fund Discretionary            | 230,242,376        |
| 16 Measure U1 - Housing                  | 6,446,014          |
| 101 Library - Tax                        | 25,037,858         |
| 103 Library - Grants                     | 64,889             |
| 104 Library - Friends & Gift             | 150,000            |
| 105 Library - Foundation                 | 350,000            |
| 106 Asset Forfeiture                     | 201,000            |
| 107 Special Tax Measure E                | 1,451,853          |
| 108 First Source Fund                    | 46,675             |
| 110 Sec 108 Loan Gty Asst.               | 553,108            |
| 111 Fund Raising Activities              | 53,875             |
| 113 Sports Field (Vendor Oper)           | 258,234            |
| 115 Animal Shelter                       | 52,480             |
| 116 Paramedic Tax                        | 4,916,665          |
| 119 Domestic Violence Prev - Vit Stat    | 22,587             |
| 120 Affordable Housing Mitigation        | 2,716,178          |
| 121 Affordable Child Care                | 13,275             |
| 122 Inclusionary Housing Program         | 550,501            |
| 123 Condo Conversion                     | 109,617            |
| 125 Playground Camp                      | 13,850,034         |
| 126 State-Prop 172 Pub.Safety            | 426,693            |
| 127 State Transportation Tax             | 6,009,197          |
| 128 CDBG                                 | 4,576,057          |
| 129 Rental Housing Safety Program        | 2,230,164          |
| 130 Measure B - Local St & Road          | 3,536,592          |
| 131 Measure B - Bike and Pedestrian      | 234,330            |
| 132 Measure B - Paratransit              | 525,433            |
| 133 Measure F Alameda County VRF St & Rd | 519,245            |
| 134 Measure BB - Local St & Road         | 4,314,642          |
| 135 Measure BB - Bike & Pedestrian       | 124,414            |
| 136 Measure BB - Paratransit             | 447,741            |
| 138 Parks Tax                            | 14,402,630         |
| 140 Measure GG - Fire Prep Tax           | 4,897,270          |
| 142 Streetlight Assesment District       | 2,671,488          |
| 143 Berkeley Bus Ec Dev                  | 156,387            |
| 145 Bayer (Miles Lab)                    | 8,500              |
| 146 Employee Training                    | 807,304            |
| 147 UC Settlement                        | 21,219             |
| 148 Private Percent - Art Fund           | 20,646             |
| 149 Private Party Sidewalks              | 100,000            |
| 150 Public Art Fund                      | 64,367             |
| 152 Vital & Health Statistics Trust Fund | 29,813             |
| 156 Hlth State Aid Realign Trust         | 3,806,205          |
| 157 Tobacco Cont.Trust                   | 352,325            |
| 158 Mental Health State Aid Realign      | 3,182,564          |
| 159 Citizens Option Public Safety Trust  | 258,724            |

## SUMMARY OF APPROPRIATIONS BY FUND

| ERMA<br>Fund # Fund                         | FY 2022<br>Adopted |
|---------------------------------------------|--------------------|
| 161 Alameda Cty Abandoned Vehicle Abatement | 96,449             |
| 164 Measure FF                              | 10,800,000         |
| 165 Fair Elections                          | 505,002            |
| 302 Operating Grants - State                | 63,276             |
| 309 OTS DUI Enforcement Education Prg.      | 129,500            |
| 310 HUD/Home                                | 803,968            |
| 311 ESGP                                    | 576,637            |
| 312 Health (General)                        | 2,054,767          |
| 313 Target Case Management Linkages         | 827,961            |
| 314 Alameda County Tay Tip                  | 35,812             |
| 315 Mental Health Service Act               | 10,030,261         |
| 316 Health (Short/Doyle)                    | 4,725,112          |
| 317 EPSDT Expansion Proposal                | 389,139            |
| 318 Alcoholic Bev Ctr OTS/UC                | 52,804             |
| 319 Youth Lunch                             | 101,900            |
| 320 Sr. Nutrition Title III                 | 107,003            |
| 321 CFP Title X                             | 65,086             |
| 324 BUSD Grant                              | 362,343            |
| 325 Vector Control                          | 339,173            |
| 326 Alameda County Grants                   | 624,203            |
| 327 Senior Supportive Social Services       | 64,339             |
| 328 Family Care Support Program             | 75,212             |
| 329 CA Integrated Waste Management          | 5,244              |
| 331 Housing Mitigation                      | 1,126,763          |
| 333 CALHOME                                 | 363,100            |
| 334 Community Action                        | 298,878            |
| 336 One-Time Grant: No Cap Exp              | 3,043,587          |
| 338 Bay Area Air Quality Management         | 60,000             |
| 339 MTC                                     | 125,000            |
| 340 FEMA                                    | 790,560            |
| 341 Alameda Cty Waste Mgt.                  | 285,000            |
| 343 State Dept Conserv/Recyclg              | 28,000             |
| 347 Shelter+Care HUD                        | 6,240,760          |
| 348 Shelter+Care County                     | 855,792            |
| 349 JAG Grant                               | 52,500             |
| 350 Bioterrorism Grant                      | 240,124            |
| 354 ARPA - Local Fiscal Recovery Fund       | 47,954,967         |
| 501 Capital Improvement Fund                | 8,393,901          |
| 502 Phone System Replacement                | 449,408            |
| 503 FUNDS\$ Replacement                     | 3,571,725          |
| 504 PEG-Public, Education & Government      | 100,000            |
| 511 Measure T1 - Infra & Facil.             | 12,816,854         |
| 512 Measure O                               | 6,445,567          |
| 552 09 Measure FF Debt Service              | 1,343,638          |
| 553 2015 GORBS                              | 2,051,966          |
| 554 2012 Lease Revenue Bonds BJPFA          | 502,238            |

## SUMMARY OF APPROPRIATIONS BY FUND

| ERMA<br>Fund # Fund                           | FY 2022<br>Adopted |
|-----------------------------------------------|--------------------|
| 555 2015 GORBS - 2002 G.O. Refunding Bonds    | 379,561            |
| 556 2015 GORBS (2007, Series A)               | 142,865            |
| 557 2015 GORBS (2008 Measure I)               | 481,286            |
| 558 2010 COP (Animal Shelter)                 | 406,991            |
| 559 Measure M GO Street & Water Imps          | 740,738            |
| 560 Infrastructure & Facilities Measure T1    | 1,731,181          |
| 561 Measure O - Housing Bonds                 | 2,023,940          |
| 601 Zero Waste                                | 48,199,561         |
| 608 Marina Operation                          | 7,308,402          |
| 611 Sewer                                     | 30,227,353         |
| 612 Private Sewer Lateral FD                  | 193,658            |
| 616 Clean Storm Water                         | 4,899,517          |
| 621 Permit Service Center                     | 20,692,553         |
| 622 Unified Program (CUPA)                    | 821,845            |
| 627 Off Street Parking                        | 6,551,006          |
| 631 Parking Meter                             | 10,006,409         |
| 636 Building Purchases and Management         | 3,434,440          |
| 671 Equipment Replacement                     | 5,906,134          |
| 672 Equipment Maintenance                     | 9,812,320          |
| 673 Building Maintenance Fund                 | 4,463,546          |
| 674 Central Services                          | 385,483            |
| 676 Workers Compensation                      | 6,593,924          |
| 678 Public Liability                          | 3,843,932          |
| 680 Information Technology                    | 14,673,515         |
| 762 Successor Agency - Savo DSF               | 57,120             |
| 776 Thousand Oaks Underground                 | 98,448             |
| 777 Measure H - School Tax                    | 500,000            |
| 778 Measure Q - CFD#1 Dis. Fire Protect Bond  | 2,048,940          |
| 779 Spl Tax Bds. CFD#1 ML-ROOS                | 2,823,820          |
| 781 Berkeley Tourism BID                      | 181,125            |
| 782 Elmwood Business Improvement District     | 30,000             |
| 783 Solano Ave BID                            | 25,000             |
| 784 Telegraph Avenue Bus. Imp. District       | 523,371            |
| 785 North Shattuck BID                        | 210,363            |
| 786 Downtown Berkeley Prop & Improv. District | 1,313,214          |
| 801 Rent Board                                | 6,307,724          |
| GROSS EXPENDITURE:                            | 668,825,973        |
| Dual Appropriations                           | (41,036,113)       |
| Revolving & Internal Service Funds            | (46,486,158)       |
| NET EXPENDITURE:                              | 581,303,702        |



Department of Finance

## ACTION CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: Borrowing of Funds and the Sale and Issuance of FY 2021-22 Tax and Revenue Anticipation Notes

### RECOMMENDATION

Adopt a Resolution approving the borrowing of \$45,000,000 and the sale and issuance of Fiscal Year 2021-22 Tax and Revenue Anticipation Notes.

### FISCAL IMPACTS OF RECOMMENDATION

Each year, the City (as do many local agencies) issues Tax and Revenue Anticipation Notes (“Notes”) to help with its working capital needs during the first six months of the fiscal year. The reason for this issuance is that the City does not receive property tax revenues until December, thereby creating a negative cash flow in the General Fund. This annual issuance also enables the General Fund to recoup some of the interest earnings lost in advancing money to grant funds pending grant reimbursements, since the interest rate earned on any note proceeds invested will exceed the cost of borrowing.

The City’s General Fund cash flow has become more volatile due to (1) the City now receives property tax in December and April; and (2) also receives the payment of Vehicle In Lieu fees in December and May with the property taxes, instead of monthly.

The money will be deposited in the General Fund and used by the City for any purpose for which it is authorized to expend General Fund monies. The interest earned on these monies will be allocated to the General Fund. The repayment of principal and interest on the Notes are to be made from General Fund taxes and other revenues.

### CURRENT SITUATION AND ITS EFFECTS

The General Fund advances grant funds in the amounts needed to pay for their expenditures, until these funds receive reimbursement from the granting agencies. During the first six months of the fiscal year until property tax receipts are received, General Fund operating expenditures exceed revenues. Under the interpretation of Sections 53850-53858 of the California Government Code and federal tax law by the City’s Bond Counsel, Jones Hall, the City may borrow an amount not to exceed the maximum anticipated cash

flow deficit plus five percent of working capital reserve if all the note proceeds, including investment earnings, are deemed spent within 6 months of the date of the issue of the Notes. This method of financing involves the sale of the Notes and is a traditional means used by local governments to ensure a consistent cash flow during the fiscal year. This year the City will borrow Note funds of \$45,000,000 to help with working capital needs in the first six months of the fiscal year and, when expenditures exceed incoming revenues. In the last six months of the fiscal year, the Notes will be repaid from General Fund taxes and other revenues, mainly property taxes and business license taxes.

For Fiscal Year 2021-22, the City will require a Note sale of an amount not to exceed forty-five million dollars (\$45,000,000). The interest rate on the Notes will depend on competitive rates at the time of the sale.

### DISCLOSURE

The attached Preliminary Official Statement has been reviewed and approved for transmittal to the City Council by the City's financing team. The distribution of the Preliminary Official Statement by the City is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the Notes. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the Notes. If the City Council concludes that the Preliminary Official Statement includes all facts that would be material to an investor in the Notes, it must adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been "deemed final."

The Securities and Exchange Commission (the "SEC"), the agency with regulatory authority over the City's compliance with the federal securities laws, has issued guidance as to the duties of the City Council with respect to its approval of the Preliminary Official Statement. In its "Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors" (Release No. 36761 / January 24, 1996) (the "Release"), the SEC indicated that, if a member of the City Council has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the Notes, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC indicated that the steps that a member of the City Council could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.



The information about the sources of payment for the Notes, including the City's financial and operating data, is set forth in the sections of the Preliminary Official Statement entitled "SECURITY FOR AND SOURCES OF PAYMENT FOR THE NOTES" and "APPENDIX A - CERTAIN INFORMATION CONCERNING THE CITY OF BERKELEY."

The information about the tax-exempt status of the Notes is set forth in the section of the Preliminary Official Statement entitled "TAX MATTERS."

#### RATIONALE FOR RECOMMENDATION

The General Fund advances grant funds the amounts needed to pay for their expenditures, until these funds receive reimbursement from the granting agencies. During the first six months of the fiscal year, General Fund operating expenditures exceed revenues. As a result, the General Fund's working capital is depleted during this period, and borrowing these funds will alleviate that situation.

#### ENVIRONMENTAL SUSTAINABILITY

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. Resolution
2. Draft Form of Official Notice of Sale
3. Form of Bond Counsel Opinion
4. Form of the Preliminary Official Statement

**\*\*\* PLEASE DO NOT PLACE THIS ITEM ON THE CONSENT CALENDAR PURSUANT TO GOVERNMENT CODE SECTION 53635.7\*\*\***

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

APPROVING THE BORROWING OF FUNDS FOR FISCAL YEAR 2021-22 AND THE ISSUANCE AND SALE OF 2021-22 TAX AND REVENUE ANTICIPATION NOTES

WHEREAS, pursuant to Article 7.6 (commencing with section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Law"), this City Council (the "Council") has found and determined that moneys are needed for the requirements of the City, a municipal corporation and charter city duly organized and existing under the laws of the State of California, to satisfy obligations payable from the General Fund of the City (the "General Fund"), and that it is necessary that said sum be borrowed for such purpose at this time by the issuance of temporary notes therefor in anticipation of the receipt of taxes, income, revenue, cash receipts and other moneys to be received by the City for the General Fund during or allocable to the fiscal year of the City beginning July 1, 2021 and ending June 30, 2022 ("Fiscal Year 2021-22"); and

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley approves the following:

*Section 1. Limitation on Maximum Amount.* The principal amount of notes issued pursuant hereto, when added to the interest payable thereon, shall not exceed eighty-five percent (85%) of the estimated amount of the uncollected taxes, income, revenue, cash receipts and other moneys of the City for the General Fund attributable to Fiscal Year 2021-22, and available for the payment of said notes and the interest thereon (as hereinafter provided).

*Section 2. Authorization and Terms of Notes.* Solely for the purpose of anticipating taxes, income, revenue, cash receipts and other moneys to be received by the City for the General Fund during or allocable to Fiscal Year 2021-22, and not pursuant to any common plan of financing, the City hereby determines to and shall borrow the principal amount of not-to-exceed forty-five million Dollars (\$45,000,000) by the issuance of temporary notes under the Law, designated "City of Berkeley, California 2021-22 Tax and Revenue Anticipation Notes" (the "Notes"). The Notes shall be dated the date of initial delivery, shall mature (without option of prior redemption) no later than thirteen months after their date of issuance, and shall bear interest, payable at maturity and computed on a 30-day month/360-day year basis, at a rate not in excess of five percent (5%) per annum. Both the principal of and interest on the Notes shall be payable in lawful money of the United States of America, as described below.

*Section 3. Form of Notes; Book Entry Only System.* The Notes shall be issued in fully registered form, without coupons, and shall be substantially in the form and substance set forth in Exhibit A attached hereto and by reference incorporated herein, the blanks in said form to be filled in with appropriate words and figures. The Notes shall be

numbered from 1 consecutively upward in order of issuance, shall be in the denomination of \$5,000 each or any integral multiple thereof.

“CUSIP” identification numbers shall be imprinted on the Notes, but such numbers shall not constitute a part of the contract evidenced by the Notes and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and pay for the Notes. In addition, failure on the part of the City to use such CUSIP numbers in any notice to the registered owners of the Notes shall not constitute an event of default or any violation of the City’s contract with such owners and shall not impair the effectiveness of any such notice.

Except as provided below, the owner of all of the Notes shall be The Depository Trust Company, New York, New York (“DTC”), and the Notes shall be registered in the name of Cede & Co., as nominee for DTC. The Notes shall be initially executed and delivered in the form of a single fully registered Note in the full aggregate principal amount of the Notes. The City may treat DTC (or its nominee) as the sole and exclusive owner of the Notes registered in its name for all purposes of this Resolution, and the City shall not be affected by any notice to the contrary. The City shall not have any responsibility or obligation to any participant of DTC (a “Participant”), any person claiming a beneficial ownership interest in the Notes under or through DTC or a Participant (a “Beneficial Owner”), or any other person not shown on the register of the City as being an owner, with respect to the accuracy of any records maintained by DTC or any Participant or the payment by DTC or any Participant by DTC or any Participant of any amount in respect of the principal or interest with respect to the Notes. The City shall pay all principal and interest with respect to the Notes only to DTC or its nominee, and all such payments shall be valid and effective to fully satisfy and discharge the City’s obligations with respect to the principal and interest with respect to the Notes to the extent of the sum or sums so paid. Except under the conditions noted below, no person other than DTC shall receive a Note. Upon delivery by DTC to the City of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the term “Cede & Co.” in this Resolution shall refer to such new nominee of DTC.

If the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain Notes and delivers a written certificate to DTC to that effect, DTC shall notify the Participants of the availability through DTC of Notes. In such event, the City shall issue, transfer and exchange Notes as requested by DTC and any other owners in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Notes at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the City shall be obligated to deliver Notes to the Beneficial Owners as described in this Resolution. Whenever DTC requests the City to do so, the City will cooperate with DTC in taking appropriate action after reasonable notice to (a) make available one or more separate Notes evidencing the Notes to any DTC Participant having Notes credited to its DTC account or (b) arrange for another securities depository to maintain custody of Certificates evidencing the Notes.

Notwithstanding any other provision of this Resolution to the contrary, so long as any Note is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal and interest with respect to such Note and all notices with respect to such Note shall be made and given, respectively, to DTC as provided as in the representation letter delivered on the date of issuance of the Notes.

*Section 4. Use of Proceeds.* The proceeds of the sale of the Notes shall be deposited in a segregated account in the General Fund and used and expended by the City for any purpose for which it is authorized to expend funds from the General Fund.

*Section 5. Security.* The principal amount of the Notes, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts and other moneys which are received by the City for the General Fund for Fiscal Year 2021-22. As security for the payment of the principal of and interest on the Notes the City hereby pledges the first “unrestricted moneys” (as hereinafter defined) to be received by the City as follows: (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January, 2022; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May, 2022; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June, 2022 (such pledged amounts being hereinafter called the “Pledged Revenues”). The principal of the Notes and the interest thereon shall constitute a first lien and charge thereon and shall be payable from the Pledged Revenues. To the extent not so paid from the Pledged Revenues, the Notes shall be paid from any other moneys of the City lawfully available therefor. In the event that there are insufficient “unrestricted moneys” received by the City to permit the deposit into the Special Account (as hereinafter defined) of the full amount of the Pledged Revenues to be deposited in any month by the last business day of such month, then the amount of any deficiency shall be satisfied and made up from any other moneys of the City lawfully available for the repayment of the Notes and interest thereon. The term “unrestricted moneys” shall mean taxes, income, revenue, cash receipts, and other moneys received by the City for the General Fund for Fiscal Year 2021-22 and which are generally available for the payment of current expenses and other obligations of the City.

*Section 6. Special Account.* There is hereby created, within the General Fund, a special account to be designated the “2021-22 Tax and Revenue Anticipation Note Special Account” (the “Special Account”) and applied as directed in this Resolution. Any money placed in the Special Account shall be for the benefit of the owners of the Notes and, until the Notes and all interest thereon are paid or until provision has been made for the payment of the Notes at maturity with interest to maturity, the moneys in the Special Account shall be applied solely for the purposes for which the Special Account is created.

During the months of January, May, and June, 2022, the City shall deposit all Pledged Revenues in the Special Account. On the maturity date of the Notes, the City shall transfer to DTC the moneys in the Special Account necessary to pay the principal of and interest on the Notes at maturity and to the extent said moneys are insufficient therefor an amount of moneys from the General Fund which will enable payment of the full principal of and interest on the Notes at maturity. DTC will thereupon make payments

of principal of and interest on the Notes to the DTC Participants who will thereupon make payments to the Beneficial Owners of the Notes. Any moneys remaining in the Special Account after the Notes and the interest thereon have been paid, or provision for such payment has been made, shall be transferred to the General Fund.

*Section 7. Deposit and Investment of Special Account.* All moneys held by the City in the Special Account, if not invested, shall be held in time or demand deposits as public funds and shall be secured at all times by bonds or other obligations which are authorized by law as security for public deposits, of a market value at least equal to the amount required by law.

Moneys in the Special Account shall, to the greatest extent possible, be invested by the City directly, or through an investment agreement, in investments as permitted by the laws of the State of California as now in effect and as hereafter amended, and the proceeds of any such investments shall be deposited in the Special Account.

*Section 8. Execution of Notes.* The Mayor of the City, the City Manager, or the Director of Finance (each an "Authorized Officer") is hereby authorized to execute the Notes by manual or facsimile signature, and the City Clerk of the City is hereby authorized to countersign the same by manual or facsimile signature (although at least one of such signatures shall be manual) and to affix the seal of the City thereto by facsimile impression thereof, and said officers are hereby authorized to cause the blank spaces thereof to be filled in as may be appropriate.

*Section 9. Transfer of Notes.* Any Note may, in accordance with its terms, but only if the City determines to no longer maintain the book entry only status of the Notes, DTC determines to discontinue providing such services and no successor securities depository is named or DTC requests the City to deliver Note certificates to particular DTC Participants, be transferred, upon the books required to be kept pursuant to the provisions of Section 11 hereof, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Note for cancellation at the office of the City Clerk, accompanied by delivery of a written instrument of transfer in a form approved by the City, duly executed.

Whenever any Note or Notes shall be surrendered for transfer, the City shall execute and the Paying Agent shall authenticate and deliver a new Note or Notes, for like aggregate principal amount.

*Section 10. Exchange of Notes.* Any Note may, in accordance with its terms, but only if the City determines to no longer maintain the book entry only status of the Notes, DTC determines to discontinue providing such services and no successor securities depository is named or DTC requests the City to deliver Note certificates to particular DTC Participants, be exchanged at the office of the City Clerk for a like aggregate principal amount of Notes of authorized denominations and of the same maturity.

*Section 11. Note Register.* The City shall keep or cause to be kept sufficient books for the registration and transfer of the Notes if the book entry only system is no longer in effect and, in such case, the City Clerk shall register or transfer or cause to be registered or transferred, on said books, Notes as herein before provided. While the book entry only system is in effect, such books need not be kept as the Notes will be represented by one Note registered in the name of Cede & Co., as nominee for DTC.

*Section 12. Temporary Notes.* The Notes may be initially issued in temporary form exchangeable for definitive Notes when ready for delivery. The temporary Notes may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the City, and may contain such reference to any of the provisions of this Resolution as may be appropriate. Every temporary Note shall be executed by the City upon the same conditions and in substantially the same manner as the definitive Notes. If the City issues temporary Notes it will execute and furnish definitive Notes without delay, and thereupon the temporary Notes may be surrendered, for cancellation, in exchange therefor at the office of the City Clerk and the City Clerk shall deliver in exchange for such temporary Notes an equal aggregate principal amount of definitive Notes of authorized denominations. Until so exchanged, the temporary Notes shall be entitled to the same benefits pursuant to this Resolution as definitive Notes executed and delivered hereunder.

*Section 13. Notes Mutilated, Lost, Destroyed or Stolen.* If any Note shall become mutilated the City, at the expense of the owner of said Note, shall execute and deliver a new Note of like maturity and principal amount in exchange and substitution for the Note so mutilated, but only upon surrender to the City Clerk of the Note so mutilated. Every mutilated Note so surrendered to the City Clerk shall be canceled and delivered to, or upon the order of, the City. If any Note shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the City and, if such evidence be satisfactory to the City and indemnity satisfactory to it shall be given, the City, at the expense of the owner, shall execute and deliver a new Note of like maturity and principal amount in lieu of and in substitution for the Note so lost, destroyed or stolen. The City may require payment of a sum not exceeding the actual cost of preparing each new Note issued under this Section 13 and of the expenses which may be incurred by the City in the premises. Any Note issued under the provisions of this Section 13 in lieu of any Note alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Note so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Resolution with all other Notes issued pursuant to this Resolution.

*Section 14. Covenants and Warranties.* It is hereby covenanted and warranted by the City that all representations and recitals contained in this Resolution are true and correct, and that the City and its appropriate officials have duly taken all proceedings necessary to be taken by them, and will take any additional proceedings necessary to be taken by them, for the prompt collection and enforcement of the taxes, income, revenue, cash receipts and other moneys pledged hereunder in accordance with law and for carrying out the provisions of this Resolution.

*Section 15. Tax Covenants.*

(a) *No Arbitrage.* The City shall not take, nor permit nor suffer to be taken any action with respect to the proceeds of the Notes which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Notes (the "Closing Date") would have caused the Notes to be "arbitrage bonds" within the meaning of section 148 of the Internal Revenue Code of 1986 (the "Code").

(b) *Rebate Requirement.* The City shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government.

(c) *Private Activity Note Limitation.* The City shall assure that proceeds of the Notes are not so used as to cause the Notes to satisfy the private business tests of section 141(b) of the Code.

(d) *Private Loan Financing Limitation.* The City shall assure that proceeds of the Notes are not so used as to cause the Notes to satisfy the private loan financing test of section 141(c) of the Code.

(e) *Federal Guarantee Prohibition.* The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Notes to be "federally guaranteed" within the meaning of section 149(b) of the Code.

(f) *Maintenance of Tax-Exemption.* The City shall take all actions necessary to assure the exclusion of interest on the Notes from the gross income of the owners of the Notes to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date.

*Section 16. Official Statement.* The City Council hereby approves the Official Statement describing the Notes, in substantially the form on file with the City Clerk, together with any changes therein or additions thereto deemed advisable by an Authorized Officer. The City Council authorizes and directs an Authorized Officer on behalf of the City to deem "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") the Official Statement prior to its distribution. The execution of the Official Statement, which shall include such changes and additions thereto deemed advisable by an Authorized Officer and such information permitted to be excluded from the Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Official Statement by the City.

An Authorized Officer is authorized and directed to execute the Official Statement and a statement that the facts contained in the Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of

such statement) were, at the time of sale of the Notes, true and correct in all material respects and that the Official Statement did not, on the date of sale of the Notes, and does not, as of the date of delivery of the Notes, contain any untrue statement of a material fact with respect to the City or omit to state material facts with respect to the City required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made. An Authorized Officer shall take such further actions prior to the signing of the Official Statement as are deemed necessary or appropriate to verify the accuracy thereof. The Official Statement is approved for distribution in the offering and sale of the Notes.

*Section 17. Sale of Notes.* An underwriter (the “Underwriter”) to be designated by an Authorized Officer will purchase the Notes. An Authorized Officer is hereby authorized to designate the Underwriter, in consultation with the City’s municipal advisor, NHA Advisors, LLC (the “Municipal Advisor”) in one of the following ways:

(a) *Limited Negotiated.* An Authorized Officer may direct the Municipal Advisor to contact a limited number of Underwriters and negotiate the sale of the Notes. An Authorized Officer is hereby authorized to cause Jones Hall, A Professional Law Corporation, as bond counsel to the City (“Bond Counsel”), to prepare and to execute and deliver a Note Purchase Agreement in connection with a negotiated sale of the notes in such form (including designation of the Underwriter) as an Authorized Officer shall approve, such approval to be conclusively evidenced by his or her execution and delivery thereof.

(b) *Public Sale.* An Authorized Officer, in consultation with the Municipal Advisor, may determine to sell the Notes by competitive bid and award the sale of the Notes as set forth in an Official Notice of Sale (the “Official Notice of Sale”), the form of which is attached to this Resolution and is hereby approved, and which Bond Counsel is hereby authorized to finalize, consistent with this Resolution. If an Authorized Officer determines to proceed with a competitive bid, (a) Bond Counsel is hereby directed to arrange for the publication of a notice of intention of the sale of the Notes in accordance with Section 53692 of the Government Code and (b) an Authorized Officer is hereby directed to execute the Official Notice of Sale; to open the bids at the time and place specified in the Official Notice of Sale; to receive and record the receipt of all bids made pursuant to the Official Notice of Sale; to cause said bids to be examined for compliance with the Official Notice of Sale; to cause computations to be made as to which bidder has bid the lowest true interest cost, as provided in the Official Notice of Sale; to announce the bidder of the lowest true interest cost; and to award the sale to said bidder.

An Authorized Officer is further authorized to determine the maximum principal amount of the Notes and the maximum interest rate on the Notes not to exceed the maximum principal amount and interest rate set forth in Section 2.

*Section 18. Engagement of Professional Services.* The City hereby approves the engagement of Jones Hall, A Professional Law Corporation as Bond Counsel and



Disclosure Counsel and NHA Advisors, LLC as Municipal Advisor to the City in connection with the issuance and sale of the Notes. The City Attorney is authorized to execute a legal services agreement with Jones Hall, with Jones Hall's compensation to be contingent upon issuance of the Notes, and Jones Hall's compensation is not set by law but is negotiable.

*Section 19. Preparation of Notes; Official Action.* Jones Hall, A Professional Law Corporation, as bond counsel, is directed to cause suitable Notes to be prepared showing on their face that the same bear interest at the rate specified in the offer submitted by the successful bidder or bidders, and to cause the blank spaces therein to be filled in to comply with the provisions of this Resolution, and to procure their execution by the proper officers, and to cause the Notes to be delivered when so executed to DTC on behalf of the successful bidder or bidders therefor upon the receipt of the purchase price by the City Treasurer in accordance with such successful bid or bids.

An Authorized Officer is further authorized and directed to make, execute and deliver such certificates, agreements and other closing documents as are necessary to consummate the transactions contemplated by this Resolution.

*Section 20. Effective Date.* This Resolution shall take effect upon its adoption.

\* \* \* \* \*



The principal amount of the Notes, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts and other moneys which are received by the City for the General Fund of the City for Fiscal Year 2021-22. As security for the payment of the principal of and interest on the Notes the City has pledged the first “unrestricted moneys” (as hereinafter defined) to be received by the City as follows: (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January, 2022; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May, 2022; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June, 2022 (such pledged amounts being hereinafter called the “Pledged Revenues”). The principal of the Notes and the interest thereon shall constitute a first lien and charge thereon and shall be payable from the Pledged Revenues. To the extent not so paid from the Pledged Revenues, the Notes shall be paid from any other moneys of the City lawfully available therefor. In the event that there are insufficient “unrestricted moneys” received by the City to permit the deposit into the Special Account (as hereinafter defined) of the full amount of the Pledged Revenues to be deposited in any month by the last business day of such month, then the amount of any deficiency shall be satisfied and made up from any other moneys of the City lawfully available for the repayment of the Notes and interest thereon. The term “unrestricted moneys” shall mean taxes, income, revenue, cash receipts, and other moneys received by the City for the General Fund of the City for Fiscal Year 2021-22 and which are generally available for the payment of current expenses and other obligations of the City.

The Notes are issuable as fully registered Notes, without coupons, in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and conditions as provided in the Resolution, Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations and of the same maturity.

The Notes are not subject to redemption prior to maturity.

This Note is transferable by the Owner hereof, but only under the circumstances, in the manner and subject to the limitations provided in the Resolution. Upon registration of such transfer a new Note or Notes, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor.

The City may treat the Owner hereof as the absolute owner hereof for all purposes, and the City shall not be affected by any notice to the contrary.

Unless this Note is presented by an authorized representative of The Depository Trust Company to the issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, the City of Berkeley has caused this Note to be executed by the City Manager and countersigned by the City Clerk of the City, all as of the Issue Date stated above.

CITY OF BERKELEY

By \_\_\_\_\_  
City Manager

Countersigned:

By \_\_\_\_\_  
City Clerk

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## OFFICIAL NOTICE OF SALE

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### 2021-22 TAX AND REVENUE ANTICIPATION NOTES

\$ \_\_\_\_\_ \*  
City of Berkeley  
(Alameda County, California)

**NOTICE IS HEREBY GIVEN** that electronic bid proposals (see "TERMS OF SALE --- Electronic Bids" below) for the purchase of the captioned notes (the "Notes") will be received by the City Berkeley, California (the "City"), through BiDCOMP™/Parity® ("Parity") on:

**TUESDAY, JULY 13, 2021**

between 8:00 a.m. and 8:30 a.m. California Time.

Further information may be obtained from the municipal advisor to the City, NHA Advisors, 4040 Civic Center Drive, Suite 200, San Rafael, California 94903, Attn: Rob Schmidt, telephone: (415) 785-2025 ext. 2006, email: rob@NHAadvisors.com.

**POSTPONEMENT:** The City reserves the right to postpone or change the time or sale date upon notice delivered via Bloomberg News Service or Thomson Municipal Market Monitor (www.tm3.com).

**ISSUE AND DENOMINATION; BOOK ENTRY ONLY SYSTEM; CUSIP NUMBER:** The Notes consist of fully registered notes, without coupons. The Notes will be issued in minimum denominations of \$5,000. The Notes will be issued in a book entry only system with no physical distribution of the Notes made to the public. The Depository Trust Company, New York, New York ("DTC"), will act as depository for the Notes, which will be immobilized in its custody. The Notes will be registered in the name of Cede & Co., as nominee for DTC, on behalf of the participants in the DTC system and the subsequent beneficial owners of the Notes. Pursuant to MSRB Rule G-34, the City's Municipal Advisor will apply for CUSIP number assignment prior to the award of the issue, but the cost shall be payable by the underwriter.

**DATE AND MATURITY:** The Notes will be dated the date of delivery (expected to be July 26, 2021), and will mature on July 25, 2022 (the "Maturity Date").

**INTEREST RATE:** The maximum interest rate bid for the Notes may not exceed five percent (5%) per annum, payable upon maturity of the Notes. Bidders must specify the rate of interest which the Notes shall bear, provided that: (i) bids must be for all Notes; and (ii) the Notes shall bear interest from its date to its stated maturity at the interest rate specified in the bid.

**REDEMPTION:** The Notes are not subject to call and redemption prior to maturity.

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\* Preliminary, subject to change

**PAYMENT:** Both principal of and interest on the Notes will be payable on the Maturity Date, in lawful money of the United States of America, to DTC which will immediately credit the account of the successful bidder or bidders as participants in the DTC system.

**PURPOSE OF ISSUE:** The Notes are to be issued by the City and are authorized pursuant to the provisions of Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code and the provisions of resolutions of the City for any purpose for which the City is authorized to expend moneys.

**SECURITY:** The Notes are an obligation of the City and are secured by a pledge of and first lien and charge against the first “unrestricted moneys,” as hereinafter defined, to be received by the City, (a) in an amount equal to 50% of the principal amount of the Notes to be received by the City in January 2022, (b) in an amount equal to 50% of the principal amount of the Notes to be received by the City in May 2022, and (c) in an amount equal to all interest due on the Notes at maturity to be received by the City in June 2022. The term “unrestricted moneys” mean taxes, income, revenue and other moneys intended as receipts for the general fund of the City and which are generally available for the payment of current expenses and other obligations of the City.

Said pledged moneys shall be deposited by the City in a special fund established, created and maintained by the City. Moneys shall be withdrawn from said fund for the sole purpose of paying the principal of and the interest on the Notes at their maturity.

By statute, the Notes are declared to be general obligations of the City, and to the extent not paid from said pledged moneys shall be paid, with the interest thereon, from any other moneys of the City lawfully available therefor. Under provisions of the California Constitution, the City is generally prohibited from incurring any indebtedness or liability exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of its qualified electors voting at an election called for such purpose.

**RATING:** Moody’s Investors Service has given the Notes a rating of “MIG-1.” **CONFIRM**

## TERMS OF SALE

**BEST BID:** *Bids must be for all of the Notes.* The Notes will be awarded on the basis of the lowest net interest cost including premium offered in the proposals. No bid for less than par will be entertained. In the event two or more bids setting forth identical interest rates and premium per dollar principal amount, if any, and aggregating a principal amount in excess of the principal amount of unawarded Notes are received, the City's Finance Director, pursuant to delegation by the Council, reserves the right to exercise his discretion and judgment in making the award and may award the Notes on a pro rata basis in such denominations as he shall determine.

**ELECTRONIC BIDS:** Solely as an accommodation to bidders, the City will accept bids in electronic form solely from Ipreo, a KKR portfolio company, through its BiDCOMP Competitive Bid Calculation System and Parity Electronic Bid Submission System ("Ipreo"). For information about Ipreo, bidders may contact Ipreo at 395 Hudson Street, New York, New York 10014, telephone (212) 849-5023. If any provision of this Notice of Sale conflicts with information provided by Ipreo, this Notice of Sale shall control. Each bidder submitting an electronic bid understands and agrees by doing so that it is solely responsible for all arrangements with Ipreo, that the City does not encourage the use of Ipreo, and that Ipreo is not acting as an agent of the City. Instructions for submitting electronic bids must be obtained from Ipreo, and the City does not assume any responsibility for ensuring or verifying bidder compliance with Ipreo procedures. Ipreo has advised the City that bidders must subscribe to Ipreo if such bidders intend to use Ipreo to submit bids. The City shall be entitled to assume that any bid received via Ipreo has been made by a duly authorized agent of the bidder.

Neither the City, the Municipal Advisor nor Bond Counsel has any responsibility for proper functioning of the Ipreo system, for any error contained in any bid submitted electronically, or for failure of any bid to be transmitted, received or opened at the official time for receipt of bids. The official time for receipt of bids will be determined by the City at the place of bid opening, and the City will not be required to accept the time kept by Parity as the official time. The City assumes no responsibility for informing any bidder prior to the deadline for receiving bids that its bid is incomplete, or not received.

**PROMPT AWARD:** The City Representative, pursuant to delegation by the City, will take action awarding the sale of the Notes or reject all bids not later than forty-eight (48) hours after the expiration of time herein prescribed for the receipt of bids and until such expiration of time all bids received shall be irrevocable. Unless such time of award is waived by the successful bidder, the award may be made after the expiration of the specified time if the bidder shall not have given to the City representative notice in writing of the withdrawal of such proposal. Notice of the award will be given promptly to the successful bidder.

**ESTABLISHMENT OF ISSUE PRICE:** (a) The winning bidder shall assist the City in establishing the issue price of the Notes and shall execute and deliver to the City at closing an "issue price" or similar certificate setting forth the reasonably expected initial offering price to the public of the Notes, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit 1, with such modifications as may be appropriate or necessary, in the reasonable judgment of the winning bidder, the City and Bond Counsel. All actions to be taken by the City under this Notice of Sale to establish the issue price of the Notes may be taken on behalf of the City by the City's municipal advisor identified herein and any notice or report to be provided to the City may be provided to the City's municipal advisor.

(b) The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the Notes) will apply to the initial sale of the Notes (the "competitive sale requirements") because:

- (1) the City shall disseminate this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- (2) all bidders shall have an equal opportunity to bid;
- (3) the City may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- (4) the City anticipates awarding the sale of the Notes to the bidder who submits a firm offer to purchase the Notes at the highest price (or lowest interest cost), as set forth in this Notice of Sale.

Any bid submitted pursuant to this Notice of Sale shall be considered a firm offer for the purchase of the Notes, as specified in the bid. **By submitting a bid for the Notes, each bidder certifies that it has an established industry reputation for underwriting new issuances of municipal bonds.** The City will not accept bids from firms without an established industry reputation for underwriting new issuances of municipal bonds.

(c) In the event the City receives less than three bids that conform to the parameters contained herein such that the competitive sale requirements are not satisfied, the City intends to treat the initial offering price of the Notes set forth in the bid submitted by the winning bidder (the "initial offering price") as the issue price of the Notes (the "hold-the-offering-price rule"). Consequently, each bidder should assume for purposes of making its bid that the City will treat the initial offering price of the Notes as of the date that the Notes are awarded by the City to the successful bidder ("sale date") as the issue price of the Notes. The City will advise the winning bidder within one hour of receipt of bids if the hold-the-offering-price rule will apply. In the event that the competitive sale requirements are not satisfied and issue price is established pursuant to the hold-the-offering-price rule, the issue price certificate shall be modified as necessary in the reasonable judgment of Bond Counsel and the City.

(d) By submitting a bid, the successful bidder shall, on behalf of the underwriters participating in the purchase of the Notes, (i) confirm that the underwriters have offered or will offer the Notes to the public on or before the sale date at the initial offering price set forth in the bid submitted by the winning bidder, and (ii) agree that the underwriters will neither offer nor sell the Notes to any person at a price that is higher than the initial offering price for the Notes during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth business day after the sale date; or
- (2) the date on which the underwriters have sold at least 10% of the Notes to the public at a price that is no higher than the initial offering price for the Notes.

The winning bidder shall promptly advise the City when the underwriters have sold 10% of the Notes to the public at a price that is no higher than the initial offering price if that occurs prior to the close of the fifth (5th) business day after the sale date.

(e) The City acknowledges that, in making the representation set forth above, the successful bidder will rely on (i) the agreement of each underwriter to comply with the hold-the-offering-price rule, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Notes to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter is a party to a retail distribution agreement that was



employed in connection with the initial sale of the Notes to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the hold-the-offering-price rule and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Notes.

(f) By submitting a bid, each bidder confirms that:

(1) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder is a party) relating to the sale of the Notes to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to

(A) report the prices at which it sells to the public the Notes until it is notified by the successful bidder that either the 10% test has been satisfied as to the Notes or all Notes have been sold to the public and

(B) comply with the hold-the-offering-price rule, if and for so long as directed by the successful bidder and in the related pricing wires, and

(2) any agreement among underwriters relating to the sale of the Notes to the public, together with the related pricing wires, contains or will contain language obligating each underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of the Notes to the public to require each broker-dealer that is a party to such retail distribution agreement to

(A) report the prices at which it sells to the public the unsold Notes allotted to it until it is notified by the successful bidder or such underwriter that either the 10% test has been satisfied as to the Notes or all the Notes have been sold to the public and

(B) comply with the hold-the-offering-price rule, if and for so long as directed by the successful bidder or such underwriter and as set forth in the related pricing wires.

Sales of any Notes to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Official Notice of Sale.

(g) For purposes of this Official Notice of Sale:

(1) "public" means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an underwriter or a related party,

(2) "underwriter" means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Notes to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Notes to the public (including a member of a selling

group or a party to a retail distribution agreement participating in the initial sale of the Notes to the public),

(3) a purchaser of any of the Notes is a "related party" to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

In addition, the City reserves the right to cancel the public sale of the Notes if the City receives fewer than three bids that conform to the parameters contained herein such that the competitive sale requirements are not satisfied.

**NO GOOD FAITH DEPOSIT:** The City is not requiring the successful bidder to submit a good faith deposit.

**DELIVERY AND PAYMENT:** It is estimated that the delivery of the Notes will be made to DTC for the account of the successful bidders on or about July 26, 2021. Payment of the purchase price must be made in funds immediately available to the City by wire transfer or other means acceptable to the City.

**RIGHT OF REJECTION:** The City reserves the right, in its sole discretion, to reject any and all bids for the Notes and to waive any irregularity or informality in any bid.

**CHANGE IN TAX EXEMPT STATUS:** At any time before the Notes are tendered for delivery, any successful bidder may disaffirm and withdraw its proposal if the interest received by private holders from notes of the same type and character shall be declared to be taxable income under present federal income tax laws, either by ruling of the Internal Revenue Service or by a decision of any federal court, or shall be declared taxable or be required to be taken into account in computing any federal income taxes by the terms of any federal income tax law enacted subsequent to the date of this notice.

**CONTINUING DISCLOSURE:** In order to assist bidders in complying with S.E.C. Rule 15c2-12(b)(5), the City will undertake, pursuant to separate Continuing Disclosure Certificates, to provide notices of the occurrence of certain events, if material. A description of these undertakings is set forth in the preliminary official statement relating to the Notes (the "POS") and will also be set forth in a final official statement relating to the Notes (the "OS").

**ACKNOWLEDGMENT OF NO FIDUCIARY DUTY:** At closing, the City will execute a certificate to the effect that it acknowledges and agrees that (i) the purchase and sale of the Notes by the winning bidder (the "Purchaser") is an arm's-length commercial transaction between the City and the Purchaser, (ii) in connection with such transaction, the Purchaser is acting solely as a principal and not as an advisor, (including, without limitation, a Municipal Advisor (as such term is defined in Section 975(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act)), agent or a fiduciary of the City, (iii) the Purchaser has not assumed (individually or collectively) a fiduciary responsibility in favor of the City with respect to the offering of the Notes or the process leading thereto (whether or not the Purchaser, or any affiliate of an Purchaser, has advised or is currently advising the City on other matters) or any other obligation to the City except the obligation to purchase the Notes, (iv) the Purchaser has financial and other interests that differ

from those of the City and (v) the City has consulted with its own legal and municipal advisors to the extent it deemed appropriate in connection with the offering of the Notes.

**CLOSING PAPERS; LEGAL OPINION:** Each proposal will be conditioned upon the City furnishing to each successful bidder, without charge, concurrently with payment for and delivery of the Notes, the following closing papers, each dated the date of such delivery:

(a) The opinion of Bond Counsel, approving the validity of the Notes and stating that, subject to certain qualifications, under existing law, the interest on the Notes is excluded from gross income for federal income tax purposes, such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings, and is exempt from State of California personal income taxes, a copy of which opinion (certified by the official in whose office the original is filed) will be delivered with the Notes without cost to the purchaser.

(b) A certificate of the Finance Director or other appropriate official of the City that on the basis of the facts, estimates and circumstances in existence on the date of issue, it is not expected that the proceeds of the Notes will be used in a manner that would cause the Notes to be “arbitrage bonds” within the meaning of the Code;

(c) A certificate on behalf of the City that there is no litigation threatened or pending affecting the validity of the Notes;

(d) A certificate of the Finance Director or other appropriate official of the City, acting on behalf of the City solely in his or her official and not in his or her personal capacity, that at the time of the sale of the Notes and at all times subsequent thereto up to and including the time of the delivery of the Notes to the initial purchasers thereof, the OS did not, and does not, contain any untrue statement of a material fact or omit to state a material fact necessary which would make the statements misleading in the light of the circumstances under which they were made;

(e) The signature certificate of the officials of the City, showing that they have signed the Notes and impressed the seal of the City thereon, and that they were respectively duly authorized to execute the same; and

(f) The receipt of the City showing that the purchase price of the Notes has been received.

**OFFICIAL STATEMENT:** The City has approved a preliminary Official Statement relating to the Notes. Copies of such preliminary Official Statement will be distributed to any bidder, upon request, prior to the sale in a form “deemed final” by the City for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934 (the “Rule”). Within seven business days from the sale date, the City will deliver to the purchaser copies of the final Official Statement, executed by an authorized representative of the City and dated the date of delivery thereof to the purchaser, in sufficient number to allow the purchaser to comply with paragraph (b)(4) of the Rule and to satisfy the Municipal Securities Rulemaking Board (the “MSRB”) Rule G-32 or any other applicable rules adopted by the MSRB, which shall include information permitted to be omitted by paragraph (b)(1) of the Rule and such other amendments or supplements as shall have been approved by the City (the “Final Official Statement”). The purchaser agrees that it will not confirm the sale of any Notes unless the confirmation of sale is accompanied or preceded by the delivery of a copy of the Final Official Statement. The City will furnish to the successful bidder, at no charge, an electronic copy of the Official Statement for use in connection with any resale of the Notes, and up to 20 printed copies upon request.

A letter of Jones Hall, A Professional Law Corporation, San Francisco, California, as disclosure counsel, will be addressed to the City and to the successful bidder, stating that, without passing upon or assuming any responsibility for the accuracy, completeness or fairness of the statements contained in the final Official Statement and making no representations that they have independently verified the accuracy, completeness or fairness of an such statements, based upon the information made available to them in the course of their participation in the preparation of the final Official Statement, nothing has come to such counsel's attention which would lead them to believe that the final Official Statement, including the cover page and all appendices thereto (but excluding therefrom financial statements and statistical data, and information regarding The Depository Trust Company, and its book entry system, as to which no opinion need be expressed) contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading

GIVEN pursuant to a resolution of the City adopted June 29, 2021.

Dated: June 30, 2021

EXHIBIT 1  
Issue Price Certificate

\$ \_\_\_\_\_  
CITY OF BERKELEY  
2021-22 TAX AND REVENUE ANTICIPATION NOTES

The undersigned, on behalf of [NAME OF UNDERWRITER] (“Underwriter”), hereby certifies as set forth below with respect to the sale of the above-captioned obligations (the “Notes”).

1. ***Reasonably Expected Initial Offering Price.***

(a) As of the Sale Date, the reasonably expected initial offering prices of the Notes to the Public by Underwriter are the prices listed in Schedule A (the “Expected Offering Prices”). The Expected Offering Prices are the prices for the Notes used by the Underwriter in formulating its bid to purchase the Notes. Attached as Schedule B is a true and correct copy of the bid provided by Underwriter to purchase the Notes.

(b) Underwriter was not given the opportunity to review other bids prior to submitting its bid.

(c) The bid submitted by Underwriter constituted a firm offer to purchase the Notes.

2. ***Defined Terms.***

(a) *Issuer* means the City of Berkeley.

(a) Reserved.

(b) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(c) *Sale Date* means the first day on which there is a binding contract in writing for the sale of the Notes. The Sale Date of the Notes is July 13, 2021.

(d) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Notes to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Notes to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Notes to the Public).

\* Preliminary, subject to change

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents Underwriter's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Certificate of Arbitrage and with respect to compliance with the federal income tax rules affecting the Notes, and by Jones Hall, A Professional Law Corporation in connection with rendering its opinion that the interest on the Notes is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Notes.

**[UNDERWRITER]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

**Dated: [ISSUE DATE]**

SCHEDULE A

EXPECTED OFFERING PRICES

| <u>Maturity Date</u><br><u>(September 1)</u> | <u>Principal</u><br><u>Amount</u> | <u>Interest</u><br><u>Rate</u> | <u>Reoffering</u><br><u>Price</u> * |
|----------------------------------------------|-----------------------------------|--------------------------------|-------------------------------------|
|                                              | \$                                | %                              | %                                   |

\*

Stated as a percentage of par.

**SCHEDULE B**  
**COPY OF UNDERWRITER'S BID**  
(attached)



[LETTERHEAD OF JONES HALL, APLC]

\_\_\_\_\_, 2021

City Council  
City of Berkeley  
2180 Milvia Street  
Berkeley, California 94704

**OPINION:** \$\_\_\_\_\_ City of Berkeley, California  
2021-22 Tax and Revenue Anticipation Notes

Members of the City Council:

We have acted as bond counsel to the City of Berkeley, California (the "City") in connection with the issuance by the City, of the tax and revenue anticipation notes captioned above, dated the date hereof (the "Notes"). In such capacity, we have examined such law and such certified proceedings, certifications and other documents as we deem necessary to render this opinion.

The Notes are issued pursuant to Article 7.6 (commencing with Section 53850) of Chapter 4, Part 1, Division 2, Title 5 of the California Government Code (the "Act"), and a resolution (the "Resolution") of the City Council of the City, adopted on \_\_\_\_\_, 2021.

Regarding questions of fact material to our opinion, we have relied upon certified proceedings, opinions and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Based on the foregoing, we are of the opinion that, under existing law:

1. The City is a duly created and validly existing municipal corporation and charter city with the power to adopt the Resolution, perform the agreements on its part contained therein and issue the Notes.

2. The Resolution constitutes a valid and binding obligation of the City, enforceable against the City.

3. Pursuant to the Act, the Resolution creates a first lien on funds pledged by the Resolution for the security of the Notes.

4. The Notes have been duly authorized and executed by the City and are valid and binding general obligations of the City.

5. The interest on the Notes is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax. The opinions set forth in the preceding sentence are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Notes in order that the interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The City has made certain representations and covenants in order to comply with each such requirement. Inaccuracy of those representations, or failure to comply with certain of those covenants, may cause the inclusion of such interest in gross income for federal income tax purposes, which may be retroactive to the date of issuance of the Notes.

6. The interest on the Notes is exempt from personal income taxation imposed by the State of California.

We express no opinion regarding any other tax consequences arising with respect to the ownership, sale or disposition of, or the amount, accrual or receipt of interest on, the Notes.

The rights of the owners of the Notes and the enforceability of the Notes are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur. Moreover, our opinions are not a guarantee of a particular result, and are not binding on the Internal Revenue Service or the courts; rather, our opinions represent our legal judgment based upon our review of existing law that we deem relevant to such opinions and in reliance upon the representations, covenants and opinions referenced above. Our engagement with respect to this matter has terminated as of the date hereof.

Respectfully submitted,

A Professional Law Corporation

PRELIMINARY OFFICIAL STATEMENT DATED [JUNE 30], 2021

**NEW ISSUE BOOK-ENTRY ONLY**

**RATING**  
 Moody's: "\_\_\_\_"  
 See "RATING."

*In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described in this Official Statement, under existing law, interest on the Notes is excluded from gross income for federal income tax purposes, and such interest is not an item of tax preference for purposes of the federal alternative minimum tax. In the further opinion of Bond Counsel, interest on the Notes is exempt from California personal income taxes. See "TAX MATTERS."*



**[\$[45,000,000]\***  
**CITY OF BERKELEY**  
**2021-22 TAX AND REVENUE ANTICIPATION NOTES**

**Dated: Date of Delivery**

**Due: July 25, 2022**

The notes captioned above (the "Notes") will be issued in denominations of \$5,000 or any integral multiple thereof. Principal and interest on the Notes will be payable upon maturity. The Notes are to be delivered as fully registered Notes, without coupons and, when delivered, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York (as described in APPENDIX E – BOOK-ENTRY ONLY SYSTEM). DTC will act as securities depository of the Notes. Purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof. **The Notes are not subject to redemption prior to maturity.**

The Notes are by statute general obligations of the City of Berkeley, California (the "City"), payable solely from taxes, income, revenues, cash receipts and other moneys that are received by the City for the General Fund for fiscal year 2021-22 and that are generally available for the payment of current expenses and other obligations of the City (the "Unrestricted Moneys"). The Notes are secured by a pledge of Unrestricted Moneys to be received by the City in (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January 2022; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May 2022; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June 2022 (such pledged amounts being hereinafter called the "Pledged Revenues"). The Pledged Revenues will be deposited into, and held by the City in, a special fund designated "City of Berkeley, California, 2021-22 Tax and Revenue Anticipation Notes Special Account," as established in the City's Resolution adopted on June 29, 2021.

Principal of and interest on the Notes are payable in lawful moneys of the United States of America upon maturity, and interest on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months and accrues from the date of delivery.

The Notes are legal investments for commercial banks in California and are eligible to secure deposits of public moneys in California.

THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. IT IS NOT A SUMMARY OF THIS ISSUE. INVESTORS MUST READ THE ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION.

The following firm, serving as municipal advisor to the City, has structured this issue.



**MATURITY SCHEDULE**

**Interest Rate**                      **Reoffering Yield**                      **CUSIP†**

*The Notes are offered when, as and if issued and received by the Underwriter, subject to the approval of legality by Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel. Certain legal matters will be passed upon for the City by Jones Hall, A Professional Law Corporation, as Disclosure Counsel, and by the City Attorney. It is anticipated that the Notes, in definitive form, will be available for delivery through DTC in New York, New York on or about July 26, 2021.*

Dated: July \_\_, 2021

† Preliminary; subject to change.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

## GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

No dealer, broker, salesman or other person has been authorized by the City to give any information or to make any representations with respect to the Notes other than those contained in this Official Statement and, if given or made, such information or representation must not be relied upon as having been authorized by the City. This Official Statement does not constitute an offer to sell nor the solicitation of an offer to buy, nor shall there be any sale of the Notes by any person to make such offer, solicitation or sale.

This Official Statement is not to be construed as a contract with the purchasers of the Notes. Statements contained in this Official Statement which involve estimates, forecasts or matters of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as a representation of facts.

The information set forth in this Official Statement has been obtained from sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness, and is not to be construed as a representation by the Underwriter. The information and expressions of opinion stated in this Official Statement are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the information or opinions set forth herein or in the affairs of the City since the date hereof. This Official Statement is submitted in connection with the sale of the Notes referred to herein and may not be reproduced or used, in whole or in part, for any purpose, unless authorized in writing by the City.

The Notes have not been registered under the Securities Act of 1933, as amended (the "**Securities Act**"), in reliance upon an exemption contained in such Act. The Notes have not been registered under the securities laws of any state.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE NOTES AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME. THE UNDERWRITER MAY OFFER AND SELL THE NOTES TO CERTAIN DEALERS AND BANKS AT PRICES LOWER THAN THE PUBLIC OFFERING PRICE STATED ON THE COVER PAGE HEREOF AND SAID PUBLIC OFFERING PRICE MAY BE CHANGED FROM TIME TO TIME BY THE UNDERWRITER.

Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act. Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "budget" or other similar words.

The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE CITY DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

Although the City maintains an internet website for various purposes, none of the information on that website is incorporated by reference in this Official Statement or is intended to assist investors in making any investment decision or to provide any continuing information with respect to the Notes or any other bonds or obligations of the City.

## CITY OF BERKELEY, CALIFORNIA

### ELECTED OFFICIALS

Jesse Arreguín, Mayor  
Rashi Kesarwani, Councilmember District 1  
Terry Taplin, Councilmember District 2  
Ben Bartlett, Councilmember District 3  
Kate Harrison, Councilmember District 4  
Sophie Hahn, Councilmember District 5  
Susan Wengraf, Councilmember District 6  
Rigel Robinson, Councilmember District 7  
Lori Droste, Councilmember District 8

### CITY OFFICIALS

Dee Williams-Ridley  
*City Manager*

Dee Williams-Ridley  
*City Manager*

David White  
*Deputy City Manager*

Henry Oyekanmi  
*Director of Finance*

Paul Buddenhagen  
*Deputy City Manager*

Farimah Brown  
*City Attorney*

Jenny Wong  
*City Auditor*

### PROFESSIONAL SERVICES

#### Municipal Advisor

NHA Advisors, LLC  
San Rafael, California

#### Bond Counsel and Disclosure Counsel

Jones Hall, A Professional Law Corporation  
San Francisco, California

**TABLE OF CONTENTS**

INTRODUCTORY STATEMENT ..... 1  
 COVID PANDEMIC ..... 1  
 THE NOTES ..... 3  
     Description of the Notes ..... 3  
     Purpose of Issue ..... 4  
     Book-Entry Only System ..... 4  
 SECURITY FOR AND SOURCES OF PAYMENT OF THE NOTES ..... 4  
     Security for the Notes ..... 4  
     Available Sources of Repayment ..... 5  
     Monthly Cash Flows ..... 6  
 CITY INVESTMENT POLICY AND PORTFOLIO ..... 9  
 SPECIAL RISK FACTORS ..... 11  
     Bankruptcy Considerations ..... 11  
     Limitations on Remedies ..... 11  
     Climate Change ..... 12  
     Cybersecurity ..... 13  
 CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING CITY REVENUES AND  
 APPROPRIATIONS ..... 13  
     Limitations on Revenues ..... 13  
     Expenditures and Appropriations ..... 15  
     Future Initiatives ..... 16  
 LEGAL OPINION ..... 16  
 TAX MATTERS ..... 16  
 CONTINUING DISCLOSURE ..... 17  
 ABSENCE OF MATERIAL LITIGATION ..... 18  
 UNDERWRITING ..... 18  
 MUNICIPAL ADVISOR ..... 18  
 RATING ..... 19  
 ADDITIONAL INFORMATION ..... 20

- APPENDIX A – CERTAIN INFORMATION CONCERNING THE CITY OF BERKELEY
- APPENDIX B – THE CITY’S COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE  
 FISCAL YEAR ENDED JUNE 30, 2020
- APPENDIX C – FORM OF BOND COUNSEL OPINION
- APPENDIX D – FORM OF CONTINUING DISCLOSURE CERTIFICATE
- APPENDIX E – BOOK-ENTRY ONLY SYSTEM

## OFFICIAL STATEMENT

# **[\$45,000,000]\*** **CITY OF BERKELEY** **2021-22 TAX AND REVENUE ANTICIPATION NOTES**

## INTRODUCTORY STATEMENT

This Official Statement, which includes the cover page, the appendices hereto and this Introductory Statement, is provided to furnish information in connection with the sale by the City of Berkeley, California (the “**City**”), of its 2021-22 Tax and Revenue Anticipation Notes (the “**Notes**”).

The Notes are issued in full conformity with the Constitution and laws of the State of California (the “**State**”), including Article 7.6, Chapter 4, Part 1, Division 2, Title 5 (commencing with Section 53850 of the Government Code of the State), (the “**Law**”) and under the Law are general obligations of the City payable solely from those taxes, income, revenues, cash receipts and other moneys that are received by the City for the General Fund for fiscal year 2021-22 and that are generally available for the payment of current expenses and other obligations of the City (the “**Unrestricted Moneys**”). The Notes are authorized by a resolution adopted by the City Council on June 29, 2021 (the “**Resolution**”). The City may, under the Law, issue the Notes only if the principal of and interest on the Notes will not exceed 85% of the estimated amount of the uncollected Unrestricted Moneys that will be available for the payment of said Notes. Proceeds from the sale of the Notes will be deposited into a segregated account in the General Fund and used and expended by the City for any purpose for which it is authorized to expend funds from the General Fund.

## COVID-19 PANDEMIC

The outbreak of COVID-19, a respiratory disease caused by a new strain of coronavirus (“**COVID-19**”), which was first detected in China and has spread to other countries, including the United States, was declared a pandemic by the World Health Organization, a national emergency by the President of the United States (the “**President**”) and a state of emergency by the Governor of the State (the “**Governor**”). There has been tremendous volatility in the financial markets in the United States and globally, resulting in the onset of a national and global recession.

**Federal Response.** The President’s declaration of a national emergency on March 13, 2020, made available more than \$50 billion in federal resources to combat the spread of the virus. A multi-billion-dollar relief package was signed into law by the President on March 18, 2020, providing for Medicaid expansion, unemployment benefits and paid emergency leave during the crisis. In addition, the Federal Reserve lowered its benchmark interest rate to nearly zero, introduced a large bond-buying program and established emergency lending programs to banks and money market mutual funds.

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\* Preliminary; subject to change.

On March 27, 2020, the United States Congress passed a \$2 trillion relief package, referred to as the Coronavirus Aid, Relief, and Economic Security Act (the “**CARES Act**”). The package includes direct payments to taxpayers, jobless benefits, assistance to hospitals and healthcare systems, \$367 billion for loans to small businesses, a \$500 billion fund to assist distressed large businesses, including approximately \$30 billion to provide emergency grants to educational institutions and local educational agencies. Under the CARES Act, the City received \$14,398,739 from the federal and state governments to address the spread of COVID-19 and its economic impacts.

On April 9, 2020, the Federal Reserve took additional actions to provide up to \$2.3 trillion in loans to support the economy, including supplying liquidity to participating financial institutions in the Small Business Administration’s Paycheck Protection Program, purchasing up to \$600 billion in loans through the Main Street Lending Program and offering up to \$500 billion in lending to states and municipalities.

On April 24, 2020, an additional \$484 billion federal aid package was signed into law to provide additional funding for distressed small businesses and to provide funds for hospitals and COVID-19 testing. The legislation adds \$310 billion to the Paycheck Protection Program, increases the small business emergency grant and loan program by \$60 billion, and directs \$75 billion to hospitals and \$25 billion to a new COVID-19 testing program.

On March 11, 2021, the President signed a \$1.9 trillion stimulus package (the “**American Rescue Package**”) into law, authorizing a third round of one-time stimulus payments for qualifying Americans, extending additional unemployment benefits, and providing aid to cities and states facing budget shortfalls. The City has been allocated \$68,258,828 in American Rescue Package funds to respond to the COVID-19 emergency and address its economic effects including assistance to small businesses, households, non-profits and hard-hit industries, offset the loss of revenue for the provision of government services, provide for premium pay for essential workers, and invest in water, sewer, and broadband infrastructure. These funds will be received 60 days after the effective date of the American Rescue Package and will be received in two payments separated by 12 months. All funds received by the City must be spent by December 31, 2024. In addition, the City will receive \$2,777,361 to develop affordable rental housing or to help acquire non-congregate shelter to be converted into permanent affordable housing or used as emergency shelter. Other resources that the City may qualify for are unknown at this time.

**State Response.** At the State level, on March 15, 2020, the Governor ordered the closing of California bars and nightclubs, the cancellation of gatherings of more than 250 and confirmed continued funding for school districts that close under certain conditions. On March 16, 2020, the State legislature passed \$1.1 billion in general purpose spending authority for emergency funds to respond to the Coronavirus crisis. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, a blanket shelter-in-place order, ordering all California residents to stay home except for certain necessities and other essential purposes. On August 28, 2020, the Governor released a new system called “Blueprint for a Safer California,” which places the State’s 58 counties into four color-coded tiers – purple, red, orange, and yellow, in descending order of severity – based on the number of new daily cases of COVID-19 and the percentage of positive tests.

Under the State’s “Blueprint for a Safer California,” counties must spend at least three weeks in each tier before advancing to the next one. The County is currently assigned to the



orange tier, which is the second least restrictive tier. On June 15, 2021, the State expects to fully reopen its economy, ceasing use of the Blueprint for a Safer California.

The COVID-19 outbreak is ongoing, and the ultimate geographic spread of the virus, the duration and severity of the outbreak, the economic impacts and actions that may be taken by governmental authorities to contain the outbreak or to treat its impacts are uncertain and cannot be predicted. Additional information with respect to events surrounding the outbreak of COVID-19 and responses thereto can be found on State and local government websites, including but not limited to the Governor's office (<http://www.gov.ca.gov>) and the California Department of Public Health (<https://covid19.ca.gov/>). *The City has not incorporated by reference the information on such websites, and the City does not assume any responsibility for the accuracy of the information on such websites.*

***Impacts of COVID-19 Pandemic on Global and Local Economies Cannot Be Predicted; Potential Declines in State and Local Revenues.*** The COVID-19 public health emergency will have negative impacts on global and local economies, including the economy of the State and in the region of the City. The extent and duration of the COVID-19 emergency is currently unknown, and the reach of its impacts uncertain.

The State's revenue sources are anticipated to be materially impacted by the COVID-19 pandemic, including with respect to reductions in personal income tax receipts and capital gains tax receipts. Economic uncertainty caused by the outbreak will significantly affect California's near-term fiscal outlook, with a likely recession due to pullback in activity across wide swaths of the economy. For more detail regarding the State's current budget, and related reports and outlooks, see APPENDIX A under the heading "CITY FINANCIAL INFORMATION – State Budget and Its Impact on the City."

In addition, in an attempt to mitigate the effects of the COVID-19 pandemic on State property taxpayers, on May 6, 2020, the Governor signed an executive order suspending penalties, costs or interest for the failure to pay secured or unsecured property taxes, or to pay a supplemental bill, before the date that such taxes become delinquent. See "PROPERTY TAXATION – Property Tax Collection Procedures – Waiver of State Laws Relating to Penalties for Non-Payment of Property Taxes."

***Impacts of COVID-19 Emergency Uncertain.*** The possible impacts that the COVID-19 emergency might have on the City's finances, programs, credit ratings on its debt obligations, local property values and the economy in general are uncertain at this time. In addition, there may be unknown consequences of the COVID-19 emergency, which the City is unable to predict.

## THE NOTES

### Description of the Notes

The Notes will be issued in the principal amount and at the interest rate shown on the cover page of this Official Statement. Principal of and interest on the Notes are payable in lawful moneys of the United States of America upon maturity, and interest on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months and accrues from the date of delivery.

The Notes will be dated the date of delivery and will mature on July 25, 2022. The Notes are to be delivered as fully registered Notes, without coupons, and, when delivered, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”), New York, New York. DTC will act as securities depository of the Notes. Purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof.

### **Purpose of Issue**

Proceeds of the Notes will provide moneys to meet the City’s General Fund cash flow requirements during the 2021-22 fiscal year commencing July 1, 2021, and ending June 30, 2022, including current expenses, capital expenditures, and the discharge of other obligations or indebtedness.

### **Book-Entry Only System**

DTC will act as securities depository for the Notes. The Notes will be issued as fully-registered certificates registered in the name of Cede & Co. (DTC’s partnership nominee). One fully-registered certificate will be issued for each maturity of the Notes, each in the aggregate principal amount of such maturity, and will be deposited with DTC. See “APPENDIX E – BOOK-ENTRY ONLY SYSTEM.”

So long as the Notes are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal and interest with respect to the Notes will be made to DTC as provided as in the representation letter delivered on the date of issuance of the notes. The City cannot and does not give any assurances that DTC, DTC Participants or others will distribute payments of principal, interest or premium, if any, with respect to the Notes paid to DTC or its nominee as the registered owner, or will distribute any prepayment notices or other notices, to the Beneficial Owners, or that they will do so on a timely basis or will serve and act in the manner described in this Official Statement. The City is not responsible or liable for the failure of DTC or any DTC Participant to make any payment or give any notice to a Beneficial Owner with respect to the Notes or an error or delay relating thereto.

## **SECURITY FOR AND SOURCES OF PAYMENT OF THE NOTES**

### **Security for the Notes**

The principal amount of the Notes, together with the interest thereon, is payable from Unrestricted Moneys, being the first taxes, income, revenue, cash receipts, and other moneys that are received by the City for the General Fund for fiscal year 2021-22 and which are generally available for the payment of current expenses and other obligations of the City. Estimated Unrestricted Moneys exceed estimated payment requirements by more than eight to one. See “THE NOTES – Available Sources of Payment.”

As security for the repayment of principal of and interest on the Notes, the City has pledged to deposit into a special fund designated as the “2021-22 Tax and Revenue Anticipation Note Special Account” (the “**Special Account**”) the first Unrestricted Moneys to be received by the City as follows: (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January 2022; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May 2022; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June 2022 (such pledged amounts, the “**Pledged**

**Revenues**"). The Notes are equally and ratably secured by the City's pledge of the Pledged Revenues.

The principal of the Notes and the interest thereon shall constitute a first lien and charge against and shall be paid from the first moneys received by the City from such Pledged Revenues, and to the extent not so paid shall be paid from any other moneys of the City lawfully available therefor. In the event there are insufficient Unrestricted Moneys received by the City to permit the deposits into the Special Account of the full amount of the Pledged Revenues to be deposited in the applicable month, by the last business day of such month, then the amount of such deficiency shall be satisfied and made up from any other moneys of the City lawfully available for the payment of the Notes and the interest thereon.

All Pledged Revenues, as and when received, shall be deposited by the City into the Special Account, which will be held by the City for the payment of the principal of and interest on the Notes at maturity. Amounts deposited by the City into the Special Account shall be applied solely for the purpose of paying the principal of and interest on the Notes. Such amounts shall be invested by the City in legal investments, as permitted by Section 53601 of the Government Code of the State. See "CITY INVESTMENT POLICY AND PORTFOLIO."

#### **Available Sources of Repayment**

The Notes, in accordance with State law, are general obligations of the City, but are payable only out of Unrestricted Moneys, which include the taxes, income, revenues, cash receipts and other moneys that are received by the City for the General Fund for fiscal year 2021-22 and that are generally available for payment of current expenses and other obligations of the City. The Constitution of the State substantially limits the City's ability to levy ad valorem taxes. See "CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING CITY REVENUES AND APPROPRIATIONS." The City may, under existing law, issue the Notes only if the principal of, and interest on, the Notes will not exceed 85% of the estimated uncollected Unrestricted Moneys that will be available for the repayment of the Notes.

The Note coverage ratio is shown in the following table and is the ratio of estimated Unrestricted Moneys to the amount of Unrestricted Moneys needed to pay principal of and interest on the Notes.

The table below gives detail as to the sources of estimated Unrestricted Moneys and the Note Coverage Ratio.

**CITY OF BERKELEY**  
**Estimated Unrestricted Moneys**  
**Fiscal Year 2021-22**

| <u>Source</u>                                                | <u>Amount</u>     |
|--------------------------------------------------------------|-------------------|
| Available Cash Balance, July 1, 2021                         | \$42,146,785      |
| Taxes (including property tax, sales tax and other taxes)    | 176,207,181       |
| Other Revenue                                                | 63,711,123        |
| Proceeds of the Notes <sup>(1)*</sup>                        | 45,702,000        |
| Transfers In                                                 | <u>10,326,854</u> |
| TOTAL UNRESTRICTED MONEYS*                                   | \$338,093,943     |
| ESTIMATED PRINCIPAL PLUS INTEREST NEEDED FOR NOTE REPAYMENT* | \$45,897,500      |
| NOTE COVERAGE RATIO*                                         | 7.37x             |

\* Preliminary; subject to change.

(1) Excluding underwriter's discount and costs of issuance.

Source: *City of Berkeley Finance Department.*

### Monthly Cash Flows

The City has prepared the accompanying monthly General Fund cash flow statements covering fiscal year 2020-21 and the projected fiscal year 2021-22. The General Fund is used to finance the ordinary operations of the City and is available for any legal authorized purposes. While expenditures generally occur evenly throughout the fiscal year, cash receipts occur unevenly. As a result, the General Fund cash balance tends to show a deficit during parts of the fiscal year. The projections are based on the City's budget and current financial condition.

**City of Berkeley  
FY 2020-21 Actual/Projected General Fund Cash Flows<sup>(1)(2)</sup>**

|                                                 | Actual               |                      |                     |                     |                      |                     |                       |                     |                     |                     | Projected             |                      | TOTAL                |
|-------------------------------------------------|----------------------|----------------------|---------------------|---------------------|----------------------|---------------------|-----------------------|---------------------|---------------------|---------------------|-----------------------|----------------------|----------------------|
|                                                 | July                 | August               | September           | October             | November             | December            | January               | February            | March               | April               | May                   | June                 |                      |
| <b>Beginning Balance</b>                        | \$40,104,488         | \$35,388,756         | \$30,108,285        | \$30,576,371        | \$29,771,912         | \$22,779,046        | \$49,450,684          | \$24,537,690        | \$23,639,283        | \$39,172,379        | \$73,018,025          | \$50,607,047         | \$40,104,488         |
| <b>CASH RECEIPTS</b>                            |                      |                      |                     |                     |                      |                     |                       |                     |                     |                     |                       |                      |                      |
| Property Tax                                    | \$1,398,554          | \$3,098,686          | \$4,984,800         | \$2,522,657         | \$3,377,957          | \$38,551,892        | \$2,105,658           | \$4,293,296         | \$11,814,278        | \$24,546,326        | \$6,923,008           | \$7,385,123          | \$111,002,236        |
| Sales Tax                                       | 1,650,544            | 1,011,818            | 1,164,699           | 1,331,174           | 1,659,319            | 1,252,296           | 1,381,434             | 1,333,467           | 1,312,840           | 1,200,903           | 1,241,978             | 1,241,978            | 15,782,450           |
| Other Taxes                                     | 1,448,944            | 1,445,413            | 1,579,510           | 1,789,776           | 1,351,804            | 9,218,371           | 3,807,700             | 6,678,901           | 12,299,855          | 13,797,881          | 2,582,896             | 1,825,466            | 57,826,516           |
| License and Permits                             | 72,378               | 284,931              | 199,157             | 183,267             | 88,712               | 67,258              | 49,215                | 42,083              | 163,615             | 58,804              | 70,192                | 70,141               | 1,349,751            |
| Franchises                                      | 12,595               | 177,225              | 0                   | 12,359              | 167,849              | 0                   | 12,429                | 158,106             | 0                   | 1,021,357           | 197,748               | 0                    | 1,759,668            |
| Subventions & Grants                            | 1,075,160            | 252,252              | 254,219             | 756,755             | 1,044                | 236,988             | 0                     | 113,847             | 533,678             | 69,613              | 262,544               | 190,679              | 3,746,780            |
| Service Fees                                    | 391,263              | 326,600              | 497,707             | 668,298             | 256,582              | 578,936             | 497,669               | 658,597             | 900,367             | 570,890             | 532,122               | 508,501              | 6,387,532            |
| Fines and Penalties                             | 147,805              | 158,910              | 471,152             | 517,952             | 304,480              | 162,023             | 237,238               | 313,888             | 493,227             | 367,842             | 367,626               | 367,626              | 3,909,768            |
| Rents and Royalties                             | 6,671                | 9,826                | 11,329              | 14,681              | 15,640               | 16,114              | 14,114                | 20,252              | 21,046              | 19,916              | 17,442                | 17,369               | 184,398              |
| Interest Income and CalPERS Discount            | 624,271              | 370,735              | 551,746             | 449,887             | 578,797              | 711,175             | 447,363               | 336,190             | 610,605             | 1,452,153           | 487,524               | 519,626              | 7,140,071            |
| Miscellaneous                                   | 3,513                | 23,398               | 2,266               | 21,062              | 5,891                | 46,567              | 19,542                | 23,230              | 15,023              | 5,052               | 15,023                | 5,052                | 185,619              |
| Transfers In/Indirect Costs                     | 4,372,852            | 636,503              | 644,342             | 4,407,670           | 643,776              | 843,276             | 4,394,281             | 621,526             | 606,531             | 4,139,669           | 611,130               | 865,187              | 22,786,744           |
| CalPERS Prepayments from Other Departments      | 2,652,894            | 2,947,660            | 2,947,660           | 2,947,660           | 2,947,660            | 4,421,491           | 2,947,660             | 2,947,660           | 2,947,660           | 2,947,660           | 2,947,660             | 4,716,257            | 38,319,582           |
| TRAN Proceeds                                   | 43,004,031           | 0                    | 0                   | 0                   | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 43,004,031           |
| <b>TOTAL RECEIPTS</b>                           | <b>\$56,861,475</b>  | <b>\$10,743,956</b>  | <b>\$13,308,588</b> | <b>\$15,623,199</b> | <b>\$11,399,512</b>  | <b>\$56,106,386</b> | <b>\$15,914,304</b>   | <b>\$17,541,042</b> | <b>\$31,718,724</b> | <b>\$50,198,066</b> | <b>\$16,256,893</b>   | <b>\$17,713,003</b>  | <b>\$313,385,147</b> |
| <b>CASH DISBURSEMENTS</b>                       |                      |                      |                     |                     |                      |                     |                       |                     |                     |                     |                       |                      |                      |
| General Government                              | \$2,561,469          | \$2,205,181          | \$2,227,924         | \$2,037,412         | \$2,394,691          | \$3,478,995         | \$2,884,141           | \$2,551,783         | \$2,539,666         | \$2,435,495         | \$3,490,994           | \$4,832,470          | \$33,640,221         |
| Public Safety                                   | 7,365,869            | 9,020,865            | 9,049,439           | 9,175,676           | 8,872,247            | 13,518,847          | 11,386,209            | 9,059,486           | 9,714,810           | 8,289,209           | 9,685,527             | 15,125,535           | 120,263,718          |
| Highways and Streets                            | 117,785              | 157,568              | 166,749             | 194,300             | 172,087              | 286,331             | 199,070               | 282,239             | 325,301             | 333,234             | 391,941               | 598,574              | 3,225,179            |
| Health and Human Service                        | 1,079,924            | 1,944,172            | 1,144,702           | 1,583,781           | 2,094,157            | 1,673,278           | 1,661,175             | 966,708             | 1,445,155           | 1,574,082           | 1,203,262             | 2,630,687            | 19,001,084           |
| Culture - Recreation                            | 387,490              | 517,296              | 490,937             | 494,238             | 463,247              | 696,739             | 494,130               | 514,746             | 624,600             | 580,129             | 749,329               | 1,095,155            | 7,108,036            |
| Urban Redevelopment/Housing                     | 456,423              | 484,212              | 569,738             | 648,404             | 560,493              | 703,680             | 542,407               | 568,455             | 589,675             | 1,306,222           | 801,100               | 1,287,321            | 8,518,132            |
| Econ Dev & Assistance                           | 111,502              | 486,079              | 158,746             | 183,161             | 299,159              | 169,837             | 307,785               | 181,497             | 122,865             | 122,882             | 230,467               | 253,573              | 2,627,552            |
| Debt Service: Workers Comp Loan Repayment       | 0                    | 0                    | 0                   | 0                   | 406,952              | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 406,952              |
| Debt Service: 2016 Parking Revenue Bonds        | 0                    | 0                    | 0                   | 0                   | 1,910,250            | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 1,910,250            |
| Transfers Out/Other                             | 6,527,709            | 162,752              | 162,752             | 2,448,486           | 162,752              | 11,313,318          | 2,540,548             | 162,752             | 1,166,068           | 3,547,233           | 162,752               | 162,752              | 28,519,869           |
| Transfer Out to Pension Section 115 Trust Fund  | 0                    | 0                    | 329,626             | 0                   | 0                    | 329,626             | 0                     | 0                   | 329,626             | 0                   | 0                     | 329,626              | 1,318,502            |
| Transfer Out of Excess of Property Transfer Tax | 0                    | 0                    | 0                   | 0                   | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 0                    |
| Transfer Out to Stabilization Reserve Fund      | 1,836,309            | 0                    | 0                   | 0                   | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 1,836,309            |
| Transfer Out to Catastrophic Reserve Fund       | 1,502,434            | 0                    | 0                   | 0                   | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 1,502,434            |
| Prepayment to CalPERS                           | 38,319,586           | 0                    | 0                   | 0                   | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 38,319,586           |
| TRAN Principal Pledge                           | 0                    | 0                    | 0                   | 0                   | 0                    | 0                   | 21,202,500            | 0                   | 0                   | 0                   | 21,202,500            | 0                    | 42,405,000           |
| TRAN Interest Pledge                            | 0                    | 0                    | 0                   | 0                   | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 740,026              | 740,026              |
| Advances from GF/(Repayment to GF)              | 1,310,706            | 1,046,302            | (1,460,110)         | (337,799)           | 1,056,344            | (2,735,903)         | (390,668)             | 4,151,785           | (672,138)           | (1,836,065)         | 750,000               | (882,453)            | (0)                  |
| <b>TOTAL DISBURSEMENTS</b>                      | <b>\$61,577,207</b>  | <b>\$16,024,427</b>  | <b>\$12,840,502</b> | <b>\$16,427,657</b> | <b>\$18,392,379</b>  | <b>\$29,434,748</b> | <b>\$40,827,297</b>   | <b>\$18,439,449</b> | <b>\$16,185,628</b> | <b>\$16,352,420</b> | <b>\$38,667,870</b>   | <b>\$26,173,265</b>  | <b>\$311,342,849</b> |
| <b>Interfund Borrowings</b>                     | \$0                  | \$0                  | \$0                 | \$0                 | \$0                  | \$0                 | \$0                   | \$0                 | \$0                 | \$0                 | \$0                   | \$0                  | \$0                  |
| <b>Net Cash Flow</b>                            | <b>(\$4,715,732)</b> | <b>(\$5,280,471)</b> | <b>\$468,086</b>    | <b>(\$804,458)</b>  | <b>(\$6,992,866)</b> | <b>\$26,671,638</b> | <b>(\$24,912,993)</b> | <b>(\$898,408)</b>  | <b>\$15,533,096</b> | <b>\$33,845,645</b> | <b>(\$22,410,978)</b> | <b>(\$8,460,262)</b> | <b>\$2,042,297</b>   |
| <b>Ending Balance</b>                           | <b>\$35,388,756</b>  | <b>\$30,108,285</b>  | <b>\$30,576,371</b> | <b>\$29,771,912</b> | <b>\$22,779,046</b>  | <b>\$49,450,684</b> | <b>\$24,537,690</b>   | <b>\$23,639,283</b> | <b>\$39,172,379</b> | <b>\$73,018,025</b> | <b>\$50,607,047</b>   | <b>\$42,146,785</b>  | <b>\$42,146,785</b>  |

(1) Actual through April 30, 2021.

(2) Cash and investment balances provided in the table above represent the City's available cash balance (i.e., General Fund cash and investments less the Stabilization and Catastrophic Reserve Fund cash balances and short term liabilities).

Source: City of Berkeley.

**City of Berkeley  
FY 2021-22 Projected General Fund Cash Flows<sup>(1)</sup>  
(Including FY 2021-22 TRAN)**

|                                                 | July                  | August               | September           | October              | November              | December            | January               | February             | March               | April               | May                   | June                 | TOTAL                 |
|-------------------------------------------------|-----------------------|----------------------|---------------------|----------------------|-----------------------|---------------------|-----------------------|----------------------|---------------------|---------------------|-----------------------|----------------------|-----------------------|
| <b>Beginning Balance</b>                        | \$42,146,785          | \$30,133,004         | \$23,105,790        | \$23,006,884         | \$18,691,838          | \$1,537,972         | \$35,457,393          | \$6,271,676          | \$4,694,255         | \$19,278,854        | \$48,571,124          | \$24,742,759         | \$42,146,785          |
| <b>CASH RECEIPTS</b>                            |                       |                      |                     |                      |                       |                     |                       |                      |                     |                     |                       |                      |                       |
| Property Tax                                    | \$1,298,831           | \$2,877,737          | \$4,629,363         | \$2,342,781          | \$3,137,094           | \$35,802,976        | \$1,955,516           | \$3,987,165          | \$10,971,869        | \$22,796,067        | \$6,429,368           | \$6,858,532          | \$103,087,298         |
| Sales Tax                                       | 1,112,495             | 372,399              | 1,349,544           | 1,542,439            | 1,922,663             | 1,451,042           | 1,600,675             | 1,545,096            | 1,521,195           | 1,391,493           | 2,239,087             | 2,239,087            | 18,287,215            |
| Other Taxes                                     | 573,928               | 1,170,580            | 1,497,735           | 1,697,114            | 1,281,817             | 8,741,109           | 3,610,564             | 6,333,114            | 11,663,055          | 13,083,524          | 2,649,172             | 2,530,956            | 54,832,668            |
| License and Permits                             | 36,333                | 143,034              | 99,976              | 91,999               | 44,533                | 33,763              | 24,706                | 21,125               | 82,134              | 29,519              | 35,236                | 35,210               | 677,569               |
| Franchises                                      | 11,548                | 162,482              | 0                   | 11,331               | 153,886               | 0                   | 11,395                | 144,953              | 0                   | 936,392             | 181,298               | 0                    | 1,613,283             |
| Subventions & Grants                            | 216,603               | 50,819               | 51,215              | 152,457              | 210                   | 47,744              | 0                     | 22,936               | 107,516             | 14,024              | 52,893                | 38,415               | 754,832               |
| Service Fees                                    | 460,992               | 384,805              | 586,406             | 787,399              | 302,309               | 682,112             | 586,361               | 775,969              | 1,060,826           | 672,632             | 626,955               | 599,124              | 7,525,890             |
| Fines and Penalties                             | 146,699               | 157,721              | 467,626             | 514,076              | 302,201               | 160,810             | 235,463               | 311,538              | 489,535             | 365,089             | 364,874               | 364,874              | 3,880,508             |
| Rents and Royalties                             | 5,398                 | 7,951                | 9,167               | 11,879               | 12,656                | 13,039              | 11,421                | 16,387               | 17,030              | 16,115              | 14,113                | 14,054               | 149,210               |
| Interest Income and CalPERS Discount            | 390,150               | 231,698              | 669,145             | 281,165              | 361,730               | 842,751             | 279,588               | 210,108              | 723,000             | 907,550             | 304,687               | 740,108              | 5,941,680             |
| Miscellaneous                                   | 3,291                 | 21,914               | 2,122               | 19,726               | 5,518                 | 43,613              | 18,303                | 21,756               | 14,070              | 4,731               | 14,070                | 4,731                | 173,843               |
| Transfers In/Indirect Costs                     | 1,981,758             | 288,461              | 292,013             | 1,997,537            | 291,757               | 382,169             | 1,991,469             | 281,673              | 274,877             | 1,876,080           | 276,962               | 392,099              | 10,326,854            |
| CalPERS Prepayments from Other Departments      | 2,811,166             | 3,307,254            | 3,307,254           | 3,307,254            | 3,307,254             | 4,960,882           | 3,307,254             | 3,307,254            | 3,307,254           | 3,307,254           | 3,307,254             | 5,456,970            | 42,994,308            |
| TRAN Proceeds                                   | 45,702,000            | 0                    | 0                   | 0                    | 0                     | 0                   | 0                     | 0                    | 0                   | 0                   | 0                     | 0                    | 45,702,000            |
| <b>TOTAL RECEIPTS</b>                           | <b>\$54,751,191</b>   | <b>\$9,176,852</b>   | <b>\$12,961,566</b> | <b>\$12,757,158</b>  | <b>\$11,123,628</b>   | <b>\$53,162,009</b> | <b>\$13,632,715</b>   | <b>\$16,979,077</b>  | <b>\$30,232,361</b> | <b>\$45,400,471</b> | <b>\$16,495,968</b>   | <b>\$19,274,161</b>  | <b>\$295,947,158</b>  |
| <b>CASH DISBURSEMENTS</b>                       |                       |                      |                     |                      |                       |                     |                       |                      |                     |                     |                       |                      |                       |
| General Government                              | \$2,599,541           | \$2,237,957          | \$2,261,038         | \$2,067,694          | \$2,430,284           | \$3,530,704         | \$2,927,009           | \$2,589,710          | \$2,577,413         | \$2,471,694         | \$3,542,881           | \$4,904,296          | \$34,140,221          |
| Public Safety                                   | 7,411,805             | 9,077,121            | 9,105,874           | 9,232,898            | 8,927,577             | 13,603,155          | 11,457,217            | 9,115,983            | 9,775,394           | 8,340,903           | 9,745,929             | 15,219,862           | 121,013,718           |
| Highways and Streets                            | 117,785               | 157,568              | 166,749             | 194,300              | 172,087               | 286,331             | 199,070               | 282,239              | 325,301             | 333,234             | 391,941               | 598,574              | 3,225,178             |
| Health and Human Service                        | 1,079,924             | 1,944,172            | 1,144,702           | 1,583,781            | 2,094,157             | 1,673,278           | 1,661,175             | 966,708              | 1,445,155           | 1,574,082           | 1,203,262             | 2,630,687            | 19,001,084            |
| Culture - Recreation                            | 387,490               | 517,296              | 490,937             | 494,238              | 463,247               | 696,739             | 494,130               | 514,746              | 624,600             | 580,129             | 749,329               | 1,095,155            | 7,108,036             |
| Urban Redevelopment/Housing                     | 601,580               | 638,207              | 750,933             | 854,618              | 738,748               | 927,473             | 714,910               | 749,242              | 777,211             | 1,721,642           | 1,055,875             | 1,696,730            | 11,227,169            |
| Econ Dev & Assistance                           | 107,583               | 468,991              | 153,166             | 176,722              | 288,642               | 163,867             | 296,965               | 175,117              | 118,546             | 118,562             | 222,365               | 244,660              | 2,535,186             |
| Debt Service: Workers Comp Loan Repayment       | 0                     | 0                    | 0                   | 0                    | 0                     | 0                   | 0                     | 0                    | 0                   | 0                   | 0                     | 0                    | 0                     |
| Debt Service: 2016 Parking Revenue Bonds        | 0                     | 0                    | 0                   | 0                    | 0                     | 0                   | 0                     | 0                    | 0                   | 0                   | 0                     | 0                    | 0                     |
| Transfers Out/Other                             | 8,164,957             | 162,752              | 162,752             | 2,967,955            | 162,752               | 162,752             | 2,967,955             | 162,752              | 162,752             | 2,967,955           | 162,752               | 162,752              | 18,370,838            |
| Transfer Out to Pension Section 115 Trust Fund  | 2,000,000             | 0                    | 324,321             | 0                    | 0                     | 398,289             | 0                     | 0                    | 341,391             | 0                   | 0                     | 415,359              | 3,479,360             |
| Transfer Out of Excess of Property Transfer Tax | 0                     | 0                    | 0                   | 0                    | 12,000,000            | 0                   | 0                     | 0                    | 0                   | 0                   | 0                     | 0                    | 12,000,000            |
| Transfer Out to Stabilization Reserve Fund      | 0                     | 0                    | 0                   | 0                    | 0                     | 0                   | 0                     | 0                    | 0                   | 0                   | 0                     | 0                    | 0                     |
| Transfer Out to Catastrophic Reserve Fund       | 0                     | 0                    | 0                   | 0                    | 0                     | 0                   | 0                     | 0                    | 0                   | 0                   | 0                     | 0                    | 0                     |
| Prepayment to CalPERS                           | 42,994,308            | 0                    | 0                   | 0                    | 0                     | 0                   | 0                     | 0                    | 0                   | 0                   | 0                     | 0                    | 42,994,308            |
| TRAN Principal Pledge                           | 0                     | 0                    | 0                   | 0                    | 0                     | 0                   | 22,500,000            | 0                    | 0                   | 0                   | 22,500,000            | 0                    | 45,000,000            |
| TRAN Interest Pledge                            | 0                     | 0                    | 0                   | 0                    | 0                     | 0                   | 0                     | 0                    | 0                   | 0                   | 0                     | 897,500              | 897,500               |
| Advances from GF/(Repayment to GF)              | 1,300,000             | 1,000,000            | (1,500,000)         | (500,000)            | 1,000,000             | (2,200,000)         | (400,000)             | 4,000,000            | (500,000)           | (2,000,000)         | 750,000               | (950,000)            | 0                     |
| <b>TOTAL DISBURSEMENTS</b>                      | <b>\$66,764,973</b>   | <b>\$16,204,066</b>  | <b>\$13,060,472</b> | <b>\$17,072,205</b>  | <b>\$28,277,495</b>   | <b>\$19,242,588</b> | <b>\$42,818,431</b>   | <b>\$18,556,497</b>  | <b>\$15,647,763</b> | <b>\$16,108,201</b> | <b>\$40,324,334</b>   | <b>\$26,915,574</b>  | <b>\$320,992,598</b>  |
| <b>Interfund Borrowings</b>                     | <b>\$0</b>            | <b>\$0</b>           | <b>\$0</b>          | <b>\$0</b>           | <b>\$0</b>            | <b>\$0</b>          | <b>\$0</b>            | <b>\$0</b>           | <b>\$0</b>          | <b>\$0</b>          | <b>\$0</b>            | <b>\$0</b>           | <b>\$0</b>            |
| <b>Net Cash Flow</b>                            | <b>(\$12,013,782)</b> | <b>(\$7,027,213)</b> | <b>(\$98,906)</b>   | <b>(\$4,315,046)</b> | <b>(\$17,153,866)</b> | <b>\$33,919,421</b> | <b>(\$29,185,717)</b> | <b>(\$1,577,421)</b> | <b>\$14,584,599</b> | <b>\$29,292,270</b> | <b>(\$23,828,365)</b> | <b>(\$7,641,413)</b> | <b>(\$25,045,440)</b> |
| <b>Ending Balance</b>                           | <b>\$30,133,004</b>   | <b>\$23,105,790</b>  | <b>\$23,006,884</b> | <b>\$18,691,838</b>  | <b>\$1,537,972</b>    | <b>\$35,457,393</b> | <b>\$6,271,676</b>    | <b>\$4,694,255</b>   | <b>\$19,278,854</b> | <b>\$48,571,124</b> | <b>\$24,742,759</b>   | <b>\$17,101,345</b>  | <b>\$17,101,345</b>   |

(1) Cash and investment balances provided in the table above represent the City's available cash balance (i.e., General Fund cash and investments less the Stabilization and Catastrophic Reserve Fund cash balances and short-term liabilities).  
Source: City of Berkeley.

## CITY INVESTMENT POLICY AND PORTFOLIO

The authority to invest the City's funds is derived from a resolution adopted annually by the City Council delegating to the Director of Finance and the Treasurer of the City the authority to invest these funds within the guidelines of Section 53600 et seq. of the Government Code of the State (the "**Government Code**"). The Government Code also directs the City to present an annual investment policy (the "**Investment Policy**") for confirmation to the City Council. The City Council voted to affirm the Investment Policy and designate the investment authority on June 30, 2020. The Investment Policy may be revised by the City Council at any time.

The objectives of the Investment Policy are preservation of capital, liquidity and yield. The Investment Policy addresses the soundness of financial institutions in which the City may deposit funds, types of investment instruments permitted by the City and the Government Code, investment duration and the amount which may be invested in certain instruments. The Investment Policy also reflects and supports the City's policy positions on important social and environmental issues, as contained in formal City Council actions including the Nuclear-Free Berkeley Act, the Responsible Investment Ordinance, the Oppressive States Contract Resolution and Divestment from Publicly-Traded Fossil Fuel Companies and Gun Manufacturers and Tobacco companies. Summarized below are the permitted investments under the Investment Policy. These policies may further restrict investment options available to the City.

| Authorized Investment Type                                   | Maximum Maturity      | Maximum Percentage/Dollar of Portfolio | Maximum Investment in One Issuer |
|--------------------------------------------------------------|-----------------------|----------------------------------------|----------------------------------|
| Bank/Time Deposit Accounts                                   | 5 years               | 100%                                   | N/A                              |
| Money Market Funds                                           | N/A                   | 100%                                   | N/A                              |
| Repurchase Agreements                                        | 1 year                | 10%                                    | N/A                              |
| Reverse Repurchase Agreements                                | 7 days                | 10%                                    | N/A                              |
| Banker's Acceptances                                         | 7 days                | 40%                                    | 30%                              |
| U.S. Government Securities (Treasury bills, Notes and Bonds) | 10 years<br>30 years* | 100%                                   | N/A                              |
| U.S. Agency Securities by Agency                             | 10 years<br>30 years* | 100%                                   | N/A                              |
| Negotiable Certificates of Deposit                           | 10 years<br>30 years* | 30%                                    | \$250,000                        |
| Local Agency Bonds                                           | 5 years<br>30 years*  | 100%                                   | N/A                              |
| Commercial Paper                                             | 180 days              | 25%                                    | \$5M or 2%                       |
| Medium Term Notes                                            | 10 years<br>30 years* | 30%                                    | 30%                              |

\* Maturities over five years, up to 30 years, are authorized only for Retiree Medical Plan Trust and debt service reserve funds.

As of March 31, 2021, the City portfolio included \$\_\_\_\_\_ in pooled investments. The average life of the investments was \_\_\_\_ days and the weighted yield was \_\_\_\_\_% from July 1, 2020 to March 31, 2021. The following is a list of investments held by the City:

**CITY OF BERKELEY  
(As of March 31, 2021)**

| <u>Security</u>             | <u>Market<br/>Value</u> | <u>% of Total<br/>Portfolio</u> |
|-----------------------------|-------------------------|---------------------------------|
| Medium Term Notes           |                         |                                 |
| Municipal Bonds             |                         |                                 |
| Federal Agency Coupon Notes |                         |                                 |
| Money Market Fund and CDs   |                         |                                 |
| Commercial Paper            |                         |                                 |
| TOTAL:                      |                         |                                 |

*Source: City of Berkeley Finance Department.*

*[Remainder of Page Intentionally Left Blank]*



## SPECIAL RISK FACTORS

The following information should be considered by prospective investors in evaluating the Notes; however, this information does not purport to be an exhaustive listing of the risks and other considerations, which may be relevant to an investment in the Notes.

### Bankruptcy Considerations

In 1994, Orange County, California issued its 1994-1995 Tax and Revenue Anticipation Notes (the “**Orange County Notes**”) under the same statutory authority as the Notes. On December 6, 1994, Orange County filed a petition in bankruptcy. Subsequently, Orange County declined to set aside the taxes and revenues it had pledged for the repayment of the Orange County Notes and a noteholder brought suit to compel Orange County to do so. A March 8, 1995, ruling of the United States Bankruptcy Court for the Central District of California, held that the lien securing the Orange County Notes did not attach to revenues received by Orange County after the filing of its bankruptcy petition on December 6, 1994, and therefore, Orange County was not required to set aside the revenues pledged under the note resolution following the bankruptcy. The Bankruptcy Court ruled that under the United States Bankruptcy Code (the “**Bankruptcy Code**”), the lien did not attach to revenues received by Orange County after December 6, 1994, because the lien was a consensual security interest rather than a statutory lien. In July 1995, the United States District Court for the Central District of California reversed the decision of the Bankruptcy Court. Orange County appealed the decision of the District Court to the United States Court of Appeals for the Ninth Circuit. Before the Ninth Circuit rendered a decision, the parties settled their disputes. Accordingly, if the City were to file for bankruptcy, it is not clear whether it would be required to set aside revenues pledged under the Resolution as described above.

In addition, the Pledged Revenues and other moneys that will be set aside to pay the Notes will be held in the City’s General Fund, and these funds will be invested in the pooled investment fund. Should the City go into bankruptcy, a court might hold that the owners of the Notes do not have a valid lien on the Pledged Revenues. In that case, unless the owners could “trace” the funds, the owners would merely be unsecured creditors of the City. There can be no assurance that the owners of the Notes could successfully so “trace” the Pledged Revenues.

### Limitations on Remedies

The rights of the owners of the Notes are subject to the limitations on legal remedies against cities in the State, including a limitation on enforcement of judgments against funds needed to serve the public welfare and interest. Additionally, enforceability of the rights and remedies of the owners of the Notes and the obligations incurred by the City, may become subject to the following: the Bankruptcy Code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditor’s rights generally, now or hereafter in effect; equity principles which may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the Constitution; and the reasonable and necessary exercise in certain exceptional situations, of the police powers inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose. Bankruptcy proceedings, or the exercise of powers by the federal or State government, if initiated, could subject the owners of the Notes to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitation, or modification of their rights.

## Climate Change

The adoption by the State of the California Global Warming Solutions Act of 2006 (AB 32) and subsequent companion bills demonstrate the commitment by the State to take action and reduce greenhouse gases (“GHG”) to 1990 levels by 2020 and 80% below 1990 levels by 2050. The State Attorney General’s Office, in accordance with SB 375, now requires that local governments examine local policies and large-scale planning efforts to determine how to reduce greenhouse gas emissions. Additionally, the State adopted Senate Bill No. 32, which established a revised statewide GHG emission reduction target of 40% below 1990 levels by 2030.

The City is vulnerable to the impacts of climate change. The severity of these impacts will depend on the amount of greenhouse gas emissions produced worldwide over the coming decades and the City’s ability to adapt to the changing climate. These impacts will continue to grow in intensity and will disproportionately affect vulnerable communities such as the elderly, children, people with disabilities, and people with low incomes. In order to mitigate climate change locally, the City developed the Berkeley Climate Action Plan (CAP). The CAP sets a target of achieving 80% GHG reductions below 2000 levels by 2050. The City also has goals to achieve net zero carbon emissions by 2050, become a fossil fuel free city, and reach 100% renewable electricity citywide by 2035. From 2000 to 2016, the City has reduced its greenhouse gas emissions by 15% despite a population increase of approximately 18% in that same period. The City’s mitigation efforts include developing plans, programs and policies to:

- Reduce energy use in building construction and operation, in transportation by shifting travel to walking, biking, and transit, and by minimizing landfilled waste;
- Clean the electricity used in the City and
- Electrify transportation and buildings to significantly reduce natural gas and petroleum use.

It is also critical that the City adapt to current and projected climate change impacts, including sea level rise, drought, severe storms, and extreme heat, in order to protect its community, infrastructure, buildings, and economy. The City has several plans that address climate adaptation including the Local Hazard Mitigation Plan, the Resilience Strategy, and the Climate Action Plan. The City is also developing a sea level rise plan for the Berkeley Marina and a green infrastructure plan. Some key climate resilience actions that the City is taking include implementing green infrastructure projects and identifying opportunities for clean energy assurance solutions, such as solar plus storage, for buildings. The City also actively participates in regional organizations such as the Bay Area Climate Adaptation Network to develop regional strategies and solutions to adapt to climate change.

Climate change will have new, direct impacts and will also exacerbate existing local natural hazards. Rising sea levels have the potential to impact infrastructure and community members in west Berkeley and the Berkeley waterfront. This could increase the City’s exposure to tsunami inundation and to flooding of critical infrastructure in these areas, which includes sanitary sewers, state highways, and railroad lines. Increased temperatures, when coupled with prolonged drought events, can increase the intensity of wildfires that may occur, and pose significant health and safety risks for vulnerable communities. Shorter, more intense wet seasons could make flooding more frequent, and may increase the landslide risk in the Berkeley hills. California may experience greater water and food insecurity, and drought may become a more persistent issue as the effects of climate change deepen.

## Cybersecurity

The City and its departments face multiple cyber threats including, but not limited to, hacking, viruses, malware and other attacks on computers and other sensitive digital networks and systems. There have been, however, only limited cyber-attacks on the computer systems of the City. No assurances can be given that the security and operational control measures of the City will be successful in guarding against any and each cyber threat and attack. The results of any attack on the computer and information technology systems could have a material adverse impact on the operations of the City and damage the digital networks and systems. The resulting costs and/or impacts on operations and General Fund revenues could be material.

## CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING CITY REVENUES AND APPROPRIATIONS

### Limitations on Revenues

**Article XIII A of the California Constitution.** Article XIII A of the State Constitution, adopted and known as Proposition 13, was approved by the voters in June 1978. Section 1(a) of Article XIII A limits the maximum ad valorem tax on real property to one percent of “full cash value,” and provides that such tax shall be collected by the counties and apportioned according to State law. Section 1(b) of Article XIII A provides that the one-percent limitation does not apply to ad valorem taxes levied to pay interest and redemption charges on (i) indebtedness approved by the voters prior to July 1, 1978, or (ii) bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast on the proposition, or (iii) bonded indebtedness incurred by a school district or community college district for the construction, reconstruction, rehabilitation or replacement of school facilities or the acquisition or lease of real property for school facilities, approved by 55% of the voters of the district, but only if certain accountability measures are included in the proposition. The tax for payment of the City’s general obligation bonds falls within the exception for bonds approved by a two-thirds vote.

Section 2 of Article XIII A defines “full cash value” to mean the county assessor’s valuation of real property as shown on the fiscal year 1975-76 tax bill, or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred. The full cash value may be adjusted annually to reflect inflation at a rate not to exceed two percent per year, or to reflect a reduction in the consumer price index or comparable data for the area under taxing jurisdiction or may be reduced in the event of declining property value caused by substantial damage, destruction or other factors. Legislation enacted by the State Legislature to implement Article XIII A provides that, notwithstanding any other law, local agencies may not levy any ad valorem property tax except the 1% base tax levied by each County and taxes to pay debt service on indebtedness approved by the voters as described above.

Since its adoption, Article XIII A has been amended a number of times. These amendments have created a number of exceptions to the requirement that property be reassessed when purchased, newly constructed or a change in ownership has occurred. These exceptions include certain transfers of real property between family members, certain purchases of replacement dwellings for persons over age 55 and by property owners whose original property has been destroyed in a declared disaster, and certain improvements to accommodate disabled persons and for seismic upgrades to property. These amendments have resulted in marginal reductions in the property tax revenues of the City.

Both the California State Supreme Court and the United States Supreme Court have upheld the validity of Article XIII A.

**Article XIII C and Article XIII D of the California Constitution.** On November 5, 1996, the voters of the State approved Proposition 218, known as the “Right to Vote on Taxes Act.” Proposition 218 adds Articles XIII C and XIII D to the California Constitution and contains a number of interrelated provisions affecting the ability of the City to levy and collect both existing and future taxes, assessments, fees and charges.

On November 2, 2010, California voters approved Proposition 26, entitled the “Supermajority Vote to Pass New Taxes and Fees Act.” Section 1 of Proposition 26 declares that Proposition 26 is intended to limit the ability of the State Legislature and local government to circumvent existing restrictions on increasing taxes by defining the new or expanded taxes as “fees.” Proposition 26 amended Articles XIII A and XIII C of the State Constitution. The amendments to Article XIII A limit the ability of the State Legislature to impose higher taxes (as defined in Proposition 26) without a two-thirds vote of the Legislature. The amendments to Article XIII C define “taxes” that are subject to voter approval as “any levy, charge, or exaction of any kind imposed by a local government,” with certain exceptions.

Taxes. Article XIII C requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes of the City (“**general taxes**”) require a majority vote; taxes for specific purposes (“**special taxes**”), even if deposited in the City’s General Fund, require a two-thirds vote. The voter approval requirements of Proposition 218 reduce the flexibility of the City to raise revenues for the General Fund, and no assurance can be given that the City will be able to impose, extend or increase such taxes in the future to meet increased expenditure needs.

Property-Related Fees, Charges and Assessments. Article XIII D also adds several provisions making it generally more difficult for local agencies to levy and maintain property-related fees, charges, and assessments for municipal services and programs. These provisions include, among other things, (i) a prohibition against assessments which exceed the reasonable cost of the proportional special benefit conferred on a parcel, (ii) a requirement that assessments must confer a “special benefit,” as defined in Article XIII D, over and above any general benefits conferred, (iii) a majority protest procedure for assessments which involves the mailing of notice and a ballot to the record owner of each affected parcel, a public hearing and the tabulation of ballots weighted according to the proportional financial obligation of the affected party, and (iv) a prohibition against fees and charges which are used for general governmental services, including police, fire or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

Reduction or Repeal of Taxes, Fees and Charges. Article XIII C also removes limitations on the initiative power in matters of reducing or repealing local taxes, assessments, fees or charges. No assurance can be given that the voters of the City will not, in the future, approve an initiative or initiatives which reduce or repeal local taxes, assessments, fees or charges currently comprising a substantial part of the City’s General Fund. If such repeal or reduction occurs, the City’s ability to pay debt service on the Notes could be adversely affected.

Burden of Proof. Article XIII C provides that local government “bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity,

and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity." Similarly, Article XIID provides that in "any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance" with Article XIID.

Impact on City's General Fund. The approval requirements of Articles XIIC and XIID reduce the flexibility of the City to raise revenues for the General Fund, and no assurance can be given that the City will be able to impose, extend or increase the taxes, fees, charges or taxes in the future that the City may need to meet increased expenditure needs.

The City does not believe that any material source of General Fund revenue is subject to challenge under Articles XIIC or XIID.

Judicial Interpretation. The interpretation and application of Articles XIIC and XIID will ultimately be determined by the courts with respect to a number of the matters discussed below, and it is not possible at this time to predict with certainty the outcome of such determination.

## **Expenditures and Appropriations**

***Article XIIB of the California Constitution.*** In addition to the limits Article XIIA imposes on property taxes that may be collected by local governments, certain other revenues of the State and local governments are subject to an annual "appropriations limit" or "Gann Limit" imposed by Article XIIB of the State Constitution, which effectively limits the amount of such revenues that government entities are permitted to spend. Article XIIB, approved by the voters in June 1979, was modified substantially by Proposition 111 in 1990. The appropriations limit of each government entity applies to "proceeds of taxes," which consist of tax revenues, state subventions and certain other funds, including proceeds from regulatory licenses, user charges or other fees to the extent that such proceeds exceed "the cost reasonably borne by such entity in providing the regulation, product or service." "Proceeds of taxes" exclude tax refunds and some benefit payments such as unemployment insurance. No limit is imposed on the appropriation of funds which are not "proceeds of taxes," such as reasonable user charges or fees, and certain other non-tax funds.

Article XIIB also does not limit appropriation of local revenues to pay debt service on bonds existing or authorized by January 1, 1979, or subsequently authorized by the voters, appropriations required to comply with mandates of courts or the federal government, appropriations for qualified capital outlay projects, and appropriation by the State of revenues derived from any increase in gasoline taxes and motor vehicle weight fees above January 1, 1990, levels. The appropriations limit may also be exceeded in cases of emergency; however, the appropriations limit for the three years following such emergency appropriation must be reduced to the extent by which it was exceeded, unless the emergency arises from civil disturbance or natural disaster declared by the Governor, and the expenditure is approved by two-thirds of the legislative body of the local government.

The State and each local government entity have their own appropriations limit. Each year, the limit is adjusted to allow for changes, if any, in the cost of living, the population of the jurisdiction, and any transfer to or from another government entity of financial responsibility for providing services. Each school district is required to establish an appropriations limit each year. In the event that a school district's revenues exceed its spending limit, the district may increase its appropriations limit to equal its spending by taking appropriations limit from the State.

Proposition 111 requires that each agency's actual appropriations be tested against its limit every two years. If the aggregate "proceeds of taxes" for the preceding two-year period exceed the aggregate limit, the excess must be returned to the agency's taxpayers through tax rate or fee reductions over the following two years.

### **Future Initiatives**

Article XIII A, Article XIII B, Article XIII C, Article XIII D and Proposition 111 were each adopted as measures that qualified for the ballot pursuant to California's initiative process. From time to time other initiative measures could be adopted, further affecting City revenues or the City's ability to expend revenues. The nature and impact of these measures cannot be predicted by the City.

## **LEGAL OPINION**

The statements of law and legal conclusions set forth in this Official Statement under the heading "TAX MATTERS" have been reviewed by Bond Counsel. Bond Counsel's employment is limited to a review of the legal proceedings required for the authorization of the Notes and to rendering the opinion discussed below. Such opinion will not consider or extend to any documents, agreements, representations, offering circulars or other material of any kind concerning the Notes not mentioned in this paragraph. Bond Counsel takes no responsibility for the accuracy, completeness or fairness of this Official Statement. Bond Counsel's compensation is contingent upon the delivery of the Notes. Certain legal matters will be passed upon for the City by the City Attorney.

## **TAX MATTERS**

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the Notes is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax.

The opinions set forth in the preceding paragraph are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended (the "**Tax Code**") that must be satisfied subsequent to the issuance of the Notes. The City has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of issuance of the Notes.

***Tax Treatment of Original Issue Discount and Premium.*** If the initial offering price to the public at which a Note is sold is less than the amount payable at maturity thereof, then such difference constitutes "**original issue discount**" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public at which a Note is sold is greater than the amount payable at maturity thereof, then such difference constitutes "**original issue premium**" for purposes of federal income taxes and State of California personal income taxes. *De minimis* original issue discount and original issue premium are disregarded.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Note on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Notes to determine taxable gain upon disposition (including sale, redemption, or payment on maturity) of such Note. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Notes who purchase the Notes after the initial offering of a substantial amount of such maturity. Owners of such Notes should consult their own tax advisors with respect to the tax consequences of ownership of Notes with original issue discount, including the treatment of purchasers who do not purchase in the original offering, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such Notes under federal alternative minimum taxes.

Under the Tax Code, original issue premium is amortized on an annual basis over the term of the Note (said term being the shorter of the Note's maturity date or its call date). The amount of original issue premium amortized each year reduces the adjusted basis of the owner of the Note for purposes of determining taxable gain or loss upon disposition. The amount of original issue premium on a Note is amortized each year over the term to maturity of the Note on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). Amortized Note premium is not deductible for federal income tax purposes. Owners of premium Notes, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Notes.

In the further opinion of Bond Counsel, interest on the Notes is exempt from California personal income taxes.

Owners of the Notes should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the Notes may have federal or state tax consequences other than as described above. Bond Counsel expresses no opinion regarding any federal or state tax consequences arising with respect to the Notes other than as expressly described above.

A copy of the proposed form of opinion of Bond Counsel is attached hereto as APPENDIX C.

## CONTINUING DISCLOSURE

The City has covenanted for the benefit of the holders of the Notes to provide notices of the occurrence of certain enumerated events. The notices of enumerated events will be filed by the City with the Municipal Securities Rulemaking Board. The specific nature of the information to be contained in the notices of enumerated events is summarized under the caption "APPENDIX D – Form of Continuing Disclosure Certificate." These covenants have been made in order to assist the purchaser of the Notes in complying with Rule 15c2-12(b)(5) promulgated under the Securities Exchange Act of 1934, as amended (the "Rule").

The City and its related governmental entities have previously entered into numerous disclosure undertakings under the Rule in connection with the issuance of long-term obligations. See Note 8 of the City's Comprehensive Annual Financial Report attached to this Official Statement as APPENDIX B.

In the previous five years, the City failed to timely file a material event notice in connection with changes to the credit rating for one series of the City's bonds. To ensure future compliance with its continuing disclosure undertakings, the City has developed procedures for including all required continuing disclosure information in the supplementary section of its audited financial statements. In addition, the City has engaged NHA Advisors, LLC, to review this information annually to ensure compliance with its continuing disclosure undertakings, including the undertaking to be entered into in connection with the Notes.

### ABSENCE OF MATERIAL LITIGATION

No litigation is pending or threatened concerning the validity of the Notes, and a certificate to that effect will be furnished to the underwriter at the time of the original delivery of the Notes. The City is not aware of any litigation pending or threatened questioning the political existence of the City or contesting the City's ability to receive ad valorem taxes or to collect other Unrestricted Moneys or contesting the City's ability to issue and retire the Notes.

There are a number of lawsuits and claims pending against the City. The aggregate amount of the uninsured liabilities of the City, and the timing of any anticipated payments of judgments that may result from suits and claims, will not, in the opinion of the City, materially affect the finances of the City or impair its ability to repay the Notes. A certificate of the City to this effect will be available at the time of original delivery of the Notes.

### UNDERWRITING

The Notes were purchased by \_\_\_\_\_ (the "**Underwriter**") at a price of \$\_\_\_\_\_ (representing \$\_\_\_\_\_ aggregate principal amount of the Notes plus a purchase premium of \$\_\_\_\_\_, less an Underwriter's discount of \$\_\_\_\_\_). The purchase contract for the Notes provides that the Underwriter will purchase all the Notes if any are purchased, the obligation to make such purchase being subject to certain terms and conditions set forth in such purchase contract, the approval of certain legal matters by counsel and certain other conditions.

The Underwriter may offer and sell Notes to certain dealers and others at prices lower than the offering price stated on the cover page hereof. The offering price may be changed from time to time by the Underwriter.

### MUNICIPAL ADVISOR

The City has retained NHA Advisors, LLC, San Rafael, California, as municipal advisor (the "**Municipal Advisor**") in connection with the preparation of this Official Statement and with respect to the issuance of the Notes. The Municipal Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement. The



Municipal Advisor is a municipal advisory firm and is not engaged in the business of underwriting, trading or distributing municipal securities or other public securities. The Municipal Advisor's compensation is contingent upon the delivery of the Notes.

## **RATING**

Moody's Investor Services Inc. has assigned a rating to the Notes as shown on the cover of this Official Statement. The City supplied certain information to the rating agency to be considered in evaluating the Notes. The rating issued reflects only the views of such rating agency, and any explanation of the significance of such rating should be obtained from the rating agency. There is no assurance that the rating will be retained for any given period of time or that the same will not be revised downward or withdrawn entirely by such rating agency if, in its judgment, circumstances so warrant. Any downward revision or withdrawal of the rating obtained may have an adverse effect on the market price of the Notes.

**ADDITIONAL INFORMATION**

The purpose of this Official Statement is to supply information to purchasers of the Notes. Quotations from and summaries and explanations of the Notes and the Resolution and of statutes and documents contained herein do not purport to be complete, and reference is hereby made to the Resolution, statutes and documents for full and complete statements of their provisions. Additional information can be obtained from the City's Director of Finance.

This Official Statement speaks only as of its date, and the information presented in this Official Statement is subject to change. Any statements in this Official Statement involving matters of opinion, whether or not expressly stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement among the City and any purchaser or owners of the Notes. This Official Statement and its distribution have been authorized and approved by the City Council of the City.

CITY OF BERKELEY, CALIFORNIA

By: \_\_\_\_\_  
City Manager

## APPENDIX A

## CERTAIN INFORMATION CONCERNING THE CITY OF BERKELEY

## Introduction

The City of Berkeley, California (the “**City**”) is located in Alameda County (the “**County**”) on the east side of the San Francisco Bay, approximately 10 miles northeast of San Francisco. The City encompasses a total area of approximately 19 square miles and had an estimated population of 122,580 as of January 1, 2020, giving it the highest population density of any city in the East Bay. The City is defined to a large degree, both culturally and economically, by the presence of the University of California campus located on the eastern side of the City. The University of California is a major component of the City's economy, employing more than 235,000 full and part-time workers.

The City is among the oldest in California. The City was founded in 1864, incorporated as a town in 1878, and incorporated as a city in 1909. The City's first charter was adopted in 1895.

## Population

Population figures for the City, County and State for the last five years are shown in the following table.

**CITY OF BERKELEY**  
**Population Estimates**  
**As of January 1**

| <b>Year</b> | <b>City of Berkeley</b> | <b>County of Alameda</b> | <b>State of California</b> |
|-------------|-------------------------|--------------------------|----------------------------|
| 2016        | 120,059                 | 1,632,599                | 39,131,307                 |
| 2017        | 121,050                 | 1,646,711                | 39,398,702                 |
| 2018        | 121,752                 | 1,655,306                | 39,586,646                 |
| 2019        | 122,358                 | 1,664,783                | 39,695,376                 |
| 2020        | 122,580                 | 1,670,834                | 39,782,870                 |

*Source: State Department of Finance estimates (as of January 1).*

## City Government

The City operates under a Council-Manager form of government. The City is governed by a nine-member City Council, eight of whom are elected by district, plus the Mayor, who is elected on a city-wide basis. The Mayor and the City Council members serve four-year terms. The Council appoints a City Manager who is responsible for daily administration of City affairs and preparation and submission of the annual budget under the direction of the Mayor and the City Council for the Mayor's submission to the City Council. The City Manager appoints a Director of Finance to supervise the City's financial affairs. The Director of Finance also serves as the City's Treasurer.

The City Attorney, City Clerk and Director of Finance are appointed by the City Manager subject to City Council approval. The City Auditor is elected at the same time as the Mayor.

| <u>Member</u>   | <u>District</u> | <u>Term Expires</u> |
|-----------------|-----------------|---------------------|
| Jesse Arreguín  | Mayor           | 11/30/2024          |
| Rashi Kesarwani | 1               | 11/30/2022          |
| Terry Taplin    | 2               | 11/30/2024          |
| Ben Bartlett    | 3               | 11/30/2024          |
| Kate Harrison   | 4               | 11/30/2022          |
| Sophie Hahn     | 5               | 11/30/2024          |
| Susan Wengraf   | 6               | 11/30/2024          |
| Rigel Robinson  | 7               | 11/30/2022          |
| Lori Droste     | 8               | 11/30/2022          |

## CITY FINANCIAL INFORMATION

### Possible Impacts of COVID-19

As described in this Official Statement, the short-term and long-term impact of COVID-19 on the City’s finances cannot be predicted. See “COVID-19 PANDEMIC.”

### Accounting Policies and Financial Reporting

The accounts of the City are organized on the basis of funds and account groups, to account for different activities. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues, and expenditures or expenses, as appropriate. Government resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which the spending activities are controlled. The City’s General Fund and other governmental fund types use the modified accrual basis of accounting. All of the City’s other funds, including proprietary fund types and fiduciary fund types use the accrual basis of accounting. The basis of accounting for all funds is more fully explained in the “Notes to the Financial Statements” contained in APPENDIX B.

The City Council employs, at the beginning of each fiscal year, an independent certified public accountant who, at such time or times as specified by the City Council, at least annually, and at such other times as he or she shall determine, examines the combined financial statements of the City in accordance with generally accepted auditing standards, including such tests of the accounting records and such other auditing procedures as such accountant considers necessary. As soon as practicable after the end of the fiscal year, a final audit and report is submitted by such accountant to the City Council and a copy of the financial statements as of the close of the fiscal year is published.

The City, all its funds and the funds of certain other component entities of the City are audited annually by a certified public accounting firm. The firm of Badawi and Associates, Certified Public Accounts, Oakland, California, is the City’s current auditor (the “**Auditor**”). The comprehensive annual financial report of the City for fiscal year 2019-20 is attached hereto as APPENDIX B. *The City’s financial statements are public documents and are included within this Official Statement without the prior approval of the Auditor.*

The Governmental Accounting Standards Board (“**GASB**”) published its Statement No. 34 “Basic Financial Statements – and Management’s Discussion and Analysis – for State and Local Governments” on June 30, 1999. Statement No. 34 provides guidelines to auditors, state and local governments and special purpose governments such as school districts and public utilities, on new requirements for financial reporting for all governmental agencies in the United States. Generally, the basic financial statements and required supplementary information should include (i) Management’s Discussion and Analysis; (ii) government-wide financial statements prepared using the economic measurement focus and the accrual basis of accounting and fund financial statements prepared using both the current financial resources measurement focus and the modified accrual method of accounting (governmental funds) and funds using the economic measurement focus and the accrual basis of accounting (proprietary funds) and (iii) required supplementary information. The City’s financial statements are prepared in conformance with the requirements of Statement No. 34.

### **Comparative Financial Statements**

The following tables provide a recent history of the City’s Comparative Balance Sheet, and both a recent history of General Fund revenues, expenditures, transfers, and ending fund balances and recently budgeted amounts.

**CITY OF BERKELEY  
GENERAL FUND BALANCE SHEET  
(Fiscal Year Ending June 30)  
(Dollar amounts in thousands)**

|                                                  | Actual<br><u>2016-17</u> | Actual<br><u>2017-18</u> | Actual<br><u>2018-19</u> | Actual<br><u>2019-20</u> |
|--------------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>ASSETS:</b>                                   |                          |                          |                          |                          |
| Cash and investments in treasury*                | \$82,891                 | \$108,058                | \$107,360                | \$100,577                |
| Receivables (net of allowance where applicable): |                          |                          |                          |                          |
| Accounts                                         | 8,777                    | 6,951                    | 4,980                    | 3,131                    |
| Interest                                         | 526                      | 763                      | 778                      | 398                      |
| Taxes                                            | 8,109                    | 8,623                    | 9,953                    | 6,502                    |
| Subventions/grants                               | --                       | 180                      | 450                      | 1,582                    |
| Due from other funds                             | 3,752                    | 6,659                    | 6,973                    | 7,533                    |
| Notes receivable                                 | 4,255                    | 3,755                    | 3,697                    | 4,820                    |
| Other                                            | 5                        | 5                        | 320                      | 5                        |
| Prepaid Items                                    | 75                       | 142                      | --                       | --                       |
| Total assets                                     | <u>108,390</u>           | <u>135,136</u>           | <u>134,512</u>           | <u>160,020</u>           |
| <b>LIABILITIES:</b>                              |                          |                          |                          |                          |
| Accounts payable                                 | 4,344                    | 3,610                    | 6,736                    | 8,755                    |
| Accrued salaries and wages                       | 5,169                    | 5,473                    | 5,989                    | 7,009                    |
| Accrued interest payable                         | --                       | --                       | --                       | 694                      |
| Advances from other funds                        | 6,683                    | 6,287                    | 4,059                    | 3,113                    |
| Deposits held                                    | 905                      | 974                      | 781                      | 770                      |
| Unearned revenue                                 | --                       | --                       | --                       | --                       |
| Tax and revenue anticipation notes               | 17,000                   | 25,550                   | 14,000                   | 34,780                   |
| Other liabilities                                | 2,923                    | 3,755                    | 3,899                    | 3,975                    |
| Total liabilities                                | <u>37,024</u>            | <u>45,649</u>            | <u>35,463</u>            | <u>59,095</u>            |
| Deferred Inflows of Resources                    | 7,707                    | 5,601                    | 5,813                    | 2,856                    |
| <b>FUND BALANCES</b>                             |                          |                          |                          |                          |
| Reserved for:                                    |                          |                          |                          |                          |
| Encumbrances/Assigned to                         | 3,015                    | 33,373                   | 42,667                   | 44,705                   |
| Notes receivable/Nonspendable                    | 4,330                    | 3,898                    | 3,697                    | 4,820                    |
| Unreserved/Unassigned, report in:                |                          |                          |                          |                          |
| General fund                                     | 56,313                   | 46,614                   | 46,872                   | 48,544                   |
| Total fund balances                              | <u>63,658</u>            | <u>83,885</u>            | <u>92,236</u>            | <u>98,069</u>            |
| Total liabilities and fund balances              | <u>\$108,390</u>         | <u>\$135,136</u>         | <u>\$135,512</u>         | <u>\$160,020</u>         |

\* Cash and investments in treasury includes restricted cash and investments.  
Source: City of Berkeley, Comprehensive Annual Financial Reports.

**CITY OF BERKELEY  
STATEMENT OF GENERAL FUND  
REVENUES, EXPENDITURES, TRANSFERS AND BALANCES  
(Fiscal Year Ending June 30)  
(Dollar amounts in thousands)**

|                                           | Actual<br><u>2016-17</u> | Actual<br><u>2017-18</u> | Actual<br><u>2018-19</u> | Actual<br><u>2019-20</u> |
|-------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>REVENUES:</b>                          |                          |                          |                          |                          |
| Taxes                                     | \$137,277                | \$161,666                | \$173,216                | \$182,470                |
| Licenses and Permits                      | 556                      | 834                      | 1,405                    | 2,099                    |
| Subvention and Grants/Intergovernmental   | 11,509                   | 1,129                    | 1,868                    | 1,771                    |
| Service Fees                              | 9,140                    | 9,862                    | 8,433                    | 8,597                    |
| Fines and Forfeitures                     | 6,370                    | 6,933                    | 5,443                    | 4,166                    |
| Rents                                     | 160                      | 284                      | 289                      | 203                      |
| Franchises                                | 2,247                    | 1,990                    | 1,800                    | 1,812                    |
| Private contribution                      | --                       | --                       | --                       | 179                      |
| Interest                                  | 1,383                    | 2,416                    | 6,915                    | 9,287                    |
| Other                                     | 1,750                    | 237                      | 1,722                    | 356                      |
| <b>TOTAL REVENUES</b>                     | <u>170,393</u>           | <u>185,351</u>           | <u>201,090</u>           | <u>210,941</u>           |
| <b>EXPENDITURES:</b>                      |                          |                          |                          |                          |
| General Government                        | 37,871                   | 30,143                   | 27,410                   | 24,693                   |
| Public Safety                             | 94,093                   | 95,503                   | 103,084                  | 118,793                  |
| Highways and Streets                      | 1,638                    | 1,900                    | 2,904                    | 2,289                    |
| Health and Human Services                 | 9,676                    | 9,725                    | 13,319                   | 20,423                   |
| Culture-Recreation                        | 6,086                    | 5,476                    | 5,943                    | 7,014                    |
| Community Development                     | 6,477                    | 7,153                    | 8,264                    | 9,041                    |
| Economic Development                      | 2,332                    | 2,576                    | 2,845                    | 5,879                    |
| Debt Service                              | 166                      | 252                      | 270                      | 473                      |
| <b>TOTAL EXPENDITURES</b>                 | <u>158,338</u>           | <u>152,728</u>           | <u>164,040</u>           | <u>188,605</u>           |
| Excess Revenues Over (Under) Expenditures | 12,055                   | 32,623                   | 37,050                   | 22,334                   |
| Transfers In(out)/Other                   | (13,421)                 | (12,396)                 | (27,699)                 | (17,502)                 |
| Net Change in Fund Balance                | (1,366)                  | 20,227                   | 9,351                    | 4,883                    |
| Fund Balance, July 1                      | 65,025                   | 63,658                   | 83,885                   | 93,236                   |
| Prior Period Adjustment                   |                          |                          |                          |                          |
| <b>Fund Balance, June 30*</b>             | <u>\$63,658</u>          | <u>\$83,885</u>          | <u>\$93,236</u>          | <u>\$98,069</u>          |

\* Totals may not add due to rounding.

Source: City of Berkeley Comprehensive Annual Financial Reports

## General Fund Budget

**Budgetary Process and Administration.** The City employs a two-year budget process. In year one of the biennial budget cycle, the City Council formally adopts authorized appropriations for the first fiscal year and approves “planned” appropriations for the second fiscal year. In year two, the City Council considers revisions and formally adopts authorized appropriations for the second fiscal year. Although the budget cycle covers a two-year period, the City Charter requires that the City Council adopt an annual appropriations ordinance for each budget year.

From about January to May of each year, the City Council meets in public to discuss policies and priorities for the upcoming budget. The City Manager prepares a proposed budget based on input from department heads and presents this to the City Council by the first Monday in May of a budget year or as fixed by the City Council. The City also maintains additional budgetary controls to ensure compliance with the annual appropriated budget. The City Manager is authorized to transfer budgeted amounts within funds as deemed necessary to meet the City's needs; however, revisions that alter the total budget or move amounts from one fund to another must be approved by the City Council.

Revenues and expenditures relating to the City's general governmental operations are budgeted and accounted for in the City's General Fund, including public safety, highways and streets, health, housing and human services, culture and recreation, community development and economic development. General taxes and fees support most of these activities. The "business" or proprietary activities of the City are accounted for in each of eight enterprise funds, which include those established for Refuse Collection, Marina Operations, Sanitary Sewers, Clean Storm Water, Permit Service Center, Off-Street Parking, Parking Meter, and Building Purchases & Management. These activities are intended to be completely or largely self-supporting through user fees and charges.

**Adopted Biennial Budget.** The City is currently in the second year of its adopted fiscal year 2019-20 and 2020-21 budget (the "**Fiscal Year 2020 & 2021 Adopted Budget**").

The General Fund is less than one-half of the total budget, with the remainder of the budget consisting of various Special Funds which are restricted in purpose (e.g. Zero Waste, Permit Center, Sewer, Public Health, and Mental Health). Fifty-five percent of the City's General Fund revenue is derived from real and unsecured property, sales and soda taxes, and business license taxes. According to the Fiscal Year 2020 & 2021 Adopted Budget, total proposed revenues for both years is projected at \$398.7 million.

In the Fiscal Year 2020 & 2021 Adopted Budget, General Fund revenues and expenditures for fiscal year 2020-21 are budgeted at \$201.7 million, a \$4.7 million increase over the respective amounts budgeted in the adopted budget for fiscal year 2019-20.



## General Fund Reserves

**Establishment of General Fund Reserve.** On December 13, 2016, the City Council adopted a General Fund reserve policy, establishing a General Fund reserve (the “**Reserve**”), to prepare for the impact of economic cycles and catastrophic events and assure fluctuations in revenue do not impede the City’s ability to meet expenditure obligations. When revenues fail to meet the City’s normal operating requirements, or the need for disbursements temporarily exceeds receipts, the Reserve, upon a two-thirds vote of the City Council, may be used in accordance with the standards set forth in the policy.

The Reserve is composed of two elements, a Stability Reserve and a Catastrophic Reserve:

- 1) A Stability Reserve is maintained to mitigate loss of service delivery and financial risks associated with unexpected revenue shortfalls during a single fiscal year or during a prolonged recessionary period. The purpose of the Stability Reserve is to provide fiscal stability in response to unexpected downturns or revenue shortfalls, and not to serve as a funding source for new programs or projects.
- 2) A Catastrophic Reserve is maintained for the purpose of sustaining General Fund operations in the case of a public emergency, such as a natural disaster or other catastrophic event. The Catastrophic Reserve will be used to respond to extreme, onetime events, such as earthquakes, fires, floods, civil unrest, and terrorist attacks. The Catastrophic Reserve will not be accessed to meet operational shortfalls or to fund new programs or projects.

The Reserve is accounted for in the Unassigned fund balance of the City’s balance sheet.

**Target Reserve Levels.** 55% of the Reserve is allocated to the Stability Reserve and 45% to the Catastrophic Reserve.

The short-term goal for the Reserve was a minimum of 13.8% of 2016-17 adopted General Fund revenues; the intermediate goal for the Reserve is a minimum of 16.7% of adopted General Fund revenues by the end of fiscal year 2019-20 (the “**Intermediate Goal**”); the long-term goal for the Reserve is a minimum of 30% of the adopted General Fund revenues, to be achieved within no more than 10 years of the adopted of the General Fund Reserve Policy (“**Long-Term Goal**”). Based on a risk assessment (according to best practices), to be updated at least every five years, the City Council may consider increasing or lowering the Reserve level.

**Replenishment of the General Fund Reserve.** The City Manager will recommend a replenishment schedule for all monies proposed for appropriation from the Reserve. The replenishment schedule will be adopted simultaneous with the appropriation to withdraw Reserve funds or, if infeasible due to emergency circumstances, no more than three months from the date of the withdrawal appropriation. Repayment shall begin no more than five years from the date of withdrawal and be completed within 10 years from the date of withdrawal.

While staff envisions that, in most cases, repayment will start as soon as possible, the repayment guidelines are meant to reflect a commitment to maintain a sufficient Reserve, while also recognizing that a use of Reserve amounts may occur during an economic downturn and it may be necessary to postpone repayment while the economy improves.

## State Budget and Its Impact on the City

**Proposed Fiscal Year 2021-22 State Budget and Adopted Fiscal Year 2020-21 State Budget.** Information about the proposed fiscal year 2021-22 State budget, fiscal year 2020-21 State budget and other State budgets is available at [www.ebudget.ca.gov](http://www.ebudget.ca.gov). An impartial analysis of the budget is posted by the Legislative Analyst Office at [www.lao.ca.gov](http://www.lao.ca.gov). In addition, various State official statements, many of which contain a summary of the current and past State budgets, may be found at the website of the State Treasurer, [www.treasurer.ca.gov](http://www.treasurer.ca.gov). *The information referred to in this paragraph is prepared by the respective State agency maintaining each website and not by the City or Underwriter, and the City and Underwriter take no responsibility for the continued accuracy of the Internet addresses or for the accuracy or timeliness of information posted there, and such information is not incorporated in this Official Statement by these references.*

**Impacts of COVID-19.** The 2020-21 State budget was prepared prior to the COVID-19 outbreak, and the projections included therein did not account for any of the negative economic impacts to date associated with the outbreak, nor any potential impacts yet to be realized. The May revision to the Proposed 2020-21 Budget, and the final budget approved by the Legislature, could reflect significantly lower projections of State revenues and/or higher projections of State expenditures.

On March 24, 2020, the California Department of Finance (the “DOF”) released Budget Letter 20-08 which states that the DOF anticipates a severe drop in economic activity in California as a result of the COVID-19 pandemic, which could negatively impact anticipated revenue levels in fiscal year 2019-20 and will certainly produce impacts on the 2020-21 Proposed State Budget.

On May 7, 2020, the DOF released a fiscal update, indicating that the State is facing a \$54 billion budget deficit. Job losses and business closures are predicted to sharply reduce State revenues. The State’s three main general fund revenue sources, personal income taxes, sales and use taxes and corporate taxes, are projected to drop for the 2020-21 fiscal year by 22.5%, 27.2% and 22.7%, respectively. The revenue declines, combined with the increased costs of supporting health and human service programs, results in the \$54.3 billion deficit, of which \$13.4 billion occurs in the current fiscal year, and \$40.9 billion occurs in the 2020-21 budget year. The DOF notes that the overall deficit is equal to nearly 37% of State general fund spending authorized in the Budget Act for fiscal year 2019-20.

**Dissolution of Redevelopment Agencies.** State legislation enacted as part of the 2011 Budget Act, and upheld by the California Supreme Court, resulted in the formal dissolution of redevelopment agencies, including the Berkeley Redevelopment Agency (the “**Former Redevelopment Agency**”), effective as of February 1, 2012. The impact on the City’s General Fund of the dissolution of the Former Redevelopment Agency is minimal because the City is in the process of winding down its redevelopment program, and the funding the City received from the Former Redevelopment Agency prior to its dissolution only supported 1.5 full-time employees.

## Ad Valorem Property Taxes

**Tax Levies and Collections.** Property taxes increased \$13.2 million or 15.1% to \$100.9 million in fiscal year 2019-20 from \$87.7 million in fiscal year 2018-19, and accounts for approximately 33% of the City’s projected revenues for fiscal year 2020-21. Taxes are levied for each fiscal year on taxable real and personal property that is situated in the City as of the

preceding January 1. A supplemental roll is developed when property changes hands, which produces additional revenue.

A ten percent penalty attaches to any delinquent payment for secured roll taxes. In addition, property on the secured roll with respect to which taxes are delinquent becomes tax-defaulted. Such property may thereafter be redeemed by payment of the delinquent taxes and the delinquency penalty, plus a redemption penalty to the time of redemption. If taxes are unpaid for a period of five years or more, the property is subject to auction sale by the County Tax Collector.

In the case of unsecured property taxes, a 10% penalty attaches to delinquent taxes on property on the unsecured roll, and an additional penalty of 1.5% per month begins to accrue beginning November 1 of the fiscal year, and a lien is recorded against the assessee. The taxing authority has four ways of collecting unsecured personal property taxes: (1) a civil action against the taxpayer; (2) filing a certificate in the office of the County Clerk specifying certain facts in order to obtain a judgment lien on specific property of the taxpayer; (3) filing a certificate of delinquency for recording in the County Recorder's office in order to obtain a lien on specified property of the taxpayer; and (4) seizure and sale of personal property, improvements or possessory interests belonging or assessed to the assessee.

In an attempt to mitigate the effects of the COVID-19 pandemic on State property taxpayers, on May 6, 2020, the Governor signed Executive Order N-61-20 ("**Order N-61-20**"). Under Order N-61-20, certain provisions of the State Revenue and Taxation Code are suspended until May 6, 2021 to the extent said provisions require a tax collector to impose penalties, costs or interest for the failure to pay secured or unsecured property taxes, or to pay a supplemental bill, before the date that such taxes become delinquent. Said penalties, costs and interest shall be cancelled under the conditions provided for in Order N-61-20, including if the property is residential real property occupied by the taxpayer or the real property qualifies as a small business under certain State laws, the taxes were not delinquent prior to March 4, 2020, the taxpayer files a claim for relief with the tax collector, and the taxpayer demonstrates economic hardship or other circumstances that have arisen due to the COVID-19 pandemic or due to a local, state, or federal governmental response to COVID-19.

The County levies (except for levies to support prior voter-approved indebtedness) and collects all property taxes for property falling within that county's taxing boundaries.

**Assessed Valuation History.** The following is a table summarizing the historical assessed valuation of the taxable property in the City.

**CITY OF BERKELEY  
Assessed Valuations of All Taxable Property  
Fiscal Years 2011-12 to 2020-21**

| <u>Fiscal Year</u> | <u>Local Secured<sup>(1)</sup></u> | <u>Utility</u> | <u>Unsecured</u> | <u>Total</u>     | <u>Percent Change</u> |
|--------------------|------------------------------------|----------------|------------------|------------------|-----------------------|
| 2011-12            | \$12,525,929,662                   | \$555,664      | \$667,789,011    | \$13,194,274,337 | --                    |
| 2012-13            | 12,834,926,300                     | 555,664        | 673,174,230      | 13,508,656,194   | 2.38%                 |
| 2013-14            | 13,686,258,913                     | 555,664        | 677,170,723      | 14,363,985,300   | 6.33                  |
| 2014-15            | 14,116,003,890                     | 630,615        | 658,143,878      | 14,774,778,383   | 2.86                  |
| 2015-16            | 15,224,697,461                     | 388,860        | 702,428,523      | 15,927,514,844   | 7.80                  |
| 2016-17            | 16,200,483,693                     | 388,860        | 711,062,469      | 16,911,935,022   | 6.18                  |
| 2017-18            | 17,376,072,698                     | 443,960        | 809,921,331      | 18,186,437,989   | 7.54                  |
| 2018-19            | 18,696,664,672                     | 443,960        | 731,012,747      | 19,428,121,379   | 6.82                  |
| 2019-20            | 19,926,615,530                     | 424,880        | 860,872,387      | 20,787,912,797   | 7.00                  |
| 2020-21            | 21,450,331,604                     | 424,880        | 931,765,413      | 22,382,521,897   | 7.67                  |

(1) Amounts are net of homeowners' exemption.

Source: California Municipal Statistics, Inc.

**Alternative Method of Tax Apportionment - Teeter Plan.** The Board of Supervisors of the County has approved the implementation of the Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds (the "**Teeter Plan**"), as provided for in Section 4701 *et seq.* of the California Revenue and Taxation Code. Under the Teeter Plan, the County apportions secured property taxes on an accrual basis when due (irrespective of actual collections) to participating political subdivisions, for which the County acts as the tax-levying or tax-collecting agency. In return, the County receives and retains delinquent payments, penalties and interest as collected that would have been due the local agency in the absence of the Teeter Plan. The City has elected not to participate in the Teeter Plan, so the City receives property taxes actually collected, as well as any penalties and interest on delinquent taxes.

The property tax levies and collections for the City for fiscal years 2011-12 through 2019-20 are shown in the following table:

**CITY OF BERKELEY  
SECURED TAX CHARGES AND DELINQUENCIES  
2011-12 TO 2019-20  
(Dollar amounts in thousands)**

| Fiscal Year | Secured Tax Charge <sup>(1)</sup> | Amount Delinquent<br>June 30 | % Delinquent<br>June 30 |
|-------------|-----------------------------------|------------------------------|-------------------------|
| 2011-12     | \$40,085,111.77                   | \$814,536.14                 | 2.03%                   |
| 2012-13     | 40,863,072.01                     | 588,607.19                   | 1.44                    |
| 2013-14     | 43,482,172.03                     | 491,490.18                   | 1.13                    |
| 2014-15     | 45,452,269.29                     | 477,676.28                   | 1.05                    |
| 2015-16     | 48,936,168.63                     | 607,465.93                   | 1.24                    |
| 2016-17     | 52,097,423.06                     | 562,295.75                   | 1.08                    |
| 2017-18     | 56,317,983.19                     | 488,950.31                   | 0.87                    |
| 2018-19     | 59,739,122.88                     | 512,267.28                   | 0.86                    |
| 2019-20     | 63,775,410.84                     | 663,946.24                   | 1.04                    |

(1) 1% General Fund apportionment.

Source: California Municipal Statistics, Inc.

**Major Taxpayers.** The following table shows the twenty largest taxpayers in the City as determined by their secured assessed valuations in 2020-21.

**CITY OF BERKELEY  
Largest 2020-21 Local Secured Taxpayers**

| <u>Property Owner</u>                            | <u>2020-21<br/>Primary Land Use</u> | <u>% of<br/>Assessed Valuation</u> | <u>Total <sup>(1)</sup></u> |
|--------------------------------------------------|-------------------------------------|------------------------------------|-----------------------------|
| 1. Bayer Healthcare LLC                          | Industrial                          | \$371,086,797                      | 1.73%                       |
| 2. Berkeley Multifamily I Property Owner LLC     | Apartments with Retail              | 101,517,135                        | 0.47                        |
| 3. Granite Library Gardens LP                    | Apartments                          | 92,007,838                         | 0.43                        |
| 4. Hanumandla R. & Hanumandla J. Reddy, Trustees | Apartments                          | 84,607,061                         | 0.39                        |
| 5. BREIT SH Berkeley LLC                         | Apartments with Retail              | 81,975,542                         | 0.38                        |
| 6. CVBAF ACQ LLC                                 | Apartments                          | 76,794,428                         | 0.36                        |
| 7. MCREAF Acheson LLC                            | Apartments                          | 70,484,326                         | 0.33                        |
| 8. 1500 San Pablo LLC                            | Apartments                          | 65,620,532                         | 0.31                        |
| 9. Kaiser Foundation Health Plan Inc.            | Industrial/Commercial Land          | 65,117,446                         | 0.30                        |
| 10. Parkershattuck Owner LLC                     | Apartments                          | 61,361,380                         | 0.29                        |
| 11. CLPF Hillside Village LP                     | Apartments                          | 58,912,826                         | 0.27                        |
| 12. RI Berkeley LLC                              | Apartments                          | 57,082,272                         | 0.27                        |
| 13. CPF Berkeley Varsity LLC                     | Apartments                          | 55,116,826                         | 0.26                        |
| 14. Sterling Berkeley Haste LP                   | Apartments                          | 53,485,617                         | 0.25                        |
| 15. Essex Berkeley 4th Street LP                 | Condominiums with Retail            | 53,111,791                         | 0.25                        |
| 16. Higby JV LLC                                 | Apartments                          | 51,549,439                         | 0.24                        |
| 17. Sterling Berkeley Allston LP                 | Apartments                          | 50,805,951                         | 0.24                        |
| 18. Garr Land & Resource Management, Inc.        | Industrial                          | 45,315,966                         | 0.21                        |
| 19. John K. Gordon & Janis L. Mitchell, Trustees | Commercial Properties               | 42,455,635                         | 0.20                        |
| 20. Dwight Way Residential Property Owner LLC    | Apartments                          | 42,339,831                         | 0.20                        |
|                                                  |                                     | <u>\$1,580,748,639</u>             | 7.37%                       |

(1) 2020-21 Local Secured Assessed Valuation: \$21,450,331,604.

Source: California Municipal Statistics, Inc.

**Appeals of Assessed Value.** There are two types of appeals of assessed values that could adversely impact property tax revenues within the City.

Appeals may be based on Proposition 8 of November 1978, which requires that for each January 1 lien date, the taxable value of real property must be the least of its base year value, annually adjusted by the inflation factor pursuant to Article XIII A of the State Constitution, or its full cash value, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property or other factors causing a decline in value.

Under California law, property owners may apply for a Proposition 8 reduction of their property tax assessment by filing a written application, in form prescribed by the SBE, with the County board of equalization or assessment appeals board. In most cases, the appeal is filed because the applicant believes that present market conditions (such as residential home prices) cause the property to be worth less than its current assessed value. Proposition 8 reductions may also be unilaterally applied by the County Assessor.

Any reduction in the assessment ultimately granted as a result of such appeal applies to the year for which application is made and during which the written application was filed. These reductions are subject to yearly reappraisals and are adjusted back to their original values when market conditions improve. Once the property has regained its prior value, adjusted for inflation, it once again is subject to the annual inflationary factor growth rate allowed under Article XIII A.

A second type of assessment appeal involves a challenge to the base year value of an assessed property. Appeals for reduction in the base year value of an assessment, if successful, reduce the assessment for the year in which the appeal is taken and prospectively thereafter. The base year is determined by the completion date of new construction or the date of change of ownership. Any base year appeal must be made within four years of the change of ownership or new construction date.

In certain recent years, Proposition 8 appeals resulted in changes to assessed valuation, as shown below.

| <u>Year</u> | <u>Changes in Assessed Valuation</u> |
|-------------|--------------------------------------|
| 2017-18     | \$367,662,854                        |
| 2018-19     | 1,125,587,690                        |
| 2019-20     | 1,359,907,418                        |
| 2020-21     | 1,233,243,959                        |

The City cannot predict the changes in assessed values that might result from pending or future appeals by taxpayers.

## Other General Fund Revenues and Transfers

In addition to property taxes, the City has several other major tax and fee revenue sources, as described below. The following table summarizes the City's actual audited General Fund revenues and transfers from fiscal year 2016-17 through fiscal year 2019-20 and budgeted General Fund revenues and transfers for fiscal year 2020-21.

### CITY OF BERKELEY GENERAL FUND REVENUES AND TRANSFERS

|                                        | Actual<br>Revenue<br>FY 2017 | Actual<br>Revenue<br>FY 2018 | Actual<br>Revenue<br>FY 2019 | Actual<br>Revenue<br>FY 2020 | Revised<br>Budget<br>Revenue<br>FY 2021 |
|----------------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|-----------------------------------------|
| Real Property                          | \$51,474,746                 | \$56,038,218                 | \$59,178,773                 | \$63,192,678                 | \$68,058,516                            |
| Unsecured Property                     | 2,568,891                    | 2,687,198                    | 2,878,275                    | 3,164,168                    | 3,000,000                               |
| Supplemental Taxes                     | 1,874,630                    | 2,237,649                    | 2,174,903                    | 2,334,597                    | 2,000,000                               |
| Property Transfer Tax                  | 17,151,793                   | 18,911,368                   | 19,952,981                   | 22,095,507                   | 16,500,000                              |
| Sales Tax                              | 20,105,287                   | 17,435,591                   | 18,663,550                   | 17,557,539                   | 16,727,492                              |
| Soda Tax                               | 1,550,222                    | 1,457,003                    | 1,547,349                    | 1,331,313                    | 970,794                                 |
| Business License                       | 18,829,739                   | 19,878,912                   | 19,848,804                   | 20,863,685                   | 15,684,192                              |
| Business License – Cannabis Recreation | --                           | --                           | 1,168,794                    | 1,446,655                    | 1,300,000                               |
| Utility Users Tax                      | 15,109,305                   | 14,828,120                   | 13,973,744                   | 13,475,915                   | 12,750,000                              |
| Hotel Tax                              | 7,810,884                    | 7,807,273                    | 7,995,188                    | 7,667,762                    | 3,546,260                               |
| Vehicle In-Lieu                        | 10,994,452                   | 11,822,917                   | 12,540,784                   | 13,356,044                   | 14,384,459                              |
| Parking Fines                          | 6,120,474                    | 6,608,001                    | 6,002,211                    | 3,901,010                    | 4,049,000                               |
| Moving Violations                      | 232,523                      | 188,443                      | 177,824                      | 209,894                      | 190,000                                 |
| Interest                               | 2,385,492                    | 3,638,989                    | 4,334,404                    | 7,942,187                    | 4,051,200                               |
| Ambulance Fees                         | 4,183,673                    | 4,343,453                    | 4,424,808                    | 4,996,193                    | 3,342,159                               |
| Franchise Fees                         | 1,988,589                    | 2,009,931                    | 1,821,316                    | 1,839,102                    | 1,581,650                               |
| Other Revenue                          | 9,414,370                    | 22,958,575                   | 26,422,781                   | 30,784,935                   | 19,440,322                              |
| Transfers                              | <u>9,417,888</u>             | <u>5,792,575</u>             | <u>5,356,132</u>             | <u>5,386,188</u>             | <u>17,274,293</u>                       |
| <b>TOTAL</b>                           | <b><u>\$181,212,958</u></b>  | <b><u>\$198,642,216</u></b>  | <b><u>\$208,462,620</u></b>  | <b><u>\$221,545,372</u></b>  | <b><u>\$204,850,337</u></b>             |

Source: City of Berkeley Fiscal Year 2020 & 2021 Adopted Budget; City of Berkeley Budget Office. Revenues were recorded using the budget basis of accounting (i.e., Cash).

**Sales and Use Tax.** The sales tax is an excise tax imposed on retailers for the privilege of selling or leasing tangible personal property. The use tax is an excise tax imposed for the storage, use, or other consumption of tangible personal property purchased from any retailer. The total sales tax rate within the City is currently 9.25%. The proceeds of sales and uses taxes imposed within the City are distributed by the State to various agencies, with the City receiving 1.0% of the amount collected.

Collection of the sales and use tax is administered by the California Department of Tax and Fee Administration (the "CDTFA"). This process was formerly administered by the State Board of Equalization. The Taxpayer Transparency and Fairness Act of 2017, which took effect July 1, 2017, restructured the State Board of Equalization and separated its functions among three separate entities: the State Board of Equalization, the CDTFA and the Office of Tax Appeals. The State Board of Equalization will continue to perform the duties assigned to it by the state Constitution, while all other duties will be transferred to the newly established CDTFA and the Office of Tax Appeals. CDTFA will handle most of the taxes and fees previously collected by the State Board of Equalization, including sales and use tax. According to the CDTFA, it distributes quarterly tax revenues to local jurisdictions (like the City) using the following method:

Using the prior year's quarterly tax allocation as a starting point, the CDTFA first eliminates nonrecurring transactions such as fund transfers, audit payments and refunds, and then adjusts for growth, in order to establish the estimated base amount. The CDTFA disburses 90% of the base amount to each local jurisdiction in three monthly installments (advances) prior to the final computation of the quarter's actual receipts. Ten percent is withheld as a reserve against unexpected occurrences that can affect tax collections (such as earthquakes, fire or other natural disaster) or distributions of revenue such as unusually large refunds or negative fund transfers. The first and second advances each represent 30% of the 90% distribution, while the third advance represents the remaining 40%. One advance payment is made each month, and the quarterly reconciliation payment (clean-up) is distributed in conjunction with the first advance for the subsequent quarter. Statements showing total collections, administrative costs, prior advances and the current advance are provided with each quarterly clean-up payment.

The CDTFA receives an administrative fee based on the cost of services provided by the Board to the City in administering the City's sales tax, which is deducted from revenue generated by the sales and use tax before it is distributed to the City.

Sales taxes decreased \$2.2 million or 11.5% to \$16.9 million in fiscal year 2019-20 from \$19.1 million in fiscal year 2018-19. Sales taxes were hit very hard by the Governor's shelter in place orders issued in March 2020, as almost all business-related activity came to a halt. In addition, the fiscal year 2018-19 total was overstated by \$556,600 due to a misallocation of revenues between fiscal year 2017-18 and fiscal year 2018-19. The City currently projects that sales tax revenue will decrease by 8.2% in fiscal year 2020-21.

**CITY OF BERKELEY  
TAXABLE TRANSACTIONS  
(Figures in Thousands)**

|                                  | 2016               | 2017               | 2018             | 2019               | 2020               |
|----------------------------------|--------------------|--------------------|------------------|--------------------|--------------------|
| Retail and Food Services:        |                    |                    |                  |                    |                    |
| Apparel Stores                   | \$55,449           | \$52,645           | \$52,991         | \$42,772           | \$19,009           |
| Gen. Merchandise Stores          | 15,610             | 17,178             | 20,782           | 21,434             | 17,620             |
| Food Stores                      | 145,462            | 150,894            | 149,662          | 155,025            | 171,783            |
| Eating and Drinking Places       | 364,417            | 371,299            | 374,792          | 391,474            | 218,307            |
| Home Furnishings and Appliances  | 71,927             | 72,358             | 69,746           | 66,188             | 41,054             |
| Bldg. Materials, Farm Implements | 100,899            | 107,333            | 109,052          | 101,937            | 114,258            |
| Auto Dealers, Auto Supplies      | 115,808            | 117,513            | 119,883          | 119,679            | 97,216             |
| Gas/Service Stations             | 75,720             | 84,041             | 93,694           | 94,217             | 60,024             |
| Other Retail Stores              | <u>251,324</u>     | <u>243,881</u>     | <u>262,209</u>   | <u>261,020</u>     | <u>185,083</u>     |
| Total Retail and Food Services   | 1,196,618          | 1,217,142          | 1,252,813        | 1,263,746          | 942,353            |
| All Other Outlets                | <u>431,614</u>     | <u>364,736</u>     | <u>361,292</u>   | <u>372,108</u>     | <u>320,758</u>     |
| TOTAL ALL OUTLETS                | <u>\$1,628,232</u> | <u>\$1,581,878</u> | <u>1,614,105</u> | <u>\$1,635,854</u> | <u>\$1,245,111</u> |

Source: State Department of Tax and Fee Administration for 2016-2019; MuniServices, LLC for 2020.

Factors that have historically affected sales tax revenues include the overall economic growth of the Bay Area, competition from neighboring cities, the growth of specific industries within the City, the City's business attraction and retention efforts, and catalog and Internet sales.

**Utility Users Tax.** The City imposes a 7.5% tax on users of gas, electricity and telephone, as well as cellular telephone services for billing addresses within the City. The tax is not applicable to State, County, or City agencies, or to insurance companies and banks. Some of the factors



affecting this revenue stream include consumer demand for these utilities, legislative and regulatory action, rate changes, and the evolution of technology. Approximately 70% of the utility users tax revenue is generated from utility usage by commercial and industrial customers. For fiscal year 2019-20, utility users tax revenue totaled \$13.6 million, which was \$0.3 million or 2.5% less than the \$13.9 million received in fiscal year 2018-19. The decrease in fiscal year 2019-20 was experienced in all categories (Cable, Cellular, Gas and Telephone) except for Electricity charges. Utility users tax is currently projected to have a decrease of 15% in fiscal year 2020-21.

**Business License Tax.** The City requires all businesses within the City to be licensed and imposes a business license tax on all business locations and a new license registration fee on applicants for a new license. The annual tax is generally determined based on the type of business and the business's gross receipts. The tax rate varies between \$0.60 per \$1,000 gross receipts for grocers, on the low end, and \$50.00 per \$1,000 gross receipts for adult cannabis sales on the high end. Most types of businesses are required to pay a minimum tax of at least \$51 per year. The overall revenue from this tax is dependent on the number of license renewals each year and the growth of businesses and industries within the City and the Bay Area more generally. Business license tax revenue increased \$1.1 million to \$21.0 million or 5.7% in fiscal year 2019-20 from \$19.9 million in fiscal year 2018-19.

The City is currently projecting a decrease of 33% in business license tax revenue for fiscal year 2020-21.

**Property Transfer Tax.** The City's transfer tax rate is 1.5% for properties with a consideration up to \$1.5 million and 2.5% for transferred properties with a consideration over \$1.5 million. The \$1.5 million threshold will be adjusted annually to capture approximately the top 33% of such transfers based on transfers that occurred in the 12 months preceding September 1 of the preceding year. However, the threshold cannot be reduced below \$1.5 million, meaning that the tax on properties transferred for \$1.5 million or less would remain at 1.5%, notwithstanding any adjustment. The tax is due when the transfer is recorded with the County. Title companies collect the tax as part of the sale closing process and remit the funds to the County when sales or transfers are finalized. The County remits the amounts due monthly, and the amounts are credited to the General Fund. A buyer of residential housing built before 1989 may voluntarily choose to reserve up to one-third of the transfer tax to perform seismic upgrades. Buyers typically have up to one year to complete the work and file for a rebate. Previously the title companies held the reserved amount in escrow until the work was completed, but since May 2007, the City has held the money in escrow accounts, with the interest going to the City.

Prior to fiscal year 2017-18, it was the City Council's policy that property transfer tax in excess of \$10.5 million is treated as one-time revenue to be transferred to the Capital Improvement Fund for capital infrastructure needs; that amount was increased to \$12.5 million in fiscal year 2017-18.

The Council approved a one-time increase to the property transfer tax baseline of \$4,000,000, increasing the baseline from \$12,500,000 to \$16,500,000, and made a one-time revision to the City's budget policies for fiscal year 2020-21 to temporarily suspend the excess property tax allocations included in the Council's fiscal policies, which stipulate that property transfer tax in excess of the \$12.5 million operating baseline will be treated as one-time revenue to be used for the City's infrastructure needs. In addition, to resolve the deficit, Council appropriated a one-time \$11.4 million allocation from the General Fund Reserves (\$6.9 million from the Stabilization Reserve Fund and \$4.5 million from the Catastrophic Reserve Fund).

**Parking Fines.** The City issues and adjudicates citations and civil penalties for parking violations through its own administrative structure. It has a great degree of control over the administration of parking fines, although issuing agencies within the County try to standardize parking penalties to the extent possible. Revenue from parking fines is affected by the penalties imposed for violations, the number of employees issuing tickets, how many tickets employees are able to issue, and the number of working parking meters, among other factors. Currently, the City must remit an additional \$12.50 per citation to the State/County for State and County construction funds, Maddy emergency medical fund, and DNA identification fund.

**Vehicle in Lieu Fees.** Vehicle license fees (“VLF”) imposed for the operation of vehicles on state highways are collected by the State Department of Motor Vehicles in lieu of personal property taxes on vehicles. In connection with the offset of the VLF, the State Legislature authorized appropriations from the State General Fund to “backfill” the offset so that local governments, which receive all of the vehicle license fee revenues, would not experience any loss of revenues. The legislation that established the VLF offset program also provided that if there were insufficient State General Fund moneys to fully “backfill” the VLF offset, the percentage offset would be reduced proportionately (i.e., the license fee payable by drivers would be increased) to assure that local governments would not be underfunded.

As part of the 2004 Budget Act negotiations, an agreement was made between the State and local government officials under which the VLF rate was permanently reduced from 2% to 0.65%. In order to protect local governments, the reduction in VLF revenue to cities and counties from this rate change was replaced by an increase in the amount of property tax they receive. Commencing in fiscal year 2004-05, local governments began to receive their full share of replacement property taxes, and those replacement property taxes now enjoy constitutional protection against certain transfers by the State because of the approval of Proposition 1A at the November 2004 election.

As a part of its fiscal year 2009-10 budget, California increased the vehicle license fee from 0.65% to 1.15% for registration fees due on or after the May 19, 2009 special election. This provision expired on July 1, 2011. On July 1, 2011, vehicle license fees returned to 0.65%, and the City is unaware of any current State legislative efforts likely to increase these in fees in the future.

Vehicle in-lieu taxes increased \$0.9 million or 7.0% in fiscal year 2019-20 to \$13.4 million from \$12.5 million in fiscal year 2018-19. The City currently projects a 7.8% increase in vehicle in-lieu taxes for fiscal year 2020-21.

**Other Revenues.** The City also collects additional General Fund revenues from franchise fees, transient occupancy taxes, ambulance fees, a tax on sugar-sweetened beverages, and other more minor sources. Under the City’s cable and electric and gas franchise fee arrangements, the local cable provider pays an annual franchise fee of 5% of gross revenues, and the electricity and gas providers pay the greater of 2% of gross receipts attributable to miles of line operated or 0.5% of gross receipts. The transient occupancy tax, also known as the hotel tax, is a 12% tax on the room charge for rental of transient lodging; it is paid by the hotel guest, the receipt of which is projected to be significantly reduced in fiscal year 2019-20 and future fiscal years due to restrictions on travel and events due to COVID-19. The City also has an agreement with the County to be the exclusive provider of all emergency ground ambulance services within the City; the specific ambulance fee depends on the type of service delivered and is billed to clients or their insurance companies. Finally, other more minor revenue sources include payments for moving violations, interest on existing funds, and other service fees.

## Direct and Overlapping Debt

Set forth below is a direct and overlapping debt report (the “**Debt Report**”) prepared by California Municipal Statistics, Inc., and effective March 1, 2021. The Debt Report is included for general information purposes only. The City has not reviewed the Debt Report for completeness or accuracy and makes no representation in connection therewith.

The Debt Report generally includes long-term obligations sold in the public credit markets by public agencies whose boundaries overlap the boundaries of the City in whole or in part. Such long-term obligations generally are not payable from revenues of the City (except as indicated) nor are they necessarily obligations secured by land within the City. In many cases, long-term obligations issued by a public agency are payable only from the General Fund or other revenues of such public agency.

The contents of the Debt Report are as follows: (1) the first column indicates the public agencies which have outstanding debt as of the date of the Debt Report and whose territory overlaps the City; (2) the second column shows the percentage that the City’s assessed valuation represents of the total assessed valuation of each public agency identified in the first column; and the third column is an apportionment of the dollar amount of each public agency’s outstanding debt to property in the City, as determined by multiplying the total outstanding debt of each agency by the percentage of the City’s assessed valuation represented in the second column.

**CITY OF BERKELEY  
STATEMENT OF DIRECT AND OVERLAPPING BONDED DEBT  
(As of March 1, 2021)**

2020-21 Assessed Valuation: \$22,382,521,897

| <u>DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT:</u>                        | <u>% Applicable</u> | <u>Debt 3/1/21</u>                 |
|-------------------------------------------------------------------------------|---------------------|------------------------------------|
| Alameda County                                                                | 6.753%              | \$ 12,918,489                      |
| Bay Area Rapid Transit District                                               | 2.613               | 48,912,486                         |
| Peralta Community College District                                            | 18.503              | 80,896,041                         |
| Berkeley Unified School District                                              | 99.997              | 338,364,849                        |
| <b>City of Berkeley</b>                                                       | <b>100.000</b>      | <b>136,995,000<sup>(1)</sup></b>   |
| City of Berkeley Community Facilities District No. 1                          | 100.000             | 735,000                            |
| East Bay Regional Park District                                               | 4.181               | 5,604,631                          |
| City of Berkeley Thousand Oaks Heights AFUU Assessment District               | 100.000             | 960,000                            |
| <b>TOTAL DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT</b>                   |                     | <b>\$625,386,496</b>               |
| <br>                                                                          |                     |                                    |
| <u>DIRECT AND OVERLAPPING GENERAL FUND DEBT:</u>                              |                     |                                    |
| Alameda County and Coliseum Obligations                                       | 6.753%              | \$ 53,776,334                      |
| Alameda-Contra Costa Transit District Certificates of Participation           | 7.996               | 931,934                            |
| Peralta Community College District Pension Obligation Bonds                   | 18.503              | 24,661,540                         |
| <b>City of Berkeley Lease Revenue Bonds and Certificates of Participation</b> | <b>100.000</b>      | <b>22,650,000</b>                  |
| <b>TOTAL DIRECT AND OVERLAPPING GENERAL FUND DEBT</b>                         |                     | <b>\$102,019,808</b>               |
| <br>                                                                          |                     |                                    |
| <b>COMBINED TOTAL DEBT</b>                                                    |                     | <b>\$727,406,304<sup>(2)</sup></b> |

Ratios 2020-21 Assessed Valuation:

|                                                           |              |
|-----------------------------------------------------------|--------------|
| <b>Direct Debt (\$136,995,000)</b> .....                  | <b>0.61%</b> |
| Total Direct and Overlapping Tax and Assessment Debt..... | 2.79%        |
| <b>Combined Direct Debt (\$159,645,000)</b> .....         | <b>0.71%</b> |
| Combined Total Debt.....                                  | 3.25%        |

(1) Excludes Bonds to be sold.

(2) Excludes tax and revenue anticipation notes, enterprise revenue, mortgage revenue and non-bonded capital lease obligations.

Source: California Municipal Statistics, Inc.

## Retirement Programs

**PERS Plan Description.** The City contributes to three plans in California Public Employees' Retirement System ("**PERS**"). The first plan covers all of the City's full-time and part-time benefited sworn uniformed fire employees and all chiefs (and is referred to as the Safety Fire Plan in this Official Statement). The second covers all of the City's full-time and part-time benefited sworn uniformed police employees and all chiefs (and is referred to as the Safety Police Plan in this Official Statement). The third plan covers all remaining eligible City employees (and is referred to as the Miscellaneous Plan in this Official Statement). These plans are agent multiple-employer defined benefit pension plans administered by PERS, which acts as a common investment and administrative agent for participating public employers within the State of California.

**PERS Plan Eligibility.** For a more detailed discussion of the eligibility requirements for the City's PERS retirement plans, see APPENDIX B, Note 12.

**PERS Plan Contributions.** The City is required to contribute the actuarially determined remaining amounts necessary to fund the benefits for its members. The actuarial methods and assumptions used are those adopted by the PERS Board of Administration (the "**Board of Administration**"). For the measurement period ended June 30, 2020 (the measurement date), the average active employee contribution rate is 8.0% of annual pay for the Miscellaneous Plan and 9.0% of annual pay for the Safety Plan (Fire and Police), and the employer contribution rate is 25.704% of annual payroll for the Miscellaneous Plan, 37.946% of annual payroll for the Public Safety Fire Plan, and 51.448% of annual payroll for the Public Safety Police Plan. The contribution requirements of the plan members are established by State statute, and the employer contribution rates are established and may be amended by PERS.

**Implementation of GASB Nos. 68.** Commencing with fiscal year ended June 30, 2015, the City implemented the provisions of GASB Statement Nos. 68, which require certain new pension disclosures in the notes to its audited financial statements commencing with the audit for fiscal year 2014-15. Statement No. 68 generally requires the City to recognize its proportionate share of the unfunded pension obligation by recognizing a net pension liability measured as of a date (the measurement date) no earlier than the end of its prior fiscal year. As a result of the implementation of GASB Statement Nos. 68, the City reflected a restatement of its beginning net position as of July 1, 2014.

For a more detailed discussion of the eligibility requirements for the City's retirement plans, see APPENDIX B, Note 12 for detailed information about the actuarial assumptions underlying the contributions.

The City's fiscal year 2018-19 contributions to the pension plans and the funded status of the pension plans are set forth below.

| Fiscal Year Ended                       | Total Pension Liability | Plan Fiduciary Net Position | Contributions Employer | Net Pension Liability | Plan Fiduciary Net Position as a Percentage of the Total Pension Liability | Covered Employee Payroll | Plan Net Pension Liability as a Percentage of Covered Employee Payroll |
|-----------------------------------------|-------------------------|-----------------------------|------------------------|-----------------------|----------------------------------------------------------------------------|--------------------------|------------------------------------------------------------------------|
| <b>PERS – Miscellaneous Plan</b>        |                         |                             |                        |                       |                                                                            |                          |                                                                        |
| 6/30/2019                               | \$1,072,281,650         | \$766,546,020               | \$20,886,356           | \$305,735,630         | 71.49%                                                                     | \$100,559,700            | 304.03%                                                                |
| <b>PERS – Public Safety Fire Plan</b>   |                         |                             |                        |                       |                                                                            |                          |                                                                        |
| 6/30/2019                               | \$283,67,984            | \$203,463,529               | \$7,762,455            | \$80,204,455          | 71.73%                                                                     | \$18,392,338             | 436.08%                                                                |
| <b>PERS – Public Safety Police Plan</b> |                         |                             |                        |                       |                                                                            |                          |                                                                        |
| 6/30/2019                               | \$429,963,439           | \$267,952,541               | \$13,926,791           | \$162,010,898         | 62.32%                                                                     | \$21,803,626             | 743.05%                                                                |

**Recent Actions by PERS.** At its April 17, 2013, meeting, the Board of Administration approved a recommendation to change the PERS amortization and smoothing policies. Prior to this change, PERS employed an amortization and smoothing policy that spread investment returns over a 15-year period with experience gains and losses paid for over a rolling 30-year period. After this change, PERS will employ an amortization and smoothing policy that will pay for all gains and losses over a fixed 30-year period with the increases or decreases in the rate spread directly over a 5-year period. The new amortization and smoothing policy were used for the first time in the June 30, 2013, actuarial valuations in setting employer contribution rates for fiscal year 2015-16.

On February 18, 2014, the Board of Administration approved new demographic actuarial assumptions based on a 2013 study of recent experience. The largest impact, applying to all benefit groups, is a new 20-year mortality projection reflecting longer life expectancies and that longevity will continue to increase. Because retirement benefits will be paid out for more years, the cost of those benefits will increase as a result. The Board of Administration also assumed earlier retirements for Police 3%@50, Fire 3%@55, and Miscellaneous 2.7%@55 and 3%@60, which will increase costs for those groups. As a result of these changes, rates will increase beginning in fiscal year 2016-17 (based on the June 30, 2014 valuation) with full impact in fiscal year 2020-21.

On November 18, 2015, the Board of Administration adopted a funding risk mitigation policy intended to incrementally lower its discount rate - its assumed rate of investment return - in years of good investment returns, help pay down the pension fund's unfunded liability, and provide greater predictability and less volatility in contribution rates for employers. The policy establishes a mechanism to reduce the discount rate by a minimum of 0.05 percentage points to a maximum of 0.25 percentage points in years when investment returns outperform the existing discount rate, currently 7.5%, by at least four percentage points. PERS staff modeling anticipates the policy will result in a lowering of the discount rate to 6.5% in about 21 years, improve funding levels gradually over time and cut risk in the pension system by lowering the volatility of investment returns. More information about the funding risk mitigation policy can be accessed through PERS' web site at the following website address: <https://www.calpers.ca.gov/page/newsroom/calpers-news/2015/adopts-funding-risk-mitigation-policy>. *The reference to this Internet website is provided for reference and convenience only. The information contained within the website may not be current, has not been reviewed by the City and is not incorporated in this Official Statement by reference.*

On December 21, 2016, the Board of Administration voted to lower its discount rate from the current 7.5% to 7.0% over three years according to the following schedule.

| Fiscal Year | Discount Rate |
|-------------|---------------|
| 2018-19     | 7.375%        |
| 2019-20     | 7.250         |
| 2020-21     | 7.000         |

For public agencies like the City, the new discount rate would take effect July 1, 2018. Lowering the discount rate means employers that contract with PERS to administer their pension plans will see increases in their normal costs and unfunded actuarial liabilities. Active members hired after January 1, 2013, under the Public Employees' Pension Reform Act will also see their contribution rates rise. The three-year reduction of the discount rate will result in average employer rate increases of about 1 percent to 3 percent of normal cost as a percent of payroll for most miscellaneous retirement plans, and a 2 percent to 5 percent increase for most safety plans. Additionally, many PERS employers will see a 30 to 40 percent increase in their current unfunded accrued liability payments. These payments are made to amortize unfunded liabilities over 20 years to bring the pension fund to a fully funded status over the long-term.

**Dollar Contribution Based on Projected PERS Rate Increases.** The City's projected annual financial contributions as a result of the PERS rate changes for the next five years are shown in the table below, with dollar amounts shown in millions:

|                              | 2019-20<br>Projected | 2020-21<br>Projected | 2021-2022<br>Projected | 2022-2023<br>Projected |
|------------------------------|----------------------|----------------------|------------------------|------------------------|
| Miscellaneous <sup>(1)</sup> | \$33.67              | \$36.55              | \$41.83                | \$43.30                |
| Police                       | 16.27                | 17.6                 | 18.58                  | 19.16                  |
| Fire                         | 8.78                 | 9.46                 | 9.55                   | 9.90                   |
| Total                        | \$58.72              | \$63.61              | \$69.96                | \$72.36                |

(1) Miscellaneous includes the 8% employee share paid by the City on behalf of the employees and negotiated employee contributions to the City's rate.

**Berkeley Police Retirement Income Benefit Plan.** Prior to December 22, 2012, the City maintained the Berkeley Police Retirement Income Benefit Plan ("BPRIBP"), a single-employer defined benefit income plan, for its police retirees and surviving spouses. Effective September 19, 2012, police retired on or after this date are no longer covered by BPRIBP. The City replaced this plan with the "Retiree Health Premium Assistance Coverage Plan."

The City's fiscal year 2019-20 contribution to the BPRIBP and the funded status of the BPRIBP is set forth below.

| Fiscal Year Ended | Total Pension Liability | Plan Fiduciary Net Position | Contributions Employer | Plan Net Pension Liability | Plan Fiduciary Net Position as a Percentage of the Total Pension Liability | Covered Payroll | Plan Net Pension Liability as a Percentage of Covered Employee Payroll |
|-------------------|-------------------------|-----------------------------|------------------------|----------------------------|----------------------------------------------------------------------------|-----------------|------------------------------------------------------------------------|
| 6/30/2020         | \$79,951,317            | \$5,825,660                 | \$2,048,826            | \$74,125,657               | 7.29%                                                                      | \$20,002,000    | 370.59%                                                                |

For a more detailed discussion of the BPRIBP, see Note 13.C. of APPENDIX B to this Official Statement.

**Peace Officers Research Association of California.** Effective December 23, 2012, the City established a new sick leave program called Peace Officers Research Association of California (“**PORAC**”). If a sworn member of the Berkeley Police department has an accrued sick leave balance on December 23, 2012 that exceeds 200 hours, one half of all those hours in excess of 200 shall be maintained in a separate account. The financial value of those hours shall be converted and deposited into the employee’s PORAC medical trust account over five successive years in equal installments commencing on January 1, 2013. The conversion was at the employee’s rate of pay on December 23, 2012. The City may accelerate the payment of hours to be converted. The remaining fifty percent of the sick leave balance in excess of 200 hours was credited into the employee’s separate “catastrophic/service time” bank no later than February 1, 2013, up to a maximum of 500 hours.

The City’s contribution to PORAC for the calendar year ending December 31, 2020 was \$389,485.

**Safety Members Pension Fund.** In addition, the City maintains the Safety Members Pension Fund (“**SMPF**”), a defined benefit plan for fire and police officers who retired prior to March 1973. In March 1973, all active fire and police officers were transferred from SMPF to PERS. The City pays the benefits to SMPF members on a pay-as-you-go basis, primarily through a Funding Agreement, purchased by the Berkeley Civic Improvement Corporation on behalf of the City in 1989. For the fiscal year ended June 30, 2020, the City’s contribution to SMPF was \$566,995.

The funded status of the SMPF as of June 30, 2020, the most recent actuarial date, is set forth below:

| Actuarial Valuation Date | Plan Fiduciary Net Position | Total Pension Liability | Plan Net Pension Liability | Plan Fiduciary Net Position as a Percentage of the Total Pension Liability | Covered Payroll | Plan Net Pension Liability as a Percentage of Covered Employee Payroll |
|--------------------------|-----------------------------|-------------------------|----------------------------|----------------------------------------------------------------------------|-----------------|------------------------------------------------------------------------|
| 6/30/2019                | --                          | \$1,762,635             | \$1,762,635                | --%                                                                        | N/A             | N/A                                                                    |

For a more detailed discussion of the SMPF, see Note 12.C. of APPENDIX B of this Official Statement.

**COVID-19 Impacts:** Recent investment losses in the PERS portfolios as a result of the general market downturn caused by the COVID-19 outbreak may result in increases in the City’s required contributions in future years. At this time, the City cannot predict the level of such increases, if any.

**Post-Employment Health Benefits**

The City offers certain post-employment health benefits to retirees. There are three plans: (i) the City of Berkeley Fire Employees Retiree Health Plan (“**FRHF**”), (ii) the City of Berkeley Miscellaneous Employees Retiree Health Plan (“**RHPAP**”) and (iii) the Police Retiree Premium Assistance Plan (“**PRPAP**”).



The City has adopted Government Accounting Standards Board Statement 45 which requires governmental agencies to change their accounting for Other Post-Employment Benefits (“OPEB”) from pay-as-you-go to an accrual basis.

See APPENDIX B, Note 3 for information about the City’s OPEB liabilities.

**City of Berkeley Fire Employees Retiree Health Plan.** The FRFH is a single-employer defined benefit medical plan. To be eligible for benefits, sworn Fire employees must retire from the City on or after July 1, 1997, be vested in a PERS pension, and retire from the City on or after age 50. Benefits commence immediately upon retirement. Benefits are payable for the retiree’s lifetime and continue for his or her covered spouse’s/domestic partner’s lifetime. The amount the City contributes toward the Fire Employees Retiree Health Plan is 4.5% per year regardless of the amount of increase in the underlying premium rate. The establishment and amendments of benefit provisions are negotiated between the employee bargaining units and the City Labor Negotiating Team, and are approved by the City Manager and City Council. As of July 1, 2020, there were 125 active employees, 35 retirees deferred and 62 retirees receiving benefits.

The City’s targeted funding policy is equal to the service cost for active employees plus an amount to amortize unfunded liabilities over 30 years (rolling 30-year amortization) as a level percentage of payroll. The City strives to contribute the annual required contribution of the employer (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45.

For the FRFH, the City’s annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB asset for fiscal year 2019-20 and the three preceding years were as follows:

| Fiscal Year Ended | Annual OPEB Cost | Percentage of Annual OPEB Contributed | Net OPEB Liability |
|-------------------|------------------|---------------------------------------|--------------------|
| 6/30/2017         | \$1,991,925      | 43%                                   | \$17,530,174       |
| 6/30/2018         | 2,163,028        | 34                                    | 17,251,382         |
| 6/30/2019         | 2,326,493        | 36                                    | 19,633,312         |
| 6/30/2020         | 2,104,622        | 36                                    | 21,177,486         |

The funded status of the FRFH as of June 30, 2020, the date of the most recent actuarial report, is set forth below:

| Actuarial Valuation Date | Actuarial Value of Assets | Actuarial Liability (AAL)-Unit Credit | Unfunded Actuarial Liability-UAAL | Funded Ratio | Covered Payroll | UAAL as Percentage of covered Payroll |
|--------------------------|---------------------------|---------------------------------------|-----------------------------------|--------------|-----------------|---------------------------------------|
| 7/1/2019                 | \$11,945,263              | \$33,122,749                          | \$21,177,486                      | 36.1%        | \$15,307,269    | 138.35%                               |

The actuarial value of the assets in the FRFH as of June 30, 2020 was equal to their market value.

**City of Berkeley Miscellaneous Employees Retiree Health Premium Assistance Plan.** The RHPAP is a single-employer defined benefit medical plan. It provides retiree health benefits to eligible retirees and his/her spouse or domestic partner. The establishment and

amendments of benefit provisions are negotiated between the employee bargaining units and the City, and are approved by the City Council.

Retirees who are at least age 50, with at least 8 years of service with the City at the time of separation from service are eligible to receive retiree health benefits commencing at age 55. Benefits are payable for the retiree’s lifetime and continue for his or her covered spouse’s/domestic partner’s lifetime. The City pays the monthly cost of the monthly premiums up to a participant’s applicable percentage of the base dollar amount and subject to annual 4.5% increases regardless of the amount of increase in the underlying premium rate. As of June 30, 2020, there were 1,656 active employees.

The City’s targeted funding policy is equal to the normal cost for active employees plus an amount to amortize unfunded liabilities over 30 years as a level percentage of payrolls. The City is required to contribute the annual required contribution of the employer (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45. Any changes to the contribution requirements of the plan are negotiated by the bargaining units and City negotiating staff, and approved by the City Council.

For the RHPAP, the City’s annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB obligation for fiscal year 2019-20 and the three preceding years were as follows:

| <b>Fiscal Year Ended</b> | <b>Annual OPEB Cost</b> | <b>Percentage of Annual OPEB Contributed</b> | <b>Net OPEB Obligation</b> |
|--------------------------|-------------------------|----------------------------------------------|----------------------------|
| 6/30/2017                | \$4,610,828             | 72.7%                                        | \$37,900,578               |
| 6/30/2018                | 4,729,448               | 42.3                                         | 34,215,614                 |
| 6/30/2019                | 5,051,655               | 43.3                                         | 37,219,746                 |
| 6/30/2020                | 5,534,572               | 32.70                                        | 60,659,492                 |

The funded status of the RHPAP as of June 30, 2020, the most recent actuarial report, is set forth below:

| <b>Actuarial Valuation Date</b> | <b>Actuarial Accrued Liability (AAL)</b> | <b>Actuarial Value of Assets</b> | <b>Unfunded Actuarial Accrued Liability- UAAL</b> | <b>Funded Ratio</b> | <b>Covered Payroll</b>      | <b>UAAL as Percentage of covered Payroll</b> |
|---------------------------------|------------------------------------------|----------------------------------|---------------------------------------------------|---------------------|-----------------------------|----------------------------------------------|
| 7/1/2019                        | \$90,097,476                             | \$29,437,984                     | \$60,659,492                                      | 32.7%               | \$94,774,757 <sup>(1)</sup> | 64.00%                                       |

(1) Estimated.

The actuarial value of the assets in the RHPAP as of June 30, 2020 was equal to their market value.

**Police Retiree Premium Assistance Plan.** Effective September 19, 2012, the City replaced the “Berkeley Police Retirement Income Benefit Plan” with the “Retiree Health Premium Assistance Coverage Plan” for any police employees hired on or after that date, as well as any current employees who retire on or after such date. Under the newly established retiree health premium assistance plan, benefits will be the paid by the City directly to the provider who is providing retiree health coverage to the retiree or his or her surviving spouse. The maximum amount will be equal in value to the City sponsored health plan.

In order to be eligible for the Retiree Health Premium Assistance Coverage, a “Retiree” must meet all of the following criteria:

- (a) A person who is vested in the plan, and
- (b) Has reached the age of 50, and
- (c) Has retired from the City at age 50 or thereafter, and
- (d) Has applied for and is receiving a pension from at the time of retirement.

The maximum amount the City will contribute toward the payment of medical insurance premiums is based on the employee’s years of service as a sworn member of the Berkeley Police Department at time of retirement. The retiree must have at least 10 years of service as a sworn member of the Berkeley Police Department to qualify for this benefit.

| <u>Years of Service</u> | <u>City Percentage</u> |
|-------------------------|------------------------|
| 10 to 14                | 25%                    |
| 15 to 19                | 50                     |
| 20 or more              | 100                    |

Beginning September 19, 2012, each month after the employee retires the City will pay the health care service provider an appropriate percentage based on years of service above an amount equal to \$1,200 per month for two-party coverage for the retiree and a qualifying spouse/domestic partner or \$600 per month for single party coverage. Upon death of either the retiree or the retiree’s spouse, the City will only pay the appropriate percentage of the single party rate to the provider on behalf of the surviving retiree or spouse/domestic partner. If there is no spouse/domestic partner at the time of retirement, the City shall only pay the single party rate. The retiree and/or surviving spouse/domestic partner will be responsible for payment of the difference between the amount the City contributes toward payment of the premium and the actual premium cost. The funds for this difference will come from the retirees retirement account and the retiree must authorize such withdrawal of funds.

Beginning July 1, 2013 and effective each July 1 thereafter, the base rates the City contributes toward payment of the premium amount described in the preceding paragraph shall be increased by either the amount Kaiser increases the retiree medical premium for that year, or 6%, whichever is less. The retiree and/or surviving spouse/domestic partner shall pay the difference between the amount the City contributes toward payment of the premium and the actual premium cost. As of June 30, 2020, there were 158 active employees, 16 active retirees, and 15 retirees entitled to, but not yet receiving, benefits.

For the retiree health premium assistance plan, the City’s annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB asset for fiscal year 2019-20 and the three preceding years were as follows:

| <b>Fiscal Year Ended</b> | <b>Annual OPEB Cost</b> | <b>Percentage of Annual OPEB Contributed</b> | <b>Net OPEB Liability</b> |
|--------------------------|-------------------------|----------------------------------------------|---------------------------|
| 6/30/2017                | \$5,105,429             | 11.0%                                        | \$45,508,847              |
| 6/30/2018                | 4,929,429               | 6.0                                          | 41,652,588                |
| 6/30/2019                | 5,155,293               | 6.0                                          | 46,252,565                |
| 6/30/2020                | 4,432,549               | 4.0                                          | 57,472,394                |

The actuarial cost method used for determining the benefit obligations is the Projected Unit Credit Cost Method. Under this method, the actuarial present value of projected benefits is the value of benefits expected to be paid for current actives and retirees and is calculated based on the assumptions and census data described this report. The Actuarial Accrued Liability (AAL) is the actuarial present value of benefits attributed to employee service rendered prior to the valuation date. The AAL equals the present value of benefits multiplied by a fraction equal to service to date over service at expected retirement. The Normal Cost is the actuarial present value of benefits attributed to one year of service. This equals the present value of benefits divided by service at expected retirement. Since retirees are not accruing any more service, their normal cost is zero. In determining the Annual Required Contribution, the Unfunded AAL is amortized as a level percentage of payroll over 30 years.

As of June 30, 2020, the most recent actuarial valuation date, the plan was 4.0% funded. The actuarial accrued liability for benefit was \$59.8 million, and the actuarial value of assets was \$2.4 million, resulting in an unfunded accrued liability of \$57.5 million. The covered payroll (annual payroll of active employees covered by the plan) was approximately \$20.7 million. The fair value of the assets was determined using market values as of the date of the actuarial report. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multi-year trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for benefits. Funded status of the plan as of June 30, 2020, the most recent actuarial valuation date is as follows:

| Actuarial Valuation Date | Actuarial Value of Assets | Actuarial Accrued Liability (AAL)- Unit Credit | Unfunded Actuarial Accrued Liability- UAAL | Funded Ratio | Covered Payroll             | UAAL as Percentage of covered Payroll |
|--------------------------|---------------------------|------------------------------------------------|--------------------------------------------|--------------|-----------------------------|---------------------------------------|
| 7/1/2019                 | \$2,373,785               | \$59,846,179                                   | \$57,472,394                               | 4.0%         | \$20,695,223 <sup>(1)</sup> | 277.7%                                |

(1) Estimated.

**Defined Contribution Plans**

The City offers certain supplemental retirement and income plans to retirees. See APPENDIX B, Note 12.D for information about the City’s defined contribution plans.

**Labor Relations**

As of March 10, 2021, the City employed approximately 1,224 full-time equivalent budgeted employees. There are six employee unions as shown below. In addition, the City employs approximately 101 unrepresented employees that include Executive Management, Confidential professional or Confidential Office support positions. The City has not experienced any work stoppages or strikes by its employees.

**CITY OF BERKELEY  
Labor Relations**

| <u>Labor Organization</u>                                                                                           | <u>Employees</u> | <u>Contract Expiration Date<sup>(1)</sup></u> |
|---------------------------------------------------------------------------------------------------------------------|------------------|-----------------------------------------------|
| Berkeley Fire Fighters Association/I.A.F.F. Local 1227                                                              | 121              | 6/30/2021                                     |
| Berkeley Police Association                                                                                         | 161              | 6/30/2021                                     |
| I. B. E. W. Local 1245                                                                                              | 10               | 6/27/2020                                     |
| Service Employees International Local 1021 Maintenance and Clerical Chapters                                        | 442              | 6/26/2021                                     |
| Service Employees International Local 1021 Community Services and Part-Time Recreation Leaders Association Chapters | 319              | 6/26/2021                                     |
| Public Employees Local 1                                                                                            | 171              | 6/27/2020                                     |
| Unrepresented Employees                                                                                             | 101              |                                               |

(1) Terms of contract remain in effect after expiration until new contract becomes effective.  
Source: City of Berkeley.

**Risk Management**

The City is exposed to various risks of loss related to torts; theft of, damage to, or restriction of assets; errors or omissions; injuries to employees; or acts of God.

The City is self-insured for liability claims below \$350,000. The City is a member of the Bay Cities Joint Powers Insurance Authority (“**BCJPIA**”). The BCJPIA consists of 20 municipal or public agency members, all located within the metropolitan San Francisco Bay Area. The BCJPIA provides general liability, auto liability, and errors and omissions coverage between \$350,000 and \$1,000,000. The California Affiliated Risk Management Authority (“**CARMA**”) provides additional coverage to the BCJPIA and its member entities for claims in excess of \$1,000,000, up to \$29,000,000.

The City is self-insured for workers’ compensation. Payments are made to the Workers’ Compensation Self-Insurance Internal Service Fund by transfers from the City’s General Fund and other funds of the City on a pay-as-you-go basis.

The City requires pre-employment physical examinations for high risk, high hazard employees as well as annual examination for all uniformed officers. As part of its workers’ compensation program, copies of all injured employee medical reports are monitored by a third-party agent to ensure that injured employees receive proper care.

## City Debt Structure

**Short-Term Debt.** The City has issued Tax and Revenue Anticipation Notes (“**TRANS**”) in each recent year. The City’s TRANS are a general obligation of the City, payable from the City’s General Fund and any other lawfully available moneys. The fiscal year 2020-21 TRANS have an outstanding principal amount of \$42,405,000 and mature on July 27, 2021.

**Outstanding General Fund Obligations.** The City currently has outstanding long-term General Fund debt and lease obligations described below. The City has never defaulted on the payment of principal of or interest on any of its indebtedness.

In October 2012, the Berkeley Joint Powers Financing Authority (the “**Authority**”) issued lease revenue bonds on behalf of the City in the aggregate principal amount of \$27,260,000 to refund the Authority’s 1999 Lease Revenue Bonds and 2003 Certificates of Participation. The City’s underlying rental obligation is a General Fund obligation of the City. The bonds bear interest at rates between 3.00%-5.00%, and the final maturity date is October 1, 2031. As of April 1, 2021, the principal balance outstanding was \$17,885,000.

In June 2021, the Authority issued lease revenue bonds on behalf of the City in the aggregate principal amount of \$\_\_\_\_\_ to refund the City’s lease obligations in connection with certificates of participation executed and delivered by The Bank of New York Mellon Trust Company in June 2010. The City’s underlying rental obligation in connection with such bonds is a General Fund obligation of the City. The bonds bear interest at rates between \_\_\_\_%-\_\_\_\_%, and the final maturity date is October 1, 20\_\_\_\_.

## Employment

The unemployment rate in the Oakland-Hayward-Berkeley MD was 6.6 percent in March 2021, down from a revised 6.9 percent in February 2021, and above the year-ago estimate of 3.6 percent. This compares with an unadjusted unemployment rate of 8.2 percent for California and 6.2 percent for the nation during the same period. The unemployment rate was 6.5 percent in the County and 6.8 percent in Contra Costa County.

The table below list employment by industry group for Alameda and Contra Costa Counties for the years 2015 to 2019.

**OAKLAND- HAYWARD-BERKELEY MD  
(Alameda and Contra Costa Counties)  
Annual Averages Civilian Labor Force, Employment and Unemployment,  
Employment by Industry  
(March 2020 Benchmark)**

|                                                   | 2015      | 2016      | 2017      | 2018      | 2019      |
|---------------------------------------------------|-----------|-----------|-----------|-----------|-----------|
| Civilian Labor Force <sup>(1)</sup>               | 1,363,500 | 1,384,900 | 1,397,800 | 1,403,300 | 1,406,100 |
| Employment                                        | 1,297,300 | 1,324,400 | 1,345,500 | 1,359,400 | 1,364,200 |
| Unemployment                                      | 66,200    | 60,400    | 52,300    | 43,900    | 41,900    |
| Unemployment Rate                                 | 4.9%      | 4.4%      | 3.7%      | 3.1%      | 3.0%      |
| <u>Wage and Salary Employment:</u> <sup>(2)</sup> |           |           |           |           |           |
| Agriculture                                       | 1,200     | 1,300     | 1,400     | 1,300     | 1,400     |
| Mining and Logging                                | 300       | 300       | 200       | 200       | 200       |
| Construction                                      | 62,800    | 67,900    | 71,200    | 74,900    | 75,600    |
| Manufacturing                                     | 88,100    | 91,000    | 95,500    | 100,400   | 99,600    |
| Wholesale Trade                                   | 47,000    | 48,100    | 48,700    | 47,500    | 45,600    |
| Retail Trade                                      | 111,800   | 113,400   | 114,400   | 114,400   | 112,100   |
| Transportation, Warehousing, Utilities            | 37,500    | 39,200    | 40,500    | 41,900    | 42,900    |
| Information                                       | 25,300    | 26,700    | 27,100    | 27,800    | 27,900    |
| Finance and Insurance                             | 37,400    | 38,800    | 38,700    | 37,200    | 37,100    |
| Real Estate and Rental and Leasing                | 16,800    | 16,900    | 17,400    | 17,800    | 18,000    |
| Professional and Business Services                | 177,200   | 180,900   | 184,300   | 189,300   | 191,900   |
| Educational and Health Services                   | 178,600   | 185,900   | 191,500   | 194,300   | 197,700   |
| Leisure and Hospitality                           | 106,600   | 111,700   | 114,900   | 117,700   | 120,100   |
| Other Services                                    | 38,100    | 39,100    | 40,200    | 41,000    | 41,300    |
| Federal Government                                | 13,800    | 13,900    | 13,800    | 13,400    | 13,400    |
| State Government                                  | 39,900    | 39,700    | 39,300    | 39,400    | 39,600    |
| Local Government                                  | 115,600   | 119,800   | 121,500   | 121,800   | 122,100   |
| Total, All Industries <sup>(3)</sup>              | 1,098,000 | 1,134,600 | 1,160,600 | 1,180,400 | 1,186,700 |

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(3) Totals may not add due to rounding.

Source: State of California Employment Development Department.

The following tables show the major employers in the City and the County.

**CITY OF BERKELEY  
Major Employers  
2020**

| <u>Employer</u>                                  | <u>Number of Employees</u> | <u>% of Total Employment</u> |
|--------------------------------------------------|----------------------------|------------------------------|
| University of California Berkeley                | 13,750                     | 20.33%                       |
| Lawrence Berkeley National Laboratory            | 3,773                      | 5.58                         |
| Sutter East Bay Medical Foundation/Hospitals     | 2,117                      | 3.13                         |
| City of Berkeley                                 | 1,579                      | 2.33                         |
| Berkeley Unified School District                 | 1,302                      | 1.93                         |
| Bayer Corporation                                | 1,033                      | 1.53                         |
| Kaiser Permanente Medical Group                  | 742                        | 1.10                         |
| Siemens Corporation/Healthcare Diagnostics, Inc. | 736                        | 1.09                         |
| Berkeley Bowl Produce                            | 636                        | 0.94                         |
| Lifelong Medical Care                            | 426                        | 0.63                         |

*Source: City of Berkeley, Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2020.*

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**COUNTY OF ALAMEDA**  
**Major Employers (Listed Alphabetically)**  
**2020**

| <b>Employer Name</b>           | <b>Location</b> | <b>Industry</b>                          |
|--------------------------------|-----------------|------------------------------------------|
| Alameda County Law Enforcement | Oakland         | Government Offices-County                |
| Alameda County Sheriff's Ofc   | Oakland         | Government Offices-County                |
| Alta Bates Summit Med Ctr Alta | Berkeley        | Hospitals                                |
| Alta Bates Summit Med Ctr Lab  | Oakland         | Laboratories-Medical                     |
| BART                           | Oakland         | Transportation                           |
| California State Univ East Bay | Hayward         | Schools-Universities & Colleges Academic |
| East Bay Mud                   | Oakland         | Water & Sewage Companies-Utility         |
| EBMUD                          | Oakland         | Utilities                                |
| Grifols Diagnostic Solutions   | Emeryville      | Pharmaceutical Research Laboratories     |
| Highland Hospital              | Oakland         | Hospitals                                |
| Kaiser Permanente Oakland Med  | Oakland         | Hospitals                                |
| Lawrence Berkeley Lab          | Berkeley        | Laboratories-Research & Development      |
| Lawrence Livermore Natl Lab    | Livermore       | University-College Dept/Facility/Office  |
| Lifescan Inc                   | Fremont         | Physicians & Surgeons Equip & Supls-Mfrs |
| Oakland Police Patrol Div      | Oakland         | Police Departments                       |
| Bay Area Rapid Transit         | Oakland         | Transit Lines                            |
| Tesla                          | Fremont         | Automobile Dealers-Electric Cars         |
| Transportation Dept-California | Oakland         | Government Offices-State                 |
| UCSF Benioff Children's Hosp   | Oakland         | Hospitals                                |
| University of CA Berkeley      | Berkeley        | Schools-Universities & Colleges Academic |
| University of CA-BERKELEY      | Berkeley        | University-College Dept/Facility/Office  |
| University-Ca-Berkeley Dept    | Berkeley        | University-College Dept/Facility/Office  |
| Valley Care Health System      | Livermore       | Health Services                          |
| Washington Hospital Healthcare | Fremont         | Hospitals                                |
| Western Digital Corp           | Fremont         | Computer Storage Devices (mfrs)          |

*Source: State of California Employment Development Department, extracted from The America's Labor Market Information System (ALMIS) Employer Database, 2020 2nd Edition.*

### **Effective Buying Income**

“Effective Buying Income” is defined as personal income less personal tax and nontax payments, a number often referred to as “disposable” or “after-tax” income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor’s income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as “disposable personal income.”

The following table summarizes the total effective buying income for the City of Berkeley, the County of Alameda, the State and the United States for the period 2017 through 2021.

**CITY OF BERKELEY AND COUNTY OF ALAMEDA**  
**Effective Buying Income**  
**As of January 1, 2017 through 2021**

| Year | Area           | Total Effective<br>Buying Income<br>(000's Omitted) | Median Household<br>Effective Buying<br>Income |
|------|----------------|-----------------------------------------------------|------------------------------------------------|
| 2017 | Berkeley       | \$4,618,113                                         | \$59,958                                       |
|      | Alameda County | 56,091,066                                          | 67,631                                         |
|      | California     | 1,036,142,723                                       | 55,681                                         |
|      | United States  | 8,132,748,136                                       | 48,043                                         |
| 2018 | Berkeley       | \$5,070,468                                         | \$66,382                                       |
|      | Alameda County | 61,987,949                                          | 73,633                                         |
|      | California     | 1,113,648,181                                       | 59,646                                         |
|      | United States  | 8,640,770,229                                       | 50,735                                         |
| 2019 | Berkeley       | \$5,517,451                                         | \$72,412                                       |
|      | Alameda County | 67,609,653                                          | 79,446                                         |
|      | California     | 1,183,264,399                                       | 62,637                                         |
|      | United States  | 9,017,967,563                                       | 52,841                                         |
| 2020 | Berkeley       | \$5,843,576                                         | \$76,294                                       |
|      | Alameda County | 72,243,436                                          | 84,435                                         |
|      | California     | 1,243,564,816                                       | 65,870                                         |
|      | United States  | 9,487,165,436                                       | 55,303                                         |
| 2021 | Berkeley       | \$6,203,796                                         | \$79,437                                       |
|      | Alameda County | 77,794,202                                          | 88,389                                         |
|      | California     | 1,290,894,604                                       | 67,956                                         |
|      | United States  | 9,809,944,764                                       | 56,790                                         |

Source: The Nielsen Company (US), Inc for years 2017 through 2018; Claritas, LLC for 2019 through 2021.

## Construction Activity

Provided below are the building permits and valuations for the City of Berkeley for calendar years 2015 through 2019. Annual figures are not yet available for calendar year 2020.

| <b>CITY OF BERKELEY</b>                 |                 |                 |                 |                 |                 |
|-----------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| <b>Total Building Permit Valuations</b> |                 |                 |                 |                 |                 |
| <b>(Valuations in Thousands)</b>        |                 |                 |                 |                 |                 |
| <u>Permit Valuation</u>                 | 2015            | 2016            | 2017            | 2018            | 2019            |
| New Single-family                       | \$2,995.0       | \$5,469.1       | \$14,776.2      | \$13,808.7      | \$9,666.3       |
| New Multi-family                        | 53,876.1        | 9,835.5         | 47,723.2        | 24,506.9        | 7,513.6         |
| Res. Alterations/Additions              | <u>52,549.5</u> | <u>45,295.9</u> | <u>45,215.9</u> | <u>80,130.0</u> | <u>40,596.9</u> |
| Total Residential                       | 109,420.6       | 60,600.5        | 107,715.3       | 118,445.6       | 57,776.8        |
| <br>                                    |                 |                 |                 |                 |                 |
| New Commercial                          | 20,246.9        | 32,109.7        | 24,576.3        | 18,732.1        | 10,816.3        |
| New Industrial                          | 0.0             | 0.0             | 0.0             | 0.0             | 0.0             |
| New Other                               | 7,770.1         | 3,315.8         | 3,636.5         | 3,236.6         | 4,718.7         |
| Com. Alterations/Additions              | <u>44,962.7</u> | <u>47,485.2</u> | <u>26,597.7</u> | <u>52,522.6</u> | <u>12,885.4</u> |
| Total Nonresidential                    | 72,979.7        | 82,910.7        | 54,810.5        | 74,491.3        | 28,420.4        |
| <br>                                    |                 |                 |                 |                 |                 |
| <u>New Dwelling Units</u>               |                 |                 |                 |                 |                 |
| Single Family                           | 6               | 20              | 43              | 63              | 46              |
| Multiple Family                         | <u>459</u>      | <u>69</u>       | <u>402</u>      | <u>129</u>      | <u>42</u>       |
| TOTAL                                   | 465             | 89              | 445             | 192             | 88              |

Source: Construction Industry Research Board, Building

APPENDIX B

THE CITY'S COMPREHENSIVE ANNUAL FINANCIAL REPORT  
FOR YEAR ENDED JUNE 30, 2020

**APPENDIX C**  
**FORM OF OPINION OF BOND COUNSEL**  
**[LETTERHEAD OF JONES HALL]**

July \_\_, 2021

City Council  
City of Berkeley  
2180 Milvia Street  
Berkeley, California 94704

**OPINION:**     \$\_\_\_\_\_ City of Berkeley, California 2021-22  
                  Tax and Revenue Anticipation Notes

Members of the City Council:

We have acted as bond counsel to the City of Berkeley, California (the "City") in connection with the issuance by the City, of the tax and revenue anticipation notes captioned above, dated the date hereof (the "Notes"). In such capacity, we have examined such law and such certified proceedings, certifications and other documents as we deem necessary to render this opinion.

The Notes are issued pursuant to Article 7.6 (commencing with Section 53850) of Chapter 4, Part 1, Division 2, Title 5 of the California Government Code (the "Act"), and a resolution (the "Resolution") of the City Council of the City, adopted on June 29, 2021.

Regarding questions of fact material to our opinion, we have relied upon certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Based on the foregoing, we are of the opinion that, under existing law:

1.     The City is a duly created and validly existing municipal corporation and charter city with the power to adopt the Resolution, perform the agreements on its part contained therein and issue the Notes.
2.     The Resolution constitutes a valid and binding obligation of the City, enforceable against the City.
3.     Pursuant to the Act, the Resolution creates a first lien on funds pledged by the Resolution for the security of the Notes.
4.     The Notes have been duly authorized and executed by the City and are valid and binding general obligations of the City.

5. The interest on the Notes is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax. The opinions set forth in the preceding sentence are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Notes in order that the interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The City has made certain representations and covenants in order to comply with each such requirement. Inaccuracy of those representations, or failure to comply with certain of those covenants, may cause the inclusion of such interest in gross income for federal income tax purposes, which may be retroactive to the date of issuance of the Notes.

6. The interest on the Notes is exempt from personal income taxation imposed by the State of California.

We express no opinion regarding any other tax consequences arising with respect to the ownership, sale or disposition of, or the amount, accrual or receipt of interest on, the Notes.

The rights of the owners of the Notes and the enforceability of the Notes are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur. Our engagement with respect to this matter has terminated as of the date hereof.

Respectfully submitted,

A Professional Law Corporation

## APPENDIX D

### FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the “**Disclosure Certificate**”) is executed and delivered by the City of Berkeley (the “**City**”) in connection with the issuance by the City, of the \$\_\_\_\_\_ City of Berkeley 2021-22 Tax and Revenue Anticipation Notes (the “**Notes**”). The Notes are being issued pursuant to a resolution adopted by the City Council of the City on June 29, 2021 (the “**Resolution**”). The City covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the Notes and in order to assist the Participating Underwriters in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Resolution, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“**Dissemination Agent**” shall mean NHA Advisors, LLC, or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

“**Listed Events**” shall mean any of the events listed in Section 3(a) of this Disclosure Certificate.

“**MSRB**” means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule.

“**Participating Underwriter**” shall mean any of the original underwriters of the Notes required to comply with the Rule in connection with offering of the Notes.

“**Rule**” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

#### Section 3. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 3, the City shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Notes:

- (1) Principal and interest payment delinquencies.
- (2) Non-payment related defaults, if material.
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (5) Substitution of credit or liquidity providers, or their failure to perform.

- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.
- (7) Modifications to rights of security holders, if material.
- (8) Bond calls, if material, and tender offers.
- (9) Defeasances.
- (10) Release, substitution, or sale of property securing repayment of the securities, if material.
- (11) Rating changes.
- (12) Bankruptcy, insolvency, receivership or similar event of the City or other obligated person.
- (13) The consummation of a merger, consolidation, or acquisition involving the City or an obligated person, or the sale of all or substantially all of the assets of the City or an obligated person (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.
- (15) Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material.
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Notes under the Resolution.

(c) The City acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), and (a)(14) of this Section 3 contain the qualifier



“if material.” The City shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that the City determines the event’s occurrence is material for purposes of U.S. federal securities law.

(d) For purposes of this Disclosure Certificate, any event described in paragraph (a)(12) above is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(e) For purposes of Section 3(a)(15) and (16), “financial obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term financial obligation shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

Section 4. Termination of Reporting Obligation. The City’s obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Notes. If such termination occurs prior to the final maturity of the Notes, the City shall give notice of such termination in the same manner as for a Listed Event under Section 3(c).

Section 5. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be NHA Advisors, LLC.

Section 6. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) if the amendment or waiver relates to the provisions of Section 3(a) it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Notes, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the primary offering of the Notes, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver either (i) is approved by holders of the Notes, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the Notes.

Section 7. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future notice of occurrence of a Listed Event.

Section 8. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate any holder or beneficial owner of the Notes may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Resolution, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 9. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Notes.

Section 10. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriters and holders and beneficial owners from time to time of the Notes and shall create no rights in any other person or entity.

Date: \_\_\_\_\_, 2020

CITY OF BERKELEY

By \_\_\_\_\_  
City Manager

## APPENDIX E

## DTC AND THE BOOK-ENTRY ONLY SYSTEM

*The following description of the Depository Trust Company (“DTC”), the procedures and record keeping with respect to beneficial ownership interests in the Notes, payment of principal, interest and other payments on the Notes to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Notes and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.*

*Neither the issuer of the Notes (the “Issuer”) nor the trustee, fiscal agent or paying agent appointed with respect to the Notes (the “Agent”) take any responsibility for the information contained in this Appendix.*

*No assurances can be given that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Notes, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Notes, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Notes, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC.*

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the securities (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust

companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“**DTCC**”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC’s records. The ownership interest of each actual purchaser of each Security (“**Beneficial Owner**”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC’s MMI

Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and interest payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from Issuer or Agent on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as securities depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.





Office of the City Manager

INFORMATION CALENDAR  
June 29, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Rama Murty, Acting Budget Manager  
 Subject: Voluntary Time Off Program For FY 2022

INTRODUCTION

As a citywide cost-saving measure, the City Manager is designating 16 Voluntary Time Off (VTO) days in FY 2022 and authorizing certain City offices and non-essential services to temporarily close for those days.

CURRENT SITUATION AND ITS EFFECTS

The proposed 16 VTO dates will fall on a schedule similar to FY 2021, with City offices generally closing on every second Friday, with additional days the last week in December 2021 (December 27 - December 30). The following are the proposed VTO Days:

| Date (2021)  | Day                   | Date (2022)  | Day                  |
|--------------|-----------------------|--------------|----------------------|
| July 9       | Friday                | January 14   | Friday               |
| August 13    | Friday                | February 18* | Friday               |
| September 10 | Friday                | March 11     | Friday               |
| October 8    | Friday                | April 8      | Friday               |
| November 12  | Friday                | May 13       | Friday               |
| December 10  | Friday                | June 10      | Friday               |
| December 27  | Monday                |              |                      |
| December 28  | Tuesday               |              |                      |
| December 29  | Wednesday             |              |                      |
| December 30  | Thursday              |              |                      |
|              | <b>10 days (2021)</b> |              | <b>6 days (2022)</b> |

\*Please note that Friday, February 11, 2022 is the observed Lincoln's Birthday. VTO day in February is moved to February 18 to minimize the impact on payroll processing.

\*\*Friday, December 31, 2021 is the observed New Year's Day holiday.

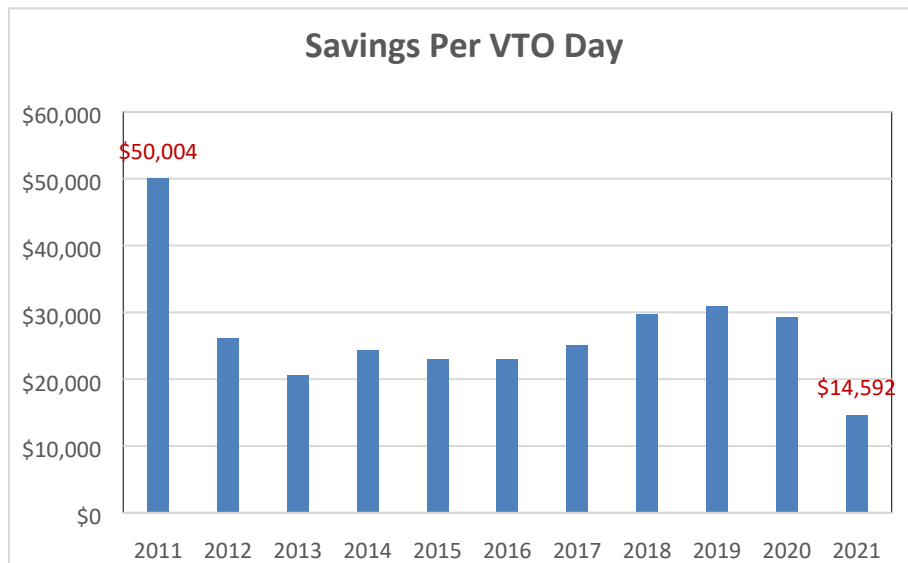
The purpose of VTO days is to generate savings to help balance the budget. The program is projected to achieve a savings of \$248,056 on an all funds basis in FY 2021. The VTO savings projected to be realized this fiscal year was lower compared to previous fiscal years because of City buildings closure and staff working remotely since March 2020 due to the COVID-19 pandemic. Nonetheless, the program is still recommended to continue in FY 2022.

**Voluntary Time Off Salary Savings**

| Fiscal Year | Number of VTO Days | Base Salary Savings | Savings Per VTO Day |
|-------------|--------------------|---------------------|---------------------|
| 2011        | 29                 | \$1,450,126         | \$50,004            |
| 2012        | 28                 | \$731,723           | \$26,133            |
| 2013        | 28                 | \$578,044           | \$20,644            |
| 2014        | 16                 | \$389,706           | \$24,357            |
| 2015        | 16                 | \$366,853           | \$22,928            |
| 2016        | 16                 | \$367,821           | \$22,989            |
| 2017        | 16                 | \$402,070           | \$25,129            |
| 2018        | 16                 | \$475,400           | \$29,713            |
| 2019        | 17                 | \$524,086           | \$30,829            |
| 2020        | 16                 | \$467,108           | \$29,194            |
| 2021        | 17                 | \$248,056*          | \$14,592            |

\*Annualized projection

Although we plan to continue the VTO program in FY 2022, we will reevaluate the VTO program again for FY 2023. As shown in the chart below, the savings generated from the VTO program have significantly declined since FY 2011. The average savings per VTO day within the last decade ranged from \$14.6K to \$50K.





In FY 2021, staff considered the impact that the VTO days had on City services especially on a year of pandemic due to COVID-19. It was determined that the VTO days were, in general, not having a significant detrimental effect on the City's ability to provide quality services. Inconveniences to residents were mitigated in several ways, including keeping the 311 Customer Call Center open on VTO days, adjusting due dates for fines, and posting clear signs in advance of closure dates.

### BACKGROUND

The concept for a VTO program was proposed in 2004 by the labor unions representing non-sworn employees as an alternative to a mandatory closure of City offices ("furloughs") and staff layoffs. The VTO program designates certain days City offices are closed to the public while allowing staff to take paid or unpaid leave, or voluntarily report to work. The VTO closures have permitted staff to reduce their vacation leave balances, and eliminate the costly past practice of buying back vacation leave balances, which in turn has allowed the City to reduce its cost to pay out accrued vacation leave upon an employee's separation from employment. It has also been used by departments to help them reach their annual target savings.

Likewise, the City Council approved a recommendation that designates any Statewide Election, including Primary and Special Statewide Elections, as VTO days<sup>1</sup>. Election Day occurs on the Tuesday after the first Monday in November of each even-numbered year, with the corresponding Primary Day occurring on the Tuesday after the first Monday of March.

**Service Impacts:** The VTO program has generated minimal complaints from the public regarding the office closures and reduced services because many key services remain open to the public, while other services can be provided on a callback basis.

During VTO days, customer service counters at the Finance Customer Service Center and Permit Service Center are closed to the public. When Customer Service Center offices are closed, customers may access the drop box which is now located outside 1947 Center building. Customers are redirected to access the drop box through signage to the Rent Board Office at 2125 Milvia Street on VTO days in the last week of December. When the Permit Service Center is closed, building inspection services continue to be available to the public when City approvals are required for time-sensitive projects. The permit mailbox has recently been configured to accept emails from applicants on VTO days including applications for all types of building related permits. In addition, Permit Service Center cashiers now work most of the VTO days to return customer calls and process payments. The City will continue to notify the public of City VTO closure dates through public noticing, the press, voicemail messages, and signs.

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<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/09\\_Sep/Documents/2019-09-10\\_Item\\_53\\_Voluntary\\_Time\\_Off\\_on\\_Statewide.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/09_Sep/Documents/2019-09-10_Item_53_Voluntary_Time_Off_on_Statewide.aspx)

The Voluntary Time Off Program for FY 2022 is a Strategic Plan Priority, advancing our goal to provide an efficient and financially-healthy City government.

ENVIRONMENTAL SUSTAINABILITY

VTO days may reduce vehicle miles traveled associated with City employees' work commute. Otherwise, there are no identifiable environmental effects or opportunities associated with the subject of this report.

POSSIBLE FUTURE ACTION

We are continuing the VTO program in FY 2022. However, we will reassess the economic impact as well as the cost benefit to the public of continuing these temporary closures of City offices for FY 2023.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Cost savings are achieved on an annual basis from the VTO program. Since FY 2011, annual cost savings ranging from \$250K to just under \$1.5 million have been achieved from the VTO program.

CONTACT PERSON

LaTanya Bellow, Director of Human Resources, 981-6800  
Rama Murty, Acting Budget Manager, 981-7000



Office of the City Manager

INFORMATION CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Lovvorn, Chief Cultural Affairs Officer

Subject: FY 2022 Civic Arts Grant Awards

INTRODUCTION

This report is to inform the City Council of the Civic Arts Grant awards for Fiscal Year 2022 and to present the Civic Arts Commission's proposed supplemental grant award amounts for Fiscal Year 2022 to help Berkeley's arts community reopen safely.

FINANCIAL IMPLICATIONS

The City's annual budget typically includes baseline allocations in the General Fund for Civic Arts Grants to Arts Organizations and Individual Artists (\$500,000) and for Festivals (approximately \$158,000). For Fiscal Year 2022, the Civic Arts Commission has approved two distinct grant award scenarios for Council's consideration:

1. One which fits within the baseline annual budget allocation of \$658,000 (Attachment 1).
2. The second which includes an additional one-time allocation (proposed to be funded by the American Rescue Plan) in the amount of \$792,000, bringing the total budget allocation for Fiscal Year 2022 for Civic Arts Grants for Arts Organizations, Individual Artists, and Festivals to \$1,450,000 (Attachment 2).

Starting in Fiscal Year 2022, in alignment with the City's two-year budget cycle, one of the three Civic Art Grant categories (Arts Organizations) is now operating on a two-year grant cycle. The other two categories (Festivals and Individual Artists) remain on an annual cycle to allow for more responsive grantmaking for these categories, where the applicant pool changes from year to year. Baseline grant award amounts for arts organizations determined through this year's process will be paid out to grantees two years in a row (FY22 and FY23) contingent upon the allocation of funds from the City Council each year. The Civic Arts Program plans implement an annual grant application and review process for Festivals and Individual Artists for FY 2023 beginning in fall 2021 with the resulting grant awards pending Civic Arts Commission approval and Council's adoption of the FY 2023 budget in June of 2022.

CURRENT SITUATION AND ITS EFFECTS

The Fiscal Year 2022 Civic Arts Grant award amounts for the baseline budget allocation of \$658,000 as approved by the Civic Arts Commission include funding of \$458,697 for seventy-one (71) arts organizations, \$40,000 for ten (10) individual artists, and \$156,428 for nineteen (19) festivals to be held in compliance with health orders in place at the time of the festival. Of the one hundred twenty-seven (127) total applicants, most who applied were awarded funding (78%), although two (2) organizations, twenty-three (23) individual artists, and two (2) festivals that applied were not awarded funds this year. Should Council provide a supplemental budget allocation in Fiscal Year 2022, as proposed by the Civic Arts Commission, the funds would be awarded to the same number of arts organizations (71 organizations would receive a total of \$1,172,511) and the same number of festivals (19 festivals would receive a total of \$199,773), and an additional nine (9) individual artists would receive funding bringing the total awarded in this category to \$76,000.

BACKGROUND

The Civic Arts Grant application period was from October 26, 2020 to January 19, 2021. This year the Civic Arts Program received 127 applications from nonprofit arts organizations, individual artists, and festival organizers for grant funding for the Fiscal Year 2022 cycle. This represents an increase of 18 applications over last year mostly in the Individual Artist category due to expanded outreach efforts to local artists.

In fall 2020, Civic Arts staff held four grant application webinars on Zoom: three category specific grant application information sessions took place on October 27, 2020, and a general 'grant writing tips' workshop led by grant writing professionals was held on November 10, 2020.

On October 13, 2020, the Civic Arts Program issued an open call for grant application review panelists for the FY22 grant cycle, and at their January 27, 2021 meeting, the Civic Arts Commission approved a slate of qualified review panelists with substantial background in arts and culture and a demonstrated commitment to cultural equity to serve on the five FY22 grant application review panels.

**Action:** M/S/C (Anno/Ozol) to approve FY22 Civic Arts Grant Panelist selection.

**Vote:** Ayes—Anno, Blecher, Bullwinkel, Covarrubias, Dhesi, Ozol, Passmore, Rodriguez, Slattery; Nays—None; Abstain—None; Absent—None.

Between April 13 and May 4, 2021, the Civic Arts Program conducted five review panel meetings via Zoom where grant applications were reviewed by the panelists and scored relative to the grant application criteria. In an effort to increase transparency and provide valuable feedback to grant applicants, the Civic Arts Program encouraged applicants to attend the grant review panel meeting to hear their application being reviewed.

After the conclusion of the grant review process, the compiled panel scores were presented to the Civic Arts Commission's Grants Subcommittee on May 13, 2021 at an online meeting open to the public where grant award recommendations were determined based upon panel scores and in accordance with the program guidelines and funding criteria. The grant award amounts as recommended the Grants Subcommittee were communicated to all grant applicants on May 14, 2021 (Attachment 1).

On May 26, 2021, the Civic Arts Commission approved the final FY22 Civic Arts Grant award amounts (including scenarios for baseline funding, Attachment 1, and supplemental funding, Attachment 2) as follows:

**Action:** M/S/C (Anno/Bullwinkel) to approve the FY2022 Civic Art Grant Awards – Base Grant Award and Supplemental Amount Scenarios.

**Vote:** Ayes—Anno, Blecher, Bullwinkel, Covarrubias, Dhesi, Ozol, Passmore, Slattery; Nays—None; Abstain—None; Absent— Rodriguez.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Civic Arts Grants program is administered completely online. Applicants applied by filling out an online form hosted by Submittable, a web-based grant application management tool. Grant selection panelists reviewed and scored the applications using the same online tool, and meetings and reviews of grant applications were conducted using the online meeting tool, Zoom.

#### CONTACT PERSON

Jennifer Lovvorn, Chief Cultural Affairs Officer, (510) 981-7533

#### Attachments:

1. FY 2022 Civic Arts Grants Awards (Baseline Amount)
2. FY 2022 Civic Art Grant Alternate Awards Scenario (Baseline Amount + Supplemental Allocation)

**Berkeley Civic Arts Grants FY22: Grant Award Recommendations (Base Award Amount)**

NOTE: Grants awards are contingent upon City Council's approval of the budget allocation for Civic Art Grants as part of the FY22 Budget.

| <b>Berkeley Civic Arts Grants FY22: Grant Award Scenarios</b>                    |                          |
|----------------------------------------------------------------------------------|--------------------------|
| Approved by the Civic Arts Commission: May 26, 2021                              |                          |
| <b>Large Arts Organizations</b>                                                  | <b>Base Grant Amount</b> |
| Aurora Theatre Company                                                           | \$8,080                  |
| Bay Area Children's Theatre                                                      | \$6,786                  |
| Berkeley Music Group                                                             | \$7,535                  |
| Berkeley Playhouse/Julia Morgan Center for the Arts                              | \$8,143                  |
| Berkeley Repertory Theatre                                                       | \$8,066                  |
| Berkeley Society for the Preservation of Traditional Music dba Freight & Salvage | \$8,330                  |
| California Jazz Conservatory, Inc. dba California Jazz Conservatory              | \$7,769                  |
| Heyday                                                                           | \$7,535                  |
| Kala Art Institute                                                               | \$8,143                  |
| Regents of the University of California at Berkeley dba Cal Performances         | \$8,206                  |
| Shawl-Anderson Modern Dance Center                                               | \$7,940                  |
| Small Press Distribution, Inc.                                                   | \$7,940                  |
| StoryCenter                                                                      | \$7,364                  |
| The Shotgun Players, Inc.                                                        | \$8,159                  |
| UC Berkeley Art Museum and Pacific Film Archive (BAMPFA)                         | \$7,893                  |
| <b>Subtotals</b>                                                                 | <b>\$117,889</b>         |
| <b>Mid-Size Arts Organizations</b>                                               | <b>Base Grant Amount</b> |
| Ashkenaz Music & Dance Community Center                                          | \$6,294                  |
| Berkeley Art Center                                                              | \$6,175                  |
| Berkeley Community Chorus & Orchestra                                            | \$6,044                  |
| Berkeley High School Jazz                                                        | \$6,373                  |
| Berkeley Symphony Orchestra                                                      | \$6,610                  |
| Black Repertory Group                                                            | \$6,768                  |
| BrasArte the Damasceno Brazilian Cultural Exchange                               | \$6,913                  |
| California Institute for Community, Art & Nature                                 | \$6,518                  |
| Cazadero Performing Arts Camp                                                    | \$6,728                  |
| Central Works                                                                    | \$6,656                  |
| David Brower Center                                                              | \$6,254                  |
| Firehouse Collective Inc / DBA Firehouse Art Collective                          | \$5,728                  |
| Four Seasons Arts, Inc.                                                          | \$6,465                  |
| Gamelan Sekar Jaya                                                               | \$7,005                  |
| Girls Garage                                                                     | \$6,926                  |
| Habitot Children's Museum                                                        | \$6,794                  |
| Jewish Community Center of the East Bay dba JCC East Bay                         | \$6,083                  |
| Kairos Music Academy                                                             | \$5,741                  |
| La Peña Cultural Center                                                          | \$6,557                  |
| Left Margin LIT                                                                  | \$6,202                  |
| Luna Kids Dance, Inc.                                                            | \$6,346                  |
| Mahea Uchiyama Center for International Dance                                    | \$6,610                  |

**Berkeley Civic Arts Grants FY22: Grant Award Recommendations (Base Award Amount)**

NOTE: Grants awards are contingent upon City Council's approval of the budget allocation for Civic Art Grants as part of the FY22 Budget.

|                                                                               |                          |
|-------------------------------------------------------------------------------|--------------------------|
| PlayGround                                                                    | \$6,676                  |
| POETRY FLASH                                                                  | \$5,925                  |
| The Beat Berkeley Performing Arts                                             | \$5,807                  |
| The Berkeley FILM Foundation                                                  | \$6,662                  |
| The Capoeira Arts Foundation, INC                                             | \$6,820                  |
| The Marsh, a breeding ground for new performance                              | \$6,465                  |
| The San Francisco Early Music Society                                         | \$6,544                  |
| The Starry Plough                                                             | \$5,978                  |
| TheatreFIRST                                                                  | \$6,610                  |
| Young People's Symphony Orchestra Association                                 | \$6,333                  |
| Youth Musical Theater Company                                                 | \$6,623                  |
| <b>Subtotals</b>                                                              | <b>\$212,229</b>         |
| <b>Small Arts Organizations</b>                                               | <b>Base Grant Amount</b> |
| Actors Ensemble of Berkeley                                                   | \$5,983                  |
| Adeline's LLC                                                                 | \$4,593                  |
| Antons Well Theater Company                                                   | \$5,930                  |
| Bay Area Creative BAC - The Berkeley Poetry Slam                              | \$5,952                  |
| Berkeley Chamber Performances                                                 | \$5,625                  |
| Berkeley Choro Ensemble                                                       | \$5,740                  |
| Berkeley Old Time Music Convention                                            | \$5,393                  |
| Chora Nova                                                                    | \$5,214                  |
| Creative Residencies for Emerging Artists Teaching Empowerment (C.R.E.A.T.E.) | \$5,772                  |
| Danse Lumière                                                                 | \$5,488                  |
| East Bay Media Center                                                         | \$6,036                  |
| Eastwind Books Multicultural Services                                         | \$6,056                  |
| Embrio LLC dba Commotion West Berkeley                                        | \$0                      |
| Inferno Theatre                                                               | \$5,688                  |
| Makers Paradise                                                               | \$4,666                  |
| Mirah Moriarty and Rodrigo Esteve, DBA DANCE MONKS                            | \$6,056                  |
| Movement Liberation                                                           | \$5,488                  |
| Pacific Edge Voices                                                           | \$5,498                  |
| Play Cafe, Inc.                                                               | \$5,972                  |
| Revolution Books                                                              | \$0                      |
| Sacred & Profane, A Chamber Chorus                                            | \$5,699                  |
| Sense Object                                                                  | \$4,982                  |
| Theatre Lunatico                                                              | \$5,361                  |
| Those Women Productions                                                       | \$6,110                  |
| Young People's Chamber Orchestra (YPCO)                                       | \$5,277                  |
| <b>Subtotals</b>                                                              | <b>\$128,579</b>         |
| <b>Arts Organization Category Subtotal</b>                                    | <b>\$458,697</b>         |
| <b>Individual Artists - Only funded artists are listed</b>                    | <b>Grant Amount</b>      |
| craig nagasawa                                                                | \$4,000                  |
| Emmy Scharlatt                                                                | \$4,000                  |
| Erika Chong Shuch                                                             | \$4,000                  |
| Isaiah McLane                                                                 | \$4,000                  |
| Jordan Rowen-Keren                                                            | \$4,000                  |
| Lucy Jane Bledsoe                                                             | \$4,000                  |

**Berkeley Civic Arts Grants FY22: Grant Award Recommendations (Base Award Amount)**

NOTE: Grants awards are contingent upon City Council's approval of the budget allocation for Civic Art Grants as part of the FY22 Budget.

|                                                                               |                                |
|-------------------------------------------------------------------------------|--------------------------------|
| Mary Bayard White                                                             | \$4,000                        |
| Philip Kan Gotanda                                                            | \$4,000                        |
| Sudhanshu Ganesh Tewari                                                       | \$4,000                        |
| Susan (Susie) Meserve                                                         | \$4,000                        |
| <b>Individual Artists Category Subtotals</b>                                  | <b>\$40,000</b>                |
| <b>Large Festivals</b>                                                        | <b>Base Grant Award Amount</b> |
| Berkeley Festival & Exhibition                                                | \$10,001                       |
| California Indian Arts & Culture Festival                                     | \$11,551                       |
| Foundation for the Future of Literature and Literacy (Bay Area Book Festival) | \$12,039                       |
| FREIGHT FEST                                                                  | \$11,880                       |
| West Berkeley Mural Festival                                                  | \$0                            |
| <b>Subtotals</b>                                                              | <b>\$45,472</b>                |
| <b>Mid-Size Festivals</b>                                                     | <b>Base Grant Award Amount</b> |
| 2021 Junior Bach Festival                                                     | \$6,613                        |
| 29th Annual Berkeley Indigenous Peoples Day Powwow and Indian Market          | \$7,690                        |
| Annual Contemporary Diasporas Festival                                        | \$6,977                        |
| Berkeley Black Women's Blues Festival                                         | \$7,993                        |
| Berkeley Farmers Market Salsa Festival                                        | \$8,433                        |
| Berkeley Festival of Choro 2022                                               | \$7,765                        |
| Berkeley Juneteenth FESTIVAL                                                  | \$8,190                        |
| Berkeley Video and Film Festival                                              | \$6,658                        |
| Comunidad en la Placita                                                       | \$6,689                        |
| Dia de Los Muertos 2021                                                       | \$7,098                        |
| Grateful Day Fest                                                             | \$7,583                        |
| SF Bay Brazilian Day & Lavagem Festival 2021                                  | \$8,220                        |
| The Queering Dance Festival                                                   | \$8,418                        |
| Watershed Environmental Poetry Festival                                       | \$7,781                        |
| <b>Subtotals</b>                                                              | <b>\$106,106</b>               |
| <b>Small Festivals</b>                                                        | <b>Base Grant Award Amount</b> |
| Berkeley Flea Market                                                          | \$0                            |
| Berkeley Poetry Festival                                                      | \$4,850                        |
| <b>Subtotals</b>                                                              | <b>\$4,850</b>                 |
| <b>Festivals Category Subtotals</b>                                           | <b>\$156,428</b>               |
| <b>Arts Orgs and Artists Totals</b>                                           | <b>\$498,697</b>               |
| <b>Festivals Totals</b>                                                       | <b>\$156,428</b>               |
| <b>Total Funding Awarded</b>                                                  | <b>\$655,125</b>               |
| <b>Available Funds</b>                                                        | <b>\$658,000</b>               |
| <b>(Short Fall) or Balance Remaining</b>                                      | <b>\$2,875</b>                 |



**Berkeley Civic Arts Grants FY22: Grant Award Recommendations (Base + Supplemental Amount)**

NOTE: Grants awards are contingent upon City Council's approval of the budget allocation for Civic Art Grants as part of the FY22 Budget.

| Berkeley Civic Arts Grants FY22: Grant Award Scenarios if Supplemental Budget is Allocated by City Council in FY22 | Base Grant Amount        | Supplemental Grant Amount        | Base + Supplemental        |
|--------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------------|----------------------------|
| Approved by the Civic Arts Commission: May 26, 2021                                                                |                          |                                  |                            |
| <b>Large Arts Organizations</b>                                                                                    | <b>Base Grant Amount</b> | <b>Supplemental Grant Amount</b> | <b>Base + Supplemental</b> |
| Aurora Theatre Company                                                                                             | \$8,080                  | \$10,878                         | \$18,958                   |
| Bay Area Children's Theatre                                                                                        | \$6,786                  | \$9,135                          | \$15,921                   |
| Berkeley Music Group                                                                                               | \$7,535                  | \$10,143                         | \$17,678                   |
| Berkeley Playhouse/Julia Morgan Center for the Arts                                                                | \$8,143                  | \$10,962                         | \$19,105                   |
| Berkeley Repertory Theatre                                                                                         | \$8,066                  | \$10,857                         | \$18,923                   |
| Berkeley Society for the Preservation of Traditional Music dba Freight & Salvage                                   | \$8,330                  | \$11,214                         | \$19,544                   |
| California Jazz Conservatory, Inc. dba California Jazz Conservatory                                                | \$7,769                  | \$10,458                         | \$18,227                   |
| Heyday                                                                                                             | \$7,535                  | \$10,143                         | \$17,678                   |
| Kala Art Institute                                                                                                 | \$8,143                  | \$10,962                         | \$19,105                   |
| Regents of the University of California at Berkeley dba Cal Performances                                           | \$8,206                  | \$11,046                         | \$19,252                   |
| Shawl-Anderson Modern Dance Center                                                                                 | \$7,940                  | \$10,689                         | \$18,629                   |
| Small Press Distribution, Inc.                                                                                     | \$7,940                  | \$10,689                         | \$18,629                   |
| StoryCenter                                                                                                        | \$7,364                  | \$9,912                          | \$17,276                   |
| The Shotgun Players, Inc.                                                                                          | \$8,159                  | \$10,983                         | \$19,143                   |
| UC Berkeley Art Museum and Pacific Film Archive (BAMPFA)                                                           | \$7,893                  | \$10,626                         | \$18,519                   |
| <b>Subtotals</b>                                                                                                   | <b>\$117,889</b>         | <b>\$158,697</b>                 | <b>\$276,586</b>           |
| <b>Mid-Size Arts Organizations</b>                                                                                 | <b>Base Grant Amount</b> | <b>Supplemental Grant Amount</b> | <b>Base + Supplemental</b> |
| Ashkenaz Music & Dance Community Center                                                                            | \$6,294                  | \$9,560                          | \$15,854                   |
| Berkeley Art Center                                                                                                | \$6,175                  | \$9,380                          | \$15,556                   |
| Berkeley Community Chorus & Orchestra                                                                              | \$6,044                  | \$9,180                          | \$15,224                   |
| Berkeley High School Jazz                                                                                          | \$6,373                  | \$9,680                          | \$16,053                   |
| Berkeley Symphony Orchestra                                                                                        | \$6,610                  | \$10,040                         | \$16,650                   |
| Black Repertory Group                                                                                              | \$6,768                  | \$10,280                         | \$17,048                   |
| BrasArte the Damasceno Brazilian Cultural Exchange                                                                 | \$6,913                  | \$10,500                         | \$17,413                   |
| California Institute for Community, Art & Nature                                                                   | \$6,518                  | \$9,900                          | \$16,418                   |
| Cazadero Performing Arts Camp                                                                                      | \$6,728                  | \$10,220                         | \$16,949                   |
| Central Works                                                                                                      | \$6,656                  | \$10,110                         | \$16,766                   |
| David Brower Center                                                                                                | \$6,254                  | \$9,500                          | \$15,755                   |
| Firehouse Collective Inc / DBA Firehouse Art Collective                                                            | \$5,728                  | \$8,700                          | \$14,428                   |
| Four Seasons Arts, Inc.                                                                                            | \$6,465                  | \$9,820                          | \$16,284                   |
| Gamelan Sekar Jaya                                                                                                 | \$7,005                  | \$10,640                         | \$17,645                   |
| Girls Garage                                                                                                       | \$6,926                  | \$10,520                         | \$17,446                   |
| Habitot Children's Museum                                                                                          | \$6,794                  | \$10,320                         | \$17,114                   |
| Jewish Community Center of the East Bay dba JCC East Bay                                                           | \$6,083                  | \$9,240                          | \$15,323                   |
| Kairos Music Academy                                                                                               | \$5,741                  | \$8,720                          | \$14,461                   |
| La Peña Cultural Center                                                                                            | \$6,557                  | \$9,960                          | \$16,517                   |
| Left Margin LIT                                                                                                    | \$6,202                  | \$9,420                          | \$15,622                   |
| Luna Kids Dance, Inc.                                                                                              | \$6,346                  | \$9,640                          | \$15,986                   |
| Mahea Uchiyama Center for International Dance                                                                      | \$6,610                  | \$10,040                         | \$16,650                   |
| PlayGround                                                                                                         | \$6,676                  | \$10,140                         | \$16,816                   |
| POETRY FLASH                                                                                                       | \$5,925                  | \$9,000                          | \$14,925                   |
| The Beat Berkeley Performing Arts                                                                                  | \$5,807                  | \$8,820                          | \$14,627                   |
| The Berkeley FILM Foundation                                                                                       | \$6,662                  | \$10,120                         | \$16,782                   |
| The Capoeira Arts Foundation, INC                                                                                  | \$6,820                  | \$10,360                         | \$17,180                   |
| The Marsh, a breeding ground for new performance                                                                   | \$6,465                  | \$9,820                          | \$16,284                   |
| The San Francisco Early Music Society                                                                              | \$6,544                  | \$9,940                          | \$16,483                   |
| The Starry Plough                                                                                                  | \$5,978                  | \$9,080                          | \$15,058                   |
| TheatreFIRST                                                                                                       | \$6,610                  | \$10,040                         | \$16,650                   |
| Young People's Symphony Orchestra Association                                                                      | \$6,333                  | \$9,620                          | \$15,954                   |
| Youth Musical Theater Company                                                                                      | \$6,623                  | \$10,060                         | \$16,682                   |
| <b>Subtotals</b>                                                                                                   | <b>\$212,229</b>         | <b>\$322,373</b>                 | <b>\$534,602</b>           |

Berkeley Civic Arts Grants FY22: Grant Award Recommendations (Base + Supplemental Amount)

NOTE: Grants awards are contingent upon City Council's approval of the budget allocation for Civic Art Grants as part of the FY22 Budget.

| Small Arts Organizations                                                      | Base Grant Amount                        | Supplemental Grant Amount                        | Base + Supplemental |
|-------------------------------------------------------------------------------|------------------------------------------|--------------------------------------------------|---------------------|
| Actors Ensemble of Berkeley                                                   | \$5,983                                  | \$10,830.25                                      | \$16,813            |
| Adeline's LLC                                                                 | \$4,593                                  | \$8,313.45                                       | \$12,906            |
| Antons Well Theater Company                                                   | \$5,930                                  | \$10,734.15                                      | \$16,664            |
| Bay Area Creative BAC - The Berkeley Poetry Slam                              | \$5,952                                  | \$10,773.05                                      | \$16,725            |
| Berkeley Chamber Performances                                                 | \$5,625                                  | \$10,181.60                                      | \$15,806            |
| Berkeley Choro Ensemble                                                       | \$5,740                                  | \$10,390.95                                      | \$16,131            |
| Berkeley Old Time Music Convention                                            | \$5,393                                  | \$9,761.75                                       | \$15,155            |
| Chora Nova                                                                    | \$5,214                                  | \$9,438.00                                       | \$14,652            |
| Creative Residencies for Emerging Artists Teaching Empowerment (C.R.E.A.T.E.) | \$5,772                                  | \$10,448.15                                      | \$16,220            |
| Danse Lumière                                                                 | \$5,488                                  | \$9,933.35                                       | \$15,421            |
| East Bay Media Center                                                         | \$6,036                                  | \$10,925.20                                      | \$16,961            |
| Eastwind Books Multicultural Services                                         | \$6,056                                  | \$10,962.95                                      | \$17,019            |
| Embrio LLC dba Commotion West Berkeley                                        | \$0                                      | \$0                                              | \$0                 |
| Inferno Theatre                                                               | \$5,688                                  | \$10,296.00                                      | \$15,984            |
| Makers Paradise                                                               | \$4,666                                  | \$8,446.15                                       | \$13,112            |
| Mirah Moriarty and Rodrigo Esteve, DBA DANCE MONKS                            | \$6,056                                  | \$10,962.95                                      | \$17,019            |
| Movement Liberation                                                           | \$5,488                                  | \$9,933.35                                       | \$15,421            |
| Pacific Edge Voices                                                           | \$5,498                                  | \$9,952.80                                       | \$15,451            |
| Play Cafe, Inc.                                                               | \$5,972                                  | \$10,810.80                                      | \$16,783            |
| Revolution Books                                                              | \$0                                      | \$0                                              | \$0                 |
| Sacred & Profane, A Chamber Chorus                                            | \$5,699                                  | \$10,315.45                                      | \$16,014            |
| Sense Object                                                                  | \$4,982                                  | \$9,018.15                                       | \$14,000            |
| Theatre Lunatico                                                              | \$5,361                                  | \$9,704.55                                       | \$15,066            |
| Those Women Productions                                                       | \$6,110                                  | \$11,059.05                                      | \$17,169            |
| Young People's Chamber Orchestra (YPCO)                                       | \$5,277                                  | \$9,552.40                                       | \$14,830            |
| <b>Subtotals</b>                                                              | <b>\$128,579</b>                         | <b>\$232,744.51</b>                              | <b>\$361,323.65</b> |
| <b>Arts Organization Category Subtotal</b>                                    | <b>\$458,697</b>                         | <b>\$713,814</b>                                 | <b>\$1,172,511</b>  |
| Individual Artists - Only funded artists are listed.                          | Grant Awards Included in Baseline Budget | Grant Awards funded with Supplemental Allocation | Artistic Discipline |
| craig nagasawa                                                                | \$4,000                                  |                                                  | Visual              |
| Emmy Scharlatt                                                                | \$4,000                                  |                                                  | Media/Film          |
| Erika Chong Shuch                                                             | \$4,000                                  |                                                  | Social Practice     |
| Isaiah McLane                                                                 | \$4,000                                  |                                                  | Music               |
| Jordan Rowen-Keren                                                            | \$4,000                                  |                                                  | Visual              |
| Lucy Jane Bledsoe                                                             | \$4,000                                  |                                                  | Literary            |
| Mary Bayard White                                                             | \$4,000                                  |                                                  | Multi-disciplinary  |
| Philip Kan Gotanda                                                            | \$4,000                                  |                                                  | Theater             |
| Sudhanshu Ganesh Tewari                                                       | \$4,000                                  |                                                  | Multi-disciplinary  |
| Susan (Susie) Meserve                                                         | \$4,000                                  |                                                  | Literary            |
| Alice Kao                                                                     |                                          | \$4,000                                          | Music               |
| Ann Holsberry                                                                 |                                          | \$4,000                                          | Visual              |
| Gabriella Willenz                                                             |                                          | \$4,000                                          | Multi-disciplinary  |
| Ian Winters                                                                   |                                          | \$4,000                                          | Multi-disciplinary  |
| Jo Ford                                                                       |                                          | \$4,000                                          | Visual              |
| Joe Orrach                                                                    |                                          | \$4,000                                          | Theater             |
| Kit Young and Angela P. Harris                                                |                                          | \$4,000                                          | Multi-disciplinary  |
| LR (Lynne-Rachel) Altman                                                      |                                          | \$4,000                                          | Visual              |
| Paige Starling Sorvillo                                                       |                                          | \$4,000                                          | Dance               |
| <b>Individual Artists Category Subtotals</b>                                  | <b>\$40,000</b>                          | <b>\$36,000</b>                                  | <b>\$76,000.00</b>  |
| Large Festivals                                                               | Base Grant Amount                        | Supplemental Grant Amount                        | Base + Supplemental |
| Berkeley Festival & Exhibition                                                | \$10,001                                 | \$2,700                                          | \$12,701            |
| California Indian Arts & Culture Festival                                     | \$11,551                                 | \$3,119                                          | \$14,670            |
| Foundation for the Future of Literature and Literacy (Bay Area Book Festival) | \$12,039                                 | \$3,251                                          | \$15,290            |
| FREIGHT FEST                                                                  | \$11,880                                 | \$3,208                                          | \$15,088            |

Berkeley Civic Arts Grants FY22: Grant Award Recommendations (Base + Supplemental Amount)

NOTE: Grants awards are contingent upon City Council's approval of the budget allocation for Civic Art Grants as part of the FY22 Budget.

|                                                                      |                   |                           |                     |
|----------------------------------------------------------------------|-------------------|---------------------------|---------------------|
| West Berkeley Mural Festival                                         | \$0               | \$0                       | \$0                 |
| Subtotals                                                            | \$45,472          | \$12,277                  | \$57,749            |
| Mid-Size Festivals                                                   | Base Grant Amount | Supplemental Grant Amount | Base + Supplemental |
| 2021 Junior Bach Festival                                            | \$6,613           | \$1,852                   | \$8,465             |
| 29th Annual Berkeley Indigenous Peoples Day Powwow and Indian Market | \$7,690           | \$2,153                   | \$9,843             |
| Annual Contemporary Diasporas Festival                               | \$6,977           | \$1,954                   | \$8,931             |
| Berkeley Black Women's Blues Festival                                | \$7,993           | \$2,238                   | \$10,230            |
| Berkeley Farmers Market Salsa Festival                               | \$8,433           | \$2,361                   | \$10,794            |
| Berkeley Festival of Choro 2022                                      | \$7,765           | \$2,174                   | \$9,939             |
| Berkeley Juneteenth FESTIVAL                                         | \$8,190           | \$2,293                   | \$10,483            |
| Berkeley Video and Film Festival                                     | \$6,658           | \$1,864                   | \$8,523             |
| Comunidad en la Placita                                              | \$6,689           | \$1,873                   | \$8,561             |
| Dia de Los Muertos 2021                                              | \$7,098           | \$1,987                   | \$9,085             |
| Grateful Day Fest                                                    | \$7,583           | \$2,123                   | \$9,706             |
| SF Bay Brazilian Day & Lavagem Festival 2021                         | \$8,220           | \$2,302                   | \$10,522            |
| The Queering Dance Festival                                          | \$8,418           | \$2,357                   | \$10,774            |
| Watershed Environmental Poetry Festival                              | \$7,781           | \$2,179                   | \$9,959             |
| Subtotals                                                            | \$106,106         | \$29,710                  | \$135,816           |
| Small Festivals                                                      | Base Grant Amount | Supplemental Grant Amount | Base + Supplemental |
| Berkeley Flea Market                                                 | \$0               | \$0                       | \$0                 |
| Berkeley Poetry Festival                                             | \$4,850           | \$1,358                   | \$6,208             |
| Subtotals                                                            | \$4,850           | \$1,358                   | \$6,208             |
| Festivals Category Subtotals                                         | \$156,428         | \$43,345                  | \$199,773           |
| Arts Orgs and Artists Totals                                         | \$498,697         | \$749,814                 | \$1,248,511         |
| Festivals Totals                                                     | \$156,428         | \$43,345                  | \$199,773           |
| Total Funding Awarded                                                | \$655,125         | \$793,159                 | \$1,448,284         |
| Available Funds                                                      | \$658,000         | \$792,000                 | \$1,450,000         |
| (Short Fall) or Balance Remaining                                    | \$2,875           | -\$1,159.36               | \$1,715.82          |





Office of the City Manager

INFORMATION CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 Subject: FY 2021 Second Quarter Investment Report: Ended December 31, 2020

SUMMARY

The City's investment policy requires that a quarterly investment report be submitted to the City Council on the status of the investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the types, values (par, book, and market), term, and yield of each security.

- The return on pooled investments for the quarter ended December 31, 2020 was 1.08%, 50 basis points more than the .58% earned by the State Local Agency Investment Fund (State LAIF), which is the benchmark for investment performance used by the City. The return on pooled investments of 1.08% for the quarter ended December 31, 2020 was 7 basis points less than the rate of 1.15% earned in the quarter ended September 30, 2020.
- The average return on all Retiree Medical Trust Fund investments was 4.20% for the quarter ended December 31, 2020.

CURRENT SITUATION AND ITS EFFECTS

Attached is a summary of quarterly reports for the fiscal year 2021 Second quarter ending December 31, 2020 representing the status of the City's investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the values (par, book, and market), term, and yield of each security.

Summary information by type of security and detailed information on each security is provided on Exhibit 2-A. An evaluation of portfolio performance for this accounting period compared to the previous three accounting periods is also included in Attachment 1.

## **A. Portfolio Results**

As a result of the differences in the investment policies of different cities, including responsible investing policies, maturity restrictions, investment restrictions, etc., it was difficult for the City of Berkeley to come up with a reasonable performance measure for pooled cash investments. In order to provide some measure of the relative performance of the City's investment returns, many years ago the City established the State Local Agency Investment Fund (LAIF) as the performance measure to be reported in the quarterly investment reports, since many local governments invested significant portions of their investment portfolios in LAIF.

LAIF was intended to be a reference point to compare the City's investment performance against, rather than a true performance measure, since most cities typically earn a yield higher than LAIF in normal interest rate environments, and because LAIF's average maturity of its investments is generally shorter than most cities. As a result, past City Councilmembers requested that information about the rates earned by other California cities be included in the quarterly investment reports for comparison purposes, despite the differences in the investment policies of the various cities.

### **1. Liquidity of Portfolio:**

The average investment in the pooled portfolio matures in 1,205 days as of December 31, 2020. This is 21 days more than the 1,184 maturity days as of September 30, 2020.

### **2. Comparison of Results to Performance Measures – Pooled investments: Quarter Ended December 31, 2020**

The City's yield on investments for the quarter ended December 31, 2020 was 1.08%, a decrease of 7 basis points (.07%) from the 1.15% earned during the quarter ended September 30, 2020. The average yield on a 90-day Treasury bill at the end of the quarter ended December 31, 2020 was .058%, a decrease of 3.4 basis points (.034%) from the .092% at the end of the previous quarter.

As summarized in Table 1, staff's overall results were above the performance measure for the quarter. Staff's performance was above the performance measure in October by approximately 48 basis points (+.48%); over the performance measure in November by approximately 53 basis points (+.53%); and, was over the performance measure in December by approximately 50 basis points (+.50%). The performance measure for the return on investments is compared to the rate of return of the State LAIF.

**Table 1**

| <b>For Quarter Ending December 31, 2020</b> |             |                   |                   |
|---------------------------------------------|-------------|-------------------|-------------------|
| <b>Period</b>                               | <b>City</b> | <b>State LAIF</b> | <b>Difference</b> |
| Oct-20                                      | 1.10%       | .62%              | 0.48%             |
| Nov-20                                      | 1.11%       | .58%              | 0.53%             |
| Dec-20                                      | 1.04%       | .54%              | 0.50%             |
| Oct-Dec 20                                  | 1.08%       | .58%              | 0.50%             |

3. Investment Results-Retiree Health Insurance Funds:

Average interest rates earned on the retiree health insurance trust funds for the quarter ended December 31, 2020 compared to the quarter ended September 30 2020, were as follows:

**Table 2**

| <b>EARNED INTEREST RATES</b>                              |                             |                            |
|-----------------------------------------------------------|-----------------------------|----------------------------|
| <b>For Quarter Ended 12/31/2020 Compared To 9/30/2020</b> |                             |                            |
| <b>Trust Fund</b>                                         | <b>2nd Qtr<br/>12/31/20</b> | <b>1st Qtr<br/>9/30/20</b> |
| Retiree Medical Trust Fund (Misc Employees)               | 4.627%                      | 4.490%                     |
| Fire Retiree Medical Trust Fund                           | 4.154%                      | 3.961%                     |
| Police Retiree Medical Trust Fund                         | 3.834%                      | 3.815%                     |

The rates earned on these plans are expected to be higher in the future, as staff plans to use the investment authority granted by Council to purchase Bond and Stock Mutual Funds and Index Funds.

Details related to retiree health trust fund investments are in Attachment 3, Exhibits 3-A, 3-B, and 3-C of this report.

**B. Discussion of Interest Rate Environment and Outlook**

In its January 27, 2021 statement, the Federal Open Market Committee indicated that “the Federal Reserve is committed to use its full range of tools to support the U.S. economy in this challenging time, thereby promoting its maximum employment and price stability goals.

The COVID-19 pandemic is causing tremendous human and economic hardship across the United States and around the world. The pace of economic activity and employment has moderated in recent months with weakness concentrated in the sectors most adversely affected by the pandemic. Weaker demand and earlier declines in oil prices have been holding down consumer price inflation. Overall financial conditions remain accommodative, in part reflecting policy measures to support the economy and the flow of credit to U.S. households and businesses.

The path of the economy will depend significantly on the course of the virus, including progress on vaccinations. The ongoing public health crisis will continue to weigh on economic activity, employment, and inflation in the near term, and poses considerable risks to the economic outlook. “

### Yield Trend

“The Committee expects to achieve maximum employment and inflation at the rate of 2 percent over the longer run. With inflation running persistently below this longer-run goal, the Committee will aim to achieve inflation moderately above 2 percent for some time so that inflation averages 2 percent over time and longer-term inflation expectations remain well anchored at 2 percent. The Committee expects to maintain an accommodative stance of monetary policy until these outcomes are achieved. The Committee decided to keep the target range for the federal funds rate at 0 to .25% and expects it will be appropriate to maintain this target range until labor market conditions have reached levels consistent with the Committee’s assessments of maximum employment and inflation has risen to 2 percent and is on track to moderately exceed 2 percent for some time”.

As a result of these moves by the Fed, staff expects returns in FY 2021 and beyond to decline sharply from those returns earned in FY 2019 and FY 2020. Also, the City’s earned rate is expected to be above the City’s benchmark (State LAIF) and the City’s return is expected to be comparable to rates earned by most other cities in California. A sample of rates earned by Northern and Southern California cities is reflected in table 3 below (previously only Northern California cities were included):



**Table 3**

| <b>Other California Cities<br/>Earned Interest Rates</b> |                     |
|----------------------------------------------------------|---------------------|
| For the Quarter Ending December 31, 2020                 |                     |
| <b>City</b>                                              | <b>Rates Earned</b> |
| Palo Alto                                                | 2.31%               |
| San Jose                                                 | 1.74%               |
| San Diego                                                | 1.32%               |
| Los Angeles                                              | 1.30%               |
| Sacramento                                               | 1.20%               |
| <b>Berkeley</b>                                          | 1.08%               |
| Riverside                                                | 1.02%               |
| San Francisco                                            | .77%                |
| Santa Monica                                             | .67%                |
| Oakland                                                  | .28%                |

Until rates return to more normal levels, the City's investment strategy will be to focus on (1) purchasing more Commercial Paper for the short-term portfolio, since rates on short-term Agencies (including those in money market funds) are close to zero. Commercial Paper is a money-market security issued by large corporations to obtain funds to meet short-term obligations, and is backed by the company's promise to pay the face amount, plus interest, on the maturity date. Interest rates paid on Commercial Paper currently range between .10% and .25%, versus .01% paid by money-market funds; (2) purchasing more callable, Agency step-up securities, where rates are higher than the rates paid by money market funds, and the rates increase on a periodic basis. In addition, the City will not lock in any securities with a maturity beyond three years, unless it is a step-up security. Most Agency notes pay a fixed rate of interest or fixed coupon rate semi-annually, and most are non-callable or bullets. Currently, Agency bullets pay the following approximate rates:

**Table 4**

| 1 Year | 2 years | 3 years | 4 years | 5 years |
|--------|---------|---------|---------|---------|
| .06%   | .15%    | .28%    | .58%    | .79%    |

However, issuers do structure their note to meet different investor needs. As more people go back to work and the economy improves, as the pandemic recedes, staff expects interest rates to rise. Since rates are low now, but expected to rise, one strategy to mitigate this interest rate risk of buying bullets (i.e., locking in a fixed rate, and not being able to take advantage of rising rates) is to purchase Agency callable step-up securities. Agency callable step-up notes are securities that have a pre-set

coupon rate “step-up” that provides for increases in interest rates as the notes approach maturity. For example, following is a structure staff recently purchased:

**Table 5**

| Interest Payment Date | Rate Paid |
|-----------------------|-----------|
| 11/27/21              | .50%      |
| 5/27/22               | .60%      |
| 11/27/22              | .70%      |
| 5/27/23               | .80%      |
| 11/27/23              | .90%      |
| 5/27/24               | 1.00%     |
| 11/27/24              | 1.25%     |
| 5/27/25               | 1.50%     |
| 11/27/25              | 1.75%     |
| 5/27/26               | 2.00%     |

While there is the risk that the security could be called away from the City at some date in the future, if that happens, the rate earned by the City during the period held would still be significantly higher than the rate earned on a bullet or in a money market fund; and (3) matching investment maturities to cash flow.

## BACKGROUND

- Pooled Investments

Short-term cash is invested primarily in government sponsored enterprises (referred to as Federal Agency) notes and medium-term corporate notes for periods of one to five years. Additional cash is invested in a money market fund or overnight securities to meet the liquidity needs of the City.

In some cases, the City may have investments with a current market value that is greater or less than the recorded cost. These changes in market value are due to fluctuations in the market and have no effect on yield, as the City does not intend to sell securities prior to maturity.

- Retiree Health Trust Fund Investments

The City agreed to provide retiree Health insurance coverage for fire, police and miscellaneous employees under certain terms and conditions. An actuarial study commissioned by the City many years ago determined that, in addition to City Contributions, an average rate of return of 7% on miscellaneous employees trust fund assets invested must be achieved to fund the retiree health benefit at the desired 70% level. Primarily as a result of the Federal Reserve Board's decision to keep short-term rates near zero for the last 12 years, the average rate currently earned is significantly below that 7% level. City Finance Department staff manages these investment portfolios.

ENVIRONMENTAL SUSTAINABILITY

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. Portfolio Evaluation FY 2021 Second Quarter
2. Investment Report Analysis FY 2021 Second Quarter
  - a. Exhibit 2-A: Pooled Cash and Investments
  - b. Exhibit 2-B.1 through 2-B.3: Interest Earnings October 2020 – December 2020
  - c. Exhibit 2-C: Book Value By Investment Type
  - d. Exhibit 2-D: Current Holdings vs. Policy Limits
  - e. Exhibit 2-E: Investment Portfolio Trend
3. Summary of Pooled and Cash Investments FY 2021 Second Quarter –Trust Funds
  - a. Exhibit 3-A: Retiree Medical Trust Funds –Misc.
  - b. Exhibit 3-B: Retiree Medical Trust Funds –Fire
  - c. Exhibit 3-C: Retiree Medical Trust Funds –Police



**Portfolio Evaluation**  
**Quarter Ended December 31, 2020**

|                                             | Quarter Ending |                    |                |                    |                    |                    |            |                    |                |    |                    |                |
|---------------------------------------------|----------------|--------------------|----------------|--------------------|--------------------|--------------------|------------|--------------------|----------------|----|--------------------|----------------|
|                                             | December 2020  |                    | September 2020 |                    | June 2020          |                    | March 2020 |                    |                |    |                    |                |
| <b>Total Portfolio</b>                      |                |                    |                |                    |                    |                    |            |                    |                |    |                    |                |
| Pooled Cash and Investments (COB)           | \$             | 491,577,400        | \$             | 458,510,489        | \$                 | 545,024,336        | \$         | 476,481,447        |                |    |                    |                |
| Pooled Cash and Investments (Trust)         |                | <u>52,295,664</u>  |                | <u>51,162,127</u>  |                    | <u>49,718,286</u>  |            | <u>47,989,435</u>  |                |    |                    |                |
| Total Cash and Investments                  | \$             | <u>543,873,064</u> | \$             | <u>509,672,616</u> | \$                 | <u>594,742,622</u> | \$         | <u>524,470,882</u> |                |    |                    |                |
| <b>Average Life of Investment Portfolio</b> |                |                    |                |                    |                    |                    |            |                    |                |    |                    |                |
| Pooled Investments (CoB)                    |                | 1,205              |                | 1,184              |                    | 963                |            | 1,362              |                |    |                    |                |
| Trust Investments                           |                | 2.368 years        |                | 2.620 years        |                    | 2.870 years        |            | 4.017 years        |                |    |                    |                |
| <b>Weighted Yield</b>                       |                |                    |                |                    |                    |                    |            |                    |                |    |                    |                |
| Pooled Investments (CoB)                    |                | 1.081%             |                | 1.145%             |                    | 1.233%             |            | 1.889%             |                |    |                    |                |
| Trust Investments                           |                | 4.205%             |                | 4.085%             |                    | 3.730%             |            | 3.905%             |                |    |                    |                |
| Prime Rate                                  |                | 3.250%             |                | 3.250%             |                    | 3.250%             |            | 3.250%             |                |    |                    |                |
| 91-day Treasury Bill Rate                   |                | 0.058%             |                | 0.092%             |                    | 0.129%             |            | 0.061%             |                |    |                    |                |
| 2-year Treasury Note Rate                   |                | 0.121%             |                | 0.127%             |                    | 0.149%             |            | 0.246%             |                |    |                    |                |
| <b>Cash and Investments Maturity</b>        |                |                    |                |                    |                    |                    |            |                    |                |    |                    |                |
| Within one year                             | \$             | 393,740,419        | 72.40%         | \$                 | 331,894,784        | 65.12%             | \$         | 413,689,969        | 69.56%         | \$ | 346,981,181        | 66.16%         |
| Between 1 to 3 years                        |                | 53,336,175         | 9.81%          |                    | 50,549,828         | 9.92%              |            | 48,355,395         | 8.13%          |    | 38,367,415         | 7.32%          |
| Between 3 to 5 years                        |                | 68,834,300         | 12.66%         |                    | 77,306,662         | 15.17%             |            | 70,937,367         | 11.93%         |    | 63,681,645         | 12.14%         |
| Between 5 to 10 years                       |                | 27,962,170         | 5.14%          |                    | 49,921,343         | 9.79%              |            | 61,759,892         | 10.38%         |    | 75,440,641         | 14.38%         |
| Over 10 years                               |                | -                  | 0.00%          |                    | -                  | 0.00%              |            | -                  | 0.00%          |    | -                  | 0.00%          |
| Total                                       | \$             | <u>543,873,064</u> | <u>100.00%</u> | \$                 | <u>509,672,616</u> | <u>100.00%</u>     | \$         | <u>594,742,622</u> | <u>100.00%</u> | \$ | <u>524,470,882</u> | <u>100.00%</u> |



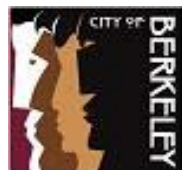
**Investment Report Analysis  
As of December 31, 2020**

| Investments                                            | Pooled Investments    | Pension and OPEB     |                       |
|--------------------------------------------------------|-----------------------|----------------------|-----------------------|
|                                                        |                       | Trust Investments    | Total                 |
| Portfolio                                              | \$ 482,192,271        | \$ 33,079,788        | \$ 515,272,059        |
| Unrecognized gain/(loss)                               | 9,330,906             | 2,907,766            | 12,238,672            |
| Total Investments                                      | 491,523,177           | 35,987,555           | 527,510,731           |
|                                                        |                       |                      |                       |
| Cash                                                   | Pooled Cash           | Pension and OPEB     |                       |
|                                                        |                       | Trust Cash           | Total                 |
| Cash with Fiscal Agents                                | 815,245               | -                    | 815,245               |
| Cash Deposits in Banks                                 | 15,547,088            | -                    | 15,547,088            |
| Pooled Cash Adjustment                                 | (16,308,109)          | 16,308,109           | -                     |
| Total Cash                                             | 54,224                | 16,308,109           | 16,362,333            |
|                                                        |                       |                      |                       |
| <b>Adjusted Grand Total (All Cash and Investments)</b> | <b>\$ 491,577,400</b> | <b>\$ 52,295,664</b> | <b>\$ 543,873,064</b> |

**Pooled Cash Portfolio Breakdown As of December 31, 2020**

|                       | Book Value            | Market Value          |
|-----------------------|-----------------------|-----------------------|
| Investments           | \$ 138,598,844        | \$ 147,929,750        |
| Fidelity Money Market | 343,593,426           | 343,593,426           |
|                       | <b>\$ 482,192,271</b> | <b>\$ 491,523,177</b> |

Note: Pooled cash for General Fund includes Rent Board cash of \$3,993,714.46



City of Berkeley  
Pooled Cash and Investments  
As of December 31, 2020

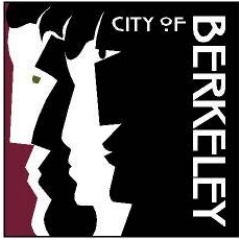
| CUSIP                                   | Investment # | Issuer                    | Book Value           | Par Value            | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Moody's Rating |
|-----------------------------------------|--------------|---------------------------|----------------------|----------------------|-----------------------|--------------|--------------|---------------|------------------|----------------|
| <b>Certificates of Deposits</b>         |              |                           |                      |                      |                       |              |              |               |                  |                |
| 254673RD0                               | 14539        | Discover Bank             | 250,000.00           | 250,000.00           | 269,782.50            | 3.300        | 3.300        | 07/05/2023    | 915              | N/A            |
| 795450T47                               | 14540        | Sallie Mae Bank           | 250,000.00           | 250,000.00           | 269,742.50            | 3.300        | 3.300        | 07/03/2023    | 913              | N/A            |
| <b>Subtotal and Average</b>             |              |                           | <b>500,000.00</b>    | <b>500,000.00</b>    | <b>539,525.00</b>     |              | 3.300        |               | 914              |                |
| <b>Medium Term Notes</b>                |              |                           |                      |                      |                       |              |              |               |                  |                |
| 008252AM0                               | 14582        | Affiliated Managers Group | 1,057,605.60         | 1,000,000.00         | 1,102,670.00          | 4.250        | 2.300        | 02/15/2024    | 1,140            | A3             |
| 037833AK6                               | 14536        | Apple Inc                 | 4,911,337.63         | 5,000,000.00         | 5,244,800.00          | 2.400        | 3.225        | 05/03/2023    | 852              | AA1            |
| 04685A2L4                               | 14590        | Athene Global Funding     | 5,990,585.44         | 5,950,000.00         | 6,232,863.00          | 2.500        | 2.320        | 01/14/2025    | 1,474            | N/A            |
| 04685A2L4                               | 14602        | Athene Global Funding     | 4,860,686.02         | 5,000,000.00         | 5,237,700.00          | 2.500        | 3.250        | 01/14/2025    | 1,474            | N/A            |
| 084670BJ6                               | 14542        | Berkshire Hathaway        | 4,985,324.46         | 5,000,000.00         | 5,274,850.00          | 3.000        | 3.150        | 02/11/2023    | 771              | AA2            |
| 20030NBN0                               | 14563        | Comcast Corp              | 5,057,264.67         | 5,000,000.00         | 5,578,700.00          | 3.375        | 3.100        | 08/15/2025    | 1,687            | A3             |
| 233851CU6                               | 14571        | Daimler Finance           | 5,068,902.55         | 5,000,000.00         | 5,592,950.00          | 3.450        | 3.190        | 01/06/2027    | 2,196            | A3             |
| 233851CU6                               | 14574        | Daimler Finance           | 3,814,612.24         | 3,725,000.00         | 4,166,747.75          | 3.450        | 3.000        | 01/06/2027    | 2,196            | A3             |
| 233851DN1                               | 14586        | Daimler Finance           | 5,072,056.82         | 5,000,000.00         | 5,138,550.00          | 3.750        | 2.000        | 11/05/2021    | 308              | A3             |
| 24422EUM9                               | 14554        | John Deere Cap            | 5,044,584.98         | 5,000,000.00         | 5,458,600.00          | 3.650        | 3.300        | 10/12/2023    | 1,014            | A2             |
| 375558BF9                               | 14570        | Gilead Sciences           | 5,123,010.29         | 5,000,000.00         | 5,672,400.00          | 3.650        | 3.118        | 03/01/2026    | 1,885            | A3             |
| 49327M2X1                               | 14560        | Key Bank NA               | 5,010,269.09         | 5,000,000.00         | 5,159,950.00          | 3.300        | 3.100        | 02/01/2022    | 396              | A3             |
| 53944VAS8                               | 14580        | Lloyds Bank Plc           | 5,003,875.96         | 5,000,000.00         | 5,153,000.00          | 2.250        | 2.200        | 08/14/2022    | 590              | A1             |
| 540424AQ1                               | 14555        | Loews Corporation         | 4,920,499.05         | 5,000,000.00         | 5,234,500.00          | 2.625        | 3.350        | 05/15/2023    | 864              | A3             |
| 589331AT4                               | 14545        | Merck & Co Inc            | 4,949,798.37         | 5,000,000.00         | 5,168,800.00          | 2.400        | 3.030        | 09/15/2022    | 622              | A1             |
| 68389XAS4                               | 14548        | Oracle Corp               | 5,026,189.32         | 5,000,000.00         | 5,419,850.00          | 3.625        | 3.388        | 07/15/2023    | 925              | A3             |
| 747525AT0                               | 14564        | Qualcomm Inc              | 4,976,586.82         | 5,000,000.00         | 5,384,550.00          | 2.900        | 3.050        | 05/20/2024    | 1,235            | A2             |
| 747525AU7                               | 14587        | Qualcomm Inc              | 6,245,292.85         | 5,963,000.00         | 6,768,422.41          | 3.250        | 2.435        | 05/20/2027    | 2,330            | A2             |
| 828807CS4                               | 14606        | Simon Property Group      | 4,995,597.70         | 5,000,000.00         | 5,437,100.00          | 3.375        | 3.353        | 10/01/2024    | 1,369            | A3             |
| 07330MAA5                               | 14588        | Truist Bank               | 5,384,210.87         | 5,000,000.00         | 5,761,650.00          | 3.800        | 2.365        | 10/30/2026    | 2,128            | A3             |
| <b>Subtotal and Average</b>             |              |                           | <b>97,498,290.73</b> | <b>96,638,000.00</b> | <b>104,188,653.16</b> |              | <b>2.879</b> |               | <b>1,287</b>     |                |
| <b>Federal Agency Coupon Securities</b> |              |                           |                      |                      |                       |              |              |               |                  |                |
| 3133EG7F6                               | 14517        | Federal Farm Credit Bank  | 5,000,000.00         | 5,000,000.00         | 5,010,350.00          | 1.750        | 1.750        | 02/16/2021    | 46               | AAA            |
| <b>Subtotal and Average</b>             |              |                           | <b>5,000,000.00</b>  | <b>5,000,000.00</b>  | <b>5,010,350.00</b>   |              | <b>1.726</b> |               | <b>46</b>        |                |



City of Berkeley  
Pooled Cash and Investments  
As of December 31, 2020

| CUSIP                                | Investment # | Issuer                              | Book Value            | Par Value             | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Moody's Rating |
|--------------------------------------|--------------|-------------------------------------|-----------------------|-----------------------|-----------------------|--------------|--------------|---------------|------------------|----------------|
| <b>Medium-Term Notes - Callable</b>  |              |                                     |                       |                       |                       |              |              |               |                  |                |
| 05531FBF9                            | 14561        | BB&T Corporation                    | 5,100,045.28          | 5,000,000.00          | 5,492,800.00          | 3.750        | 3.012        | 12/06/2023    | 1,069            | A3             |
| 05531FBG7                            | 14585        | BB&T Corporation                    | 5,072,465.40          | 5,000,000.00          | 5,189,500.00          | 3.050        | 2.000        | 06/20/2022    | 535              | A3             |
| 06406HBY4                            | 14538        | Bank of New York Mellon Corp        | 3,553,634.11          | 3,542,000.00          | 3,616,984.14          | 3.550        | 3.150        | 09/23/2021    | 265              | A1             |
| 06406FAB9                            | 14541        | Bank of New York Mellon Corp        | 1,453,250.78          | 1,458,000.00          | 1,464,488.10          | 2.050        | 3.060        | 05/03/2021    | 122              | A1             |
| 693475AV7                            | 14557        | PNC Financial Services              | 5,017,936.51          | 5,000,000.00          | 5,449,350.00          | 3.500        | 3.425        | 01/23/2024    | 1,117            | A3             |
| 751212AC5                            | 14566        | Ralph Lauren                        | 5,134,530.06          | 5,000,000.00          | 5,619,950.00          | 3.750        | 3.106        | 09/15/2025    | 1,718            | A3             |
| 91159HHU7                            | 14562        | US Bancorp                          | 5,206,300.62          | 5,000,000.00          | 5,771,750.00          | 3.950        | 2.848        | 11/17/2025    | 1,781            | A1             |
| <b>Subtotal and Average</b>          |              |                                     | <b>30,538,162.76</b>  | <b>30,000,000.00</b>  | <b>32,604,822.24</b>  |              | <b>2.918</b> |               | <b>1,080</b>     |                |
| <b>Municipal Bonds</b>               |              |                                     |                       |                       |                       |              |              |               |                  |                |
| 13063DGB8                            | 14559        | California State General Obligation | 5,062,390.69          | 5,000,000.00          | 5,586,400.00          | 3.375        | 3.087        | 04/01/2025    | 1,551            | AA2            |
| <b>Subtotal and Average</b>          |              |                                     | <b>5,062,390.69</b>   | <b>5,000,000.00</b>   | <b>5,586,400.00</b>   |              | <b>3.087</b> |               | <b>1,551</b>     |                |
| <b>Money Market</b>                  |              |                                     |                       |                       |                       |              |              |               |                  |                |
| SYS14265                             | 14265        | Fidelity Money Market               | 343,593,426.38        | 343,593,426.38        | 343,593,426.38        | 0.003        | 0.003        |               | 1                | N/A            |
| <b>Subtotal and Average</b>          |              |                                     | <b>343,593,426.38</b> | <b>343,593,426.38</b> | <b>343,593,426.38</b> |              | <b>0.003</b> |               | <b>1</b>         |                |
| <b>Total Investments and Average</b> |              |                                     | <b>482,192,270.56</b> | <b>480,731,426.38</b> | <b>491,523,176.78</b> |              | <b>2.884</b> |               |                  |                |

|                                                     |                       |
|-----------------------------------------------------|-----------------------|
| Total Investments (Book Value)                      | 482,192,270.56        |
| Cash                                                | 54,224.00             |
| <b>Total Investments (Book Value) and Cash</b>      | <b>482,246,494.56</b> |
| Increase / (Decrease) in Market Value of Securities | 9,330,906.22          |
| <b>Total Investments (Market Value) and Cash</b>    | <b>491,577,400.78</b> |



**Pooled Investments Selected Funds**  
**Interest Earnings**  
**Sorted by Fund - Fund**  
**October 1, 2020 - October 31, 2020**  
**Yield on Average Book Value**

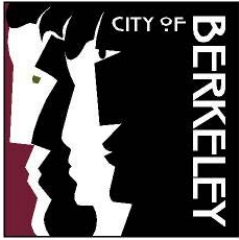
| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AFKR7                                  | 14550        | 010  | MC4           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/28/2023    | 3.100                   | 3.042 | 12,916.67                  | 0.00                    | 12,916.67                  |
| 3130AHE33                                  | 14584        | 010  | MC5           | 0.00             | 15,000,000.00        | 9,677,419.35       | 10/21/2024    | 2.000                   | 2.028 | 16,666.67                  | 0.00                    | 16,666.67                  |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 02/16/2021    | 1.750                   | 1.717 | 7,291.67                   | 0.00                    | 7,291.67                   |
| 3133EJAD1                                  | 14528        | 010  | FAC           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 12/23/2020    | 2.150                   | 2.110 | 17,916.67                  | 0.00                    | 17,916.67                  |
| 3136G4WB5                                  | 14610        | 010  | MC5           | 13,460,000.00    | 0.00                 | 6,953,807.59       | 06/09/2025    | 0.800                   | 0.740 | 4,486.67                   | -117.17                 | 4,369.50                   |
| 53944VAS8                                  | 14580        | 010  | MTN           | 5,000,000.00     | 5,004,474.31         | 5,004,368.15       | 08/14/2022    | 2.250                   | 2.159 | 9,375.00                   | -199.45                 | 9,175.55                   |
| 0020A2LW0                                  | 14603        | 010  | ACP           | 5,000,000.00     | 4,983,750.00         | 4,988,083.33       | 11/30/2020    | 1.950                   | 1.982 | 0.00                       | 8,395.83                | 8,395.83                   |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,901,860.65         | 4,903,542.05       | 05/03/2023    | 2.400                   | 3.160 | 10,000.00                  | 3,158.99                | 13,158.99                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,557,630.56         | 3,556,921.51       | 09/23/2021    | 3.550                   | 3.028 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 06406FAB9                                  | 14541        | 010  | MC3           | 1,458,000.00     | 1,449,747.26         | 1,450,368.86       | 05/03/2021    | 2.050                   | 2.970 | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 795450T47                                  | 14540        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/03/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 084670BJ6                                  | 14542        | 010  | MTN           | 5,000,000.00     | 4,983,586.56         | 4,983,894.90       | 02/11/2023    | 3.000                   | 3.090 | 12,500.00                  | 579.30                  | 13,079.30                  |
| 589331AT4                                  | 14545        | 010  | MTN           | 5,000,000.00     | 4,942,439.82         | 4,943,745.37       | 09/15/2022    | 2.400                   | 2.966 | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN           | 5,000,000.00     | 5,028,768.14         | 5,028,310.61       | 07/15/2023    | 3.625                   | 3.335 | 15,104.17                  | -859.61                 | 14,244.56                  |
| 24422EUM9                                  | 14554        | 010  | MTN           | 5,000,000.00     | 5,048,593.62         | 5,047,882.41       | 10/12/2023    | 3.650                   | 3.236 | 15,208.33                  | -1,336.21               | 13,872.12                  |
| 540424AQ1                                  | 14555        | 010  | MTN           | 5,000,000.00     | 4,912,120.73         | 4,913,607.21       | 05/15/2023    | 2.625                   | 3.290 | 10,937.50                  | 2,792.77                | 13,730.27                  |
| 693475AV7                                  | 14557        | 010  | MC3           | 5,000,000.00     | 5,019,401.38         | 5,019,141.48       | 01/23/2024    | 3.500                   | 3.306 | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN           | 5,000,000.00     | 5,066,060.73         | 5,065,409.59       | 04/01/2025    | 3.375                   | 2.984 | 14,062.50                  | -1,223.35               | 12,839.15                  |
| 49327M2X1                                  | 14560        | 010  | MTN           | 5,000,000.00     | 5,012,638.88         | 5,012,218.44       | 02/01/2022    | 3.300                   | 3.044 | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3           | 5,000,000.00     | 5,108,579.94         | 5,107,065.73       | 12/06/2023    | 3.750                   | 2.946 | 15,625.00                  | -2,844.88               | 12,780.12                  |
| 05531FBG7                                  | 14585        | 010  | MC3           | 5,000,000.00     | 5,084,794.11         | 5,082,606.76       | 06/20/2022    | 3.050                   | 1.992 | 12,708.33                  | -4,109.57               | 8,598.76                   |
| 91159HHU7                                  | 14562        | 010  | MC3           | 5,000,000.00     | 5,216,874.11         | 5,214,998.17       | 11/17/2025    | 3.950                   | 2.920 | 16,458.33                  | -3,524.50               | 12,933.83                  |
| 20030NBN0                                  | 14563        | 010  | MTN           | 5,000,000.00     | 5,060,361.92         | 5,059,812.40       | 08/15/2025    | 3.375                   | 3.032 | 14,062.50                  | -1,032.42               | 13,030.08                  |
| 747525AT0                                  | 14564        | 010  | MTN           | 5,000,000.00     | 4,974,858.20         | 4,975,164.90       | 05/20/2024    | 2.900                   | 2.996 | 12,083.33                  | 576.21                  | 12,659.54                  |
| 747525AU7                                  | 14587        | 010  | MTN           | 5,963,000.00     | 6,256,343.90         | 6,254,383.23       | 05/20/2027    | 3.250                   | 2.347 | 16,149.79                  | -3,683.69               | 12,466.10                  |
| 751212AC5                                  | 14566        | 010  | MC3           | 5,000,000.00     | 5,141,677.46         | 5,140,409.38       | 09/15/2025    | 3.750                   | 3.033 | 15,625.00                  | -2,382.47               | 13,242.53                  |
| 375558BF9                                  | 14570        | 010  | MTN           | 5,000,000.00     | 5,128,962.40         | 5,127,906.38       | 03/01/2026    | 3.650                   | 3.036 | 15,208.33                  | -1,984.03               | 13,224.30                  |
| 233851DN1                                  | 14586        | 010  | MTN           | 5,000,000.00     | 5,093,389.44         | 5,089,604.62       | 11/05/2021    | 3.750                   | 1.970 | 15,625.00                  | -7,110.88               | 8,514.12                   |
| 233851CU6                                  | 14574        | 010  | MTN           | 3,725,000.00     | 3,818,337.46         | 3,817,676.54       | 01/06/2027    | 3.450                   | 2.920 | 10,709.38                  | -1,241.74               | 9,467.64                   |



Pooled Investments Selected Funds  
Interest Earnings  
October 1, 2020 - October 31, 2020

Exhibit 2-B.1

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 233851CU6                                  | 14571        | 010  | MTN             | 5,000,000.00          | 5,071,766.86          | 5,071,258.68          | 01/06/2027    | 3.450                   | 3.116            | 14,375.00                  | -954.77                 | 13,420.23                  |
| 008252AM0                                  | 14582        | 010  | MTN             | 1,000,000.00          | 1,062,218.14          | 1,061,399.79          | 02/15/2024    | 4.250                   | 2.223            | 3,541.67                   | -1,537.51               | 2,004.16                   |
| 07330MAA5                                  | 14588        | 010  | MTN             | 5,000,000.00          | 5,400,684.89          | 5,397,767.99          | 10/30/2026    | 3.800                   | 2.256            | 15,833.33                  | -5,491.34               | 10,341.99                  |
| 04685A2L4                                  | 14602        | 010  | MTN             | 5,000,000.00          | 4,852,056.80          | 4,853,587.79          | 01/14/2025    | 2.500                   | 3.225            | 10,416.67                  | 2,876.41                | 13,293.08                  |
| 04685A2L4                                  | 14590        | 010  | MTN             | 5,950,000.00          | 5,993,099.33          | 5,992,653.32          | 01/14/2025    | 2.500                   | 2.271            | 12,395.83                  | -837.96                 | 11,557.87                  |
| 828807CS4                                  | 14606        | 010  | MTN             | 5,000,000.00          | 4,995,304.21          | 4,995,356.28          | 10/01/2024    | 3.375                   | 3.338            | 14,062.50                  | 97.83                   | 14,160.33                  |
| 80685XAA9                                  | 14609        | 010  | MTN             | 3,000,000.00          | 3,000,808.31          | 3,000,544.91          | 11/20/2020    | 2.200                   | 1.964            | 5,500.00                   | -494.88                 | 5,005.12                   |
|                                            |              |      | <b>Subtotal</b> | <b>173,598,000.00</b> | <b>176,671,190.12</b> | <b>178,290,917.69</b> |               |                         | <b>2.629</b>     | <b>419,549.70</b>          | <b>-21,478.77</b>       | <b>398,070.93</b>          |
| <b>Fund: Fidelity MM - Regular</b>         |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14265                                   | 14265        | 040  | RRP             | 249,687,840.59        | 262,482,253.48        | 255,875,982.10        |               | 0.003                   | 0.026            | 5,587.11                   | 0.00                    | 5,587.11                   |
|                                            |              |      | <b>Subtotal</b> | <b>249,687,840.59</b> | <b>262,482,253.48</b> | <b>255,875,982.10</b> |               |                         | <b>0.026</b>     | <b>5,587.11</b>            | <b>0.00</b>             | <b>5,587.11</b>            |
|                                            |              |      | <b>Total</b>    | <b>423,285,840.59</b> | <b>439,153,443.60</b> | <b>434,166,899.79</b> |               |                         | <b>1.095</b>     | <b>425,136.81</b>          | <b>-21,478.77</b>       | <b>403,658.04</b>          |



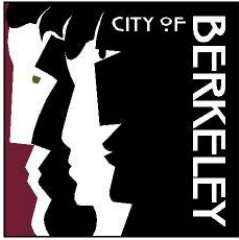
**Pooled Investments Selected Funds  
Interest Earnings  
Sorted by Fund - Fund  
November 1, 2020 - November 30, 2020  
Yield on Average Book Value**

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AFKR7                                  | 14550        | 010  | MC4           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/28/2023    | 3.100                   | 3.143 | 12,916.67                  | 0.00                    | 12,916.67                  |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 02/16/2021    | 1.750                   | 1.774 | 7,291.67                   | 0.00                    | 7,291.67                   |
| 3133EJAD1                                  | 14528        | 010  | FAC           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 12/23/2020    | 2.150                   | 2.180 | 17,916.67                  | 0.00                    | 17,916.67                  |
| 3136G4WB5                                  | 14610        | 010  | MC5           | 13,460,000.00    | 13,472,950.94        | 13,472,829.87      | 06/09/2025    | 0.800                   | 0.789 | 8,973.33                   | -234.33                 | 8,739.00                   |
| 53944VAS8                                  | 14580        | 010  | MTN           | 5,000,000.00     | 5,004,274.86         | 5,004,171.81       | 08/14/2022    | 2.250                   | 2.231 | 9,375.00                   | -199.45                 | 9,175.55                   |
| 0020A2LW0                                  | 14603        | 010  | ACP           | 0.00             | 4,992,145.83         | 4,829,668.06       | 11/30/2020    | 1.950                   | 1.979 | 0.00                       | 7,854.17                | 7,854.17                   |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,905,019.64         | 4,906,651.79       | 05/03/2023    | 2.400                   | 3.263 | 10,000.00                  | 3,158.99                | 13,158.99                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 678.08                     | 0.00                    | 678.08                     |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,556,298.41         | 3,555,610.13       | 09/23/2021    | 3.550                   | 3.130 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 06406FAB9                                  | 14541        | 010  | MC3           | 1,458,000.00     | 1,450,915.10         | 1,451,518.49       | 05/03/2021    | 2.050                   | 3.067 | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 795450T47                                  | 14540        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/03/2023    | 3.300                   | 3.300 | 678.08                     | 0.00                    | 678.08                     |
| 084670BJ6                                  | 14542        | 010  | MTN           | 5,000,000.00     | 4,984,165.86         | 4,984,465.17       | 02/11/2023    | 3.000                   | 3.193 | 12,500.00                  | 579.30                  | 13,079.30                  |
| 589331AT4                                  | 14545        | 010  | MTN           | 5,000,000.00     | 4,944,892.67         | 4,946,159.98       | 09/15/2022    | 2.400                   | 3.063 | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN           | 5,000,000.00     | 5,027,908.53         | 5,027,464.40       | 07/15/2023    | 3.625                   | 3.447 | 15,104.17                  | -859.60                 | 14,244.57                  |
| 24422EUM9                                  | 14554        | 010  | MTN           | 5,000,000.00     | 5,047,257.41         | 5,046,567.03       | 10/12/2023    | 3.650                   | 3.344 | 15,208.33                  | -1,336.21               | 13,872.12                  |
| 540424AQ1                                  | 14555        | 010  | MTN           | 5,000,000.00     | 4,914,913.50         | 4,916,356.44       | 05/15/2023    | 2.625                   | 3.398 | 10,937.50                  | 2,792.78                | 13,730.28                  |
| 693475AV7                                  | 14557        | 010  | MC3           | 5,000,000.00     | 5,018,913.09         | 5,018,660.80       | 01/23/2024    | 3.500                   | 3.417 | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN           | 5,000,000.00     | 5,064,837.38         | 5,064,205.32       | 04/01/2025    | 3.375                   | 3.085 | 14,062.50                  | -1,223.34               | 12,839.16                  |
| 49327M2X1                                  | 14560        | 010  | MTN           | 5,000,000.00     | 5,011,848.95         | 5,011,440.82       | 02/01/2022    | 3.300                   | 3.146 | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3           | 5,000,000.00     | 5,105,735.06         | 5,104,265.20       | 12/06/2023    | 3.750                   | 3.046 | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 05531FBG7                                  | 14585        | 010  | MC3           | 5,000,000.00     | 5,080,684.54         | 5,078,561.26       | 06/20/2022    | 3.050                   | 2.060 | 12,708.33                  | -4,109.57               | 8,598.76                   |
| 91159HHU7                                  | 14562        | 010  | MC3           | 5,000,000.00     | 5,213,349.61         | 5,211,528.62       | 11/17/2025    | 3.950                   | 3.019 | 16,458.33                  | -3,524.49               | 12,933.84                  |
| 20030NBN0                                  | 14563        | 010  | MTN           | 5,000,000.00     | 5,059,329.50         | 5,058,796.08       | 08/15/2025    | 3.375                   | 3.134 | 14,062.50                  | -1,032.42               | 13,030.08                  |
| 747525AT0                                  | 14564        | 010  | MTN           | 5,000,000.00     | 4,975,434.41         | 4,975,732.12       | 05/20/2024    | 2.900                   | 3.096 | 12,083.33                  | 576.21                  | 12,659.54                  |
| 747525AU7                                  | 14587        | 010  | MTN           | 5,963,000.00     | 6,252,660.21         | 6,250,756.98       | 05/20/2027    | 3.250                   | 2.426 | 16,149.79                  | -3,683.68               | 12,466.11                  |
| 751212AC5                                  | 14566        | 010  | MC3           | 5,000,000.00     | 5,139,294.99         | 5,138,064.05       | 09/15/2025    | 3.750                   | 3.136 | 15,625.00                  | -2,382.46               | 13,242.54                  |
| 375558BF9                                  | 14570        | 010  | MTN           | 5,000,000.00     | 5,126,978.37         | 5,125,953.28       | 03/01/2026    | 3.650                   | 3.139 | 15,208.33                  | -1,984.04               | 13,224.29                  |
| 233851DN1                                  | 14586        | 010  | MTN           | 5,000,000.00     | 5,086,278.56         | 5,082,604.62       | 11/05/2021    | 3.750                   | 2.038 | 15,625.00                  | -7,110.87               | 8,514.13                   |
| 233851CU6                                  | 14574        | 010  | MTN           | 3,725,000.00     | 3,817,095.72         | 3,816,454.16       | 01/06/2027    | 3.450                   | 3.018 | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851CU6                                  | 14571        | 010  | MTN           | 5,000,000.00     | 5,070,812.09         | 5,070,318.80       | 01/06/2027    | 3.450                   | 3.220 | 14,375.00                  | -954.77                 | 13,420.23                  |

Pooled Investments Selected Funds  
Interest Earnings  
November 1, 2020 - November 30, 2020

Exhibit 2-B.2

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 008252AM0                                  | 14582        | 010  | MTN             | 1,000,000.00          | 1,060,680.63          | 1,059,886.24          | 02/15/2024    | 4.250                   | 2.301            | 3,541.67                   | -1,537.52               | 2,004.15                   |
| 07330MAA5                                  | 14588        | 010  | MTN             | 5,000,000.00          | 5,395,193.55          | 5,392,356.36          | 10/30/2026    | 3.800                   | 2.333            | 15,833.33                  | -5,491.34               | 10,341.99                  |
| 04685A2L4                                  | 14602        | 010  | MTN             | 5,000,000.00          | 4,854,933.21          | 4,856,419.35          | 01/14/2025    | 2.500                   | 3.330            | 10,416.67                  | 2,876.40                | 13,293.07                  |
| 04685A2L4                                  | 14590        | 010  | MTN             | 5,950,000.00          | 5,992,261.37          | 5,991,828.42          | 01/14/2025    | 2.500                   | 2.347            | 12,395.83                  | -837.97                 | 11,557.86                  |
| 828807CS4                                  | 14606        | 010  | MTN             | 5,000,000.00          | 4,995,402.04          | 4,995,452.59          | 10/01/2024    | 3.375                   | 3.449            | 14,062.50                  | 97.83                   | 14,160.33                  |
| 80685XAA9                                  | 14609        | 010  | MTN             | 0.00                  | 3,000,313.43          | 1,900,094.03          | 11/20/2020    | 2.200                   | 2.030            | 3,483.33                   | -313.43                 | 3,169.90                   |
|                                            |              |      | <b>Subtotal</b> | <b>165,598,000.00</b> | <b>175,122,779.46</b> | <b>173,844,842.26</b> |               |                         | <b>2.683</b>     | <b>405,307.82</b>          | <b>-21,956.12</b>       | <b>383,351.70</b>          |
| <b>Fund: Fidelity MM - Regular</b>         |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14265                                   | 14265        | 040  | RRP             | 248,591,236.76        | 249,687,840.59        | 249,284,620.46        |               | 0.003                   | 0.017            | 3,396.17                   | 0.00                    | 3,396.17                   |
|                                            |              |      | <b>Subtotal</b> | <b>248,591,236.76</b> | <b>249,687,840.59</b> | <b>249,284,620.46</b> |               |                         | <b>0.017</b>     | <b>3,396.17</b>            | <b>0.00</b>             | <b>3,396.17</b>            |
|                                            |              |      | <b>Total</b>    | <b>414,189,236.76</b> | <b>424,810,620.05</b> | <b>423,129,462.72</b> |               |                         | <b>1.112</b>     | <b>408,703.99</b>          | <b>-21,956.12</b>       | <b>386,747.87</b>          |



**Pooled Investments Selected Funds  
Interest Earnings  
Sorted by Fund - Fund  
December 1, 2020 - December 31, 2020  
Yield on Average Book Value**

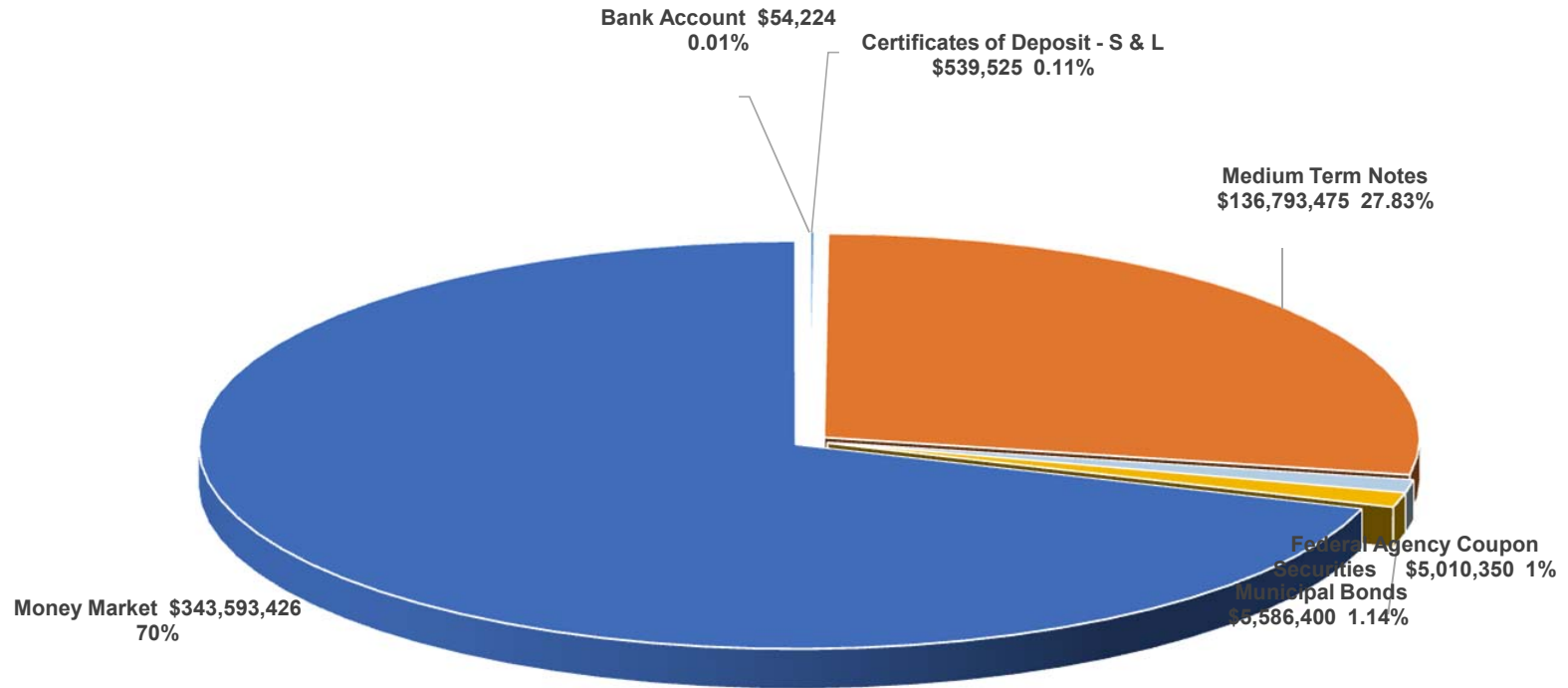
| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AFKR7                                  | 14550        | 010  | MC4           | 0.00             | 5,000,000.00         | 4,354,838.71       | 12/28/2023    | 3.100                   | 3.143 | 11,625.00                  | 0.00                    | 11,625.00                  |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 02/16/2021    | 1.750                   | 1.717 | 7,291.67                   | 0.00                    | 7,291.67                   |
| 3133EJAD1                                  | 14528        | 010  | FAC           | 0.00             | 10,000,000.00        | 7,096,774.19       | 12/23/2020    | 2.150                   | 2.180 | 13,138.89                  | 0.00                    | 13,138.89                  |
| 3136G4WB5                                  | 14610        | 010  | MC5           | 0.00             | 13,472,716.61        | 3,476,821.02       | 06/09/2025    | 0.800                   | 0.789 | 2,392.89                   | -62.49                  | 2,330.40                   |
| 53944VAS8                                  | 14580        | 010  | MTN           | 5,000,000.00     | 5,004,075.41         | 5,003,969.25       | 08/14/2022    | 2.250                   | 2.159 | 9,375.00                   | -199.45                 | 9,175.55                   |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,908,178.63         | 4,909,860.03       | 05/03/2023    | 2.400                   | 3.156 | 10,000.00                  | 3,159.00                | 13,159.00                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,554,966.26         | 3,554,257.21       | 09/23/2021    | 3.550                   | 3.030 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 06406FAB9                                  | 14541        | 010  | MC3           | 1,458,000.00     | 1,452,082.94         | 1,452,704.54       | 05/03/2021    | 2.050                   | 2.965 | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 795450T47                                  | 14540        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/03/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 084670BJ6                                  | 14542        | 010  | MTN           | 5,000,000.00     | 4,984,745.16         | 4,985,053.50       | 02/11/2023    | 3.000                   | 3.089 | 12,500.00                  | 579.30                  | 13,079.30                  |
| 589331AT4                                  | 14545        | 010  | MTN           | 5,000,000.00     | 4,947,345.52         | 4,948,651.07       | 09/15/2022    | 2.400                   | 2.963 | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN           | 5,000,000.00     | 5,027,048.93         | 5,026,591.40       | 07/15/2023    | 3.625                   | 3.337 | 15,104.17                  | -859.61                 | 14,244.56                  |
| 24422EUM9                                  | 14554        | 010  | MTN           | 5,000,000.00     | 5,045,921.20         | 5,045,209.99       | 10/12/2023    | 3.650                   | 3.237 | 15,208.33                  | -1,336.22               | 13,872.11                  |
| 540424AQ1                                  | 14555        | 010  | MTN           | 5,000,000.00     | 4,917,706.28         | 4,919,192.75       | 05/15/2023    | 2.625                   | 3.286 | 10,937.50                  | 2,792.77                | 13,730.27                  |
| 693475AV7                                  | 14557        | 010  | MC3           | 5,000,000.00     | 5,018,424.80         | 5,018,164.90       | 01/23/2024    | 3.500                   | 3.307 | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN           | 5,000,000.00     | 5,063,614.04         | 5,062,962.90       | 04/01/2025    | 3.375                   | 2.986 | 14,062.50                  | -1,223.35               | 12,839.15                  |
| 49327M2X1                                  | 14560        | 010  | MTN           | 5,000,000.00     | 5,011,059.02         | 5,010,638.58       | 02/01/2022    | 3.300                   | 3.045 | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3           | 5,000,000.00     | 5,102,890.17         | 5,101,375.95       | 12/06/2023    | 3.750                   | 2.950 | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 05531FBG7                                  | 14585        | 010  | MC3           | 5,000,000.00     | 5,076,574.97         | 5,074,387.62       | 06/20/2022    | 3.050                   | 1.995 | 12,708.33                  | -4,109.57               | 8,598.76                   |
| 91159HHU7                                  | 14562        | 010  | MC3           | 5,000,000.00     | 5,209,825.12         | 5,207,949.17       | 11/17/2025    | 3.950                   | 2.924 | 16,458.33                  | -3,524.50               | 12,933.83                  |
| 20030NBN0                                  | 14563        | 010  | MTN           | 5,000,000.00     | 5,058,297.08         | 5,057,747.57       | 08/15/2025    | 3.375                   | 3.033 | 14,062.50                  | -1,032.41               | 13,030.09                  |
| 747525AT0                                  | 14564        | 010  | MTN           | 5,000,000.00     | 4,976,010.62         | 4,976,317.31       | 05/20/2024    | 2.900                   | 2.995 | 12,083.33                  | 576.20                  | 12,659.53                  |
| 747525AU7                                  | 14587        | 010  | MTN           | 5,963,000.00     | 6,248,976.53         | 6,247,015.86       | 05/20/2027    | 3.250                   | 2.350 | 16,149.79                  | -3,683.68               | 12,466.11                  |
| 751212AC5                                  | 14566        | 010  | MC3           | 5,000,000.00     | 5,136,912.53         | 5,135,644.44       | 09/15/2025    | 3.750                   | 3.036 | 15,625.00                  | -2,382.47               | 13,242.53                  |
| 375558BF9                                  | 14570        | 010  | MTN           | 5,000,000.00     | 5,124,994.33         | 5,123,938.31       | 03/01/2026    | 3.650                   | 3.039 | 15,208.33                  | -1,984.04               | 13,224.29                  |
| 233851DN1                                  | 14586        | 010  | MTN           | 5,000,000.00     | 5,079,167.69         | 5,075,382.88       | 11/05/2021    | 3.750                   | 1.975 | 15,625.00                  | -7,110.87               | 8,514.13                   |
| 233851CU6                                  | 14574        | 010  | MTN           | 3,725,000.00     | 3,815,853.98         | 3,815,193.05       | 01/06/2027    | 3.450                   | 2.922 | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851CU6                                  | 14571        | 010  | MTN           | 5,000,000.00     | 5,069,857.32         | 5,069,349.14       | 01/06/2027    | 3.450                   | 3.117 | 14,375.00                  | -954.77                 | 13,420.23                  |
| 008252AM0                                  | 14582        | 010  | MTN           | 1,000,000.00     | 1,059,143.11         | 1,058,324.76       | 02/15/2024    | 4.250                   | 2.230 | 3,541.67                   | -1,537.51               | 2,004.16                   |

Pooled Investments Selected Funds  
Interest Earnings  
December 1, 2020 - December 31, 2020

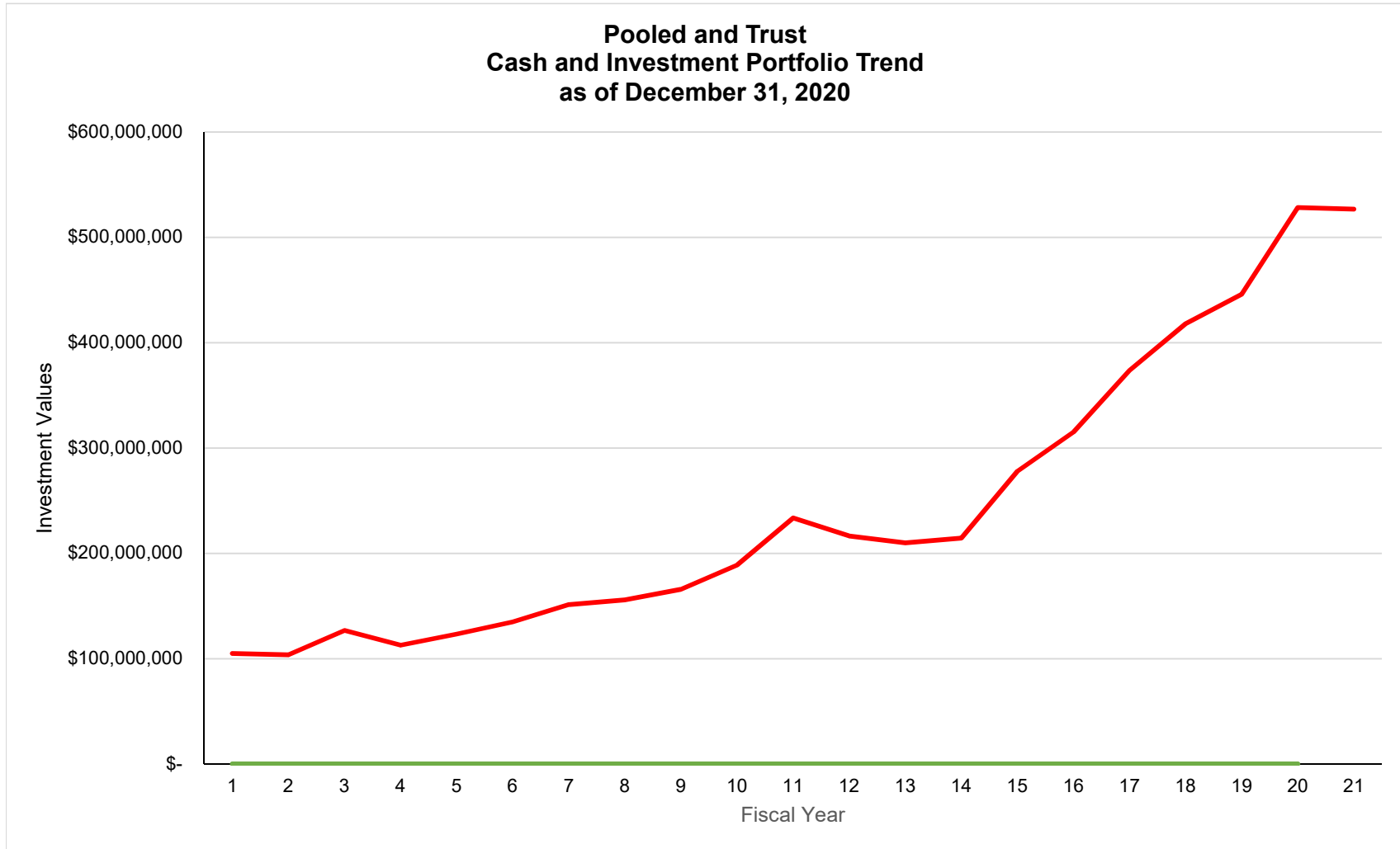
Exhibit 2-B.3

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 07330MAA5                                  | 14588        | 010  | MTN           | 5,000,000.00          | 5,389,702.21          | 5,386,785.30          | 10/30/2026    | 3.800                   | 2.261            | 15,833.33                  | -5,491.34               | 10,341.99                  |
| 04685A2L4                                  | 14602        | 010  | MTN           | 5,000,000.00          | 4,857,809.61          | 4,859,340.60          | 01/14/2025    | 2.500                   | 3.221            | 10,416.67                  | 2,876.41                | 13,293.08                  |
| 04685A2L4                                  | 14590        | 010  | MTN           | 5,950,000.00          | 5,991,423.40          | 5,990,977.39          | 01/14/2025    | 2.500                   | 2.271            | 12,395.83                  | -837.96                 | 11,557.87                  |
| 828807CS4                                  | 14606        | 010  | MTN           | 5,000,000.00          | 4,995,499.87          | 4,995,551.94          | 10/01/2024    | 3.375                   | 3.337            | 14,062.50                  | 97.83                   | 14,160.33                  |
| <b>Subtotal</b>                            |              |      |               | <b>137,138,000.00</b> | <b>167,100,823.34</b> | <b>153,540,971.33</b> |               |                         | <b>2.760</b>     | <b>389,219.80</b>          | <b>-29,325.04</b>       | <b>359,894.76</b>          |
| <b>Fund: Fidelity MM - Regular</b>         |              |      |               |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14265                                   | 14265        | 040  | RRP           | 343,593,426.38        | 248,591,236.76        | 257,784,855.78        |               | 0.003                   | 0.010            | 2,189.62                   | 0.00                    | 2,189.62                   |
| <b>Subtotal</b>                            |              |      |               | <b>343,593,426.38</b> | <b>248,591,236.76</b> | <b>257,784,855.78</b> |               |                         | <b>0.010</b>     | <b>2,189.62</b>            | <b>0.00</b>             | <b>2,189.62</b>            |
| <b>Total</b>                               |              |      |               | <b>480,731,426.38</b> | <b>415,692,060.10</b> | <b>411,325,827.11</b> |               |                         | <b>1.036</b>     | <b>391,409.42</b>          | <b>-29,325.04</b>       | <b>362,084.38</b>          |

Pooled Cash and Investments  
(Market Value)  
as of December 31, 2020











**Summary of Pooled Cash and Investments - Trust Funds**  
**(Market Value)**  
**As of December 31, 2020**

|                                           | <u>Pooled Cash</u>   | <u>Investments<br/>(Book Value)</u> | <u>Gain/Loss on<br/>Investments</u> | <u>Pooled Cash<br/>&amp; Investments<br/>(Market Value)</u> |
|-------------------------------------------|----------------------|-------------------------------------|-------------------------------------|-------------------------------------------------------------|
| <b>Retiree Medical Trust Fund</b>         |                      |                                     |                                     |                                                             |
| <b>Fund No.</b>                           |                      |                                     |                                     |                                                             |
| 721 BHA                                   | \$ 253,807           | \$ 230,537                          | \$ 19,430                           | \$ 503,774                                                  |
| 722 M1=IBEW                               | 4,377                | 121,280                             | 12,259                              | 137,916                                                     |
| 723 M2=Local 1                            | 3,583,552            | 5,683,779                           | 530,874                             | 9,798,205                                                   |
| 724 MUI=Z1                                | 596,063              | 1,300,294                           | 127,101                             | 2,023,458                                                   |
| 725 MUI=Z2 to Z6                          | 871,573              | 1,715,651                           | 164,779                             | 2,752,003                                                   |
| 726 M535= Local 535                       | 3,272,848            | 5,723,650                           | 546,209                             | 9,542,707                                                   |
| 727 M3=Local 790                          | 2,560,735            | 3,606,964                           | 318,194                             | 6,485,893                                                   |
| <b>Total Retiree Medical Trust Fund</b>   | <b>11,142,955</b>    | <b>18,382,155</b>                   | <b>1,718,846</b>                    | <b>31,243,956</b>                                           |
| <b>Fire Medical Trust Fund</b>            |                      |                                     |                                     |                                                             |
| 736 Fire Medical Trust Fund               | 3,224,487            | 8,532,989                           | 752,780                             | 12,510,257                                                  |
| <b>Total Fire Medical Trust Fund</b>      | <b>3,224,487</b>     | <b>8,532,989</b>                    | <b>752,780</b>                      | <b>12,510,257</b>                                           |
| <b>Police Medical Trust Fund</b>          |                      |                                     |                                     |                                                             |
| 731 Police EE Retiree HLT Assistance Plan | 748,603              | 1,642,202                           | 142,197                             | 2,533,002                                                   |
| 701 Safety Members Pension Fund           | 46,707               | -                                   | -                                   | 46,707                                                      |
| 706 Police Medical Trust Fund             | 1,145,357            | 4,522,442                           | 293,943                             | 5,961,742                                                   |
| <b>Total Police Medical Trust Fund</b>    | <b>1,940,667</b>     | <b>6,164,644</b>                    | <b>436,140</b>                      | <b>8,541,451</b>                                            |
| <b>Total Trust Funds</b>                  | <b>\$ 16,308,109</b> | <b>\$ 33,079,788</b>                | <b>\$ 2,907,766</b>                 | <b>\$ 52,295,664</b>                                        |



**Retiree Medical Trust Fund  
Fund 721 - 727  
Interest Earnings  
October 1 to December 31, 2020**

| CUSIP                                   | Investment # | Issuer               | Investments<br>As of December 31, 2020 |                         |                         |                         |               |                | Interest Earnings<br>October 1 to December 31, 2020 |                  |                            |                            |                            |
|-----------------------------------------|--------------|----------------------|----------------------------------------|-------------------------|-------------------------|-------------------------|---------------|----------------|-----------------------------------------------------|------------------|----------------------------|----------------------------|----------------------------|
|                                         |              |                      | Par Value                              | Beginning Book Value    | Ending Book Value       | Market Value            | Maturity Date | Moody's Rating | Current Rate                                        | Annualized Yield | Adjusted Interest Earnings |                            |                            |
|                                         |              |                      |                                        |                         |                         |                         |               |                |                                                     |                  | Interest Earned            | Amortization/<br>Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                |              |                      |                                        |                         |                         |                         |               |                |                                                     |                  |                            |                            |                            |
| 61747WAF6                               | 14224        | Morgan Stanley       | 1,666,666.67                           | 1,669,789.70            | 1,667,324.15            | 1,671,633.34            | 01/25/2021    | A2             | 5.750                                               | 5.110            | 23,958.33                  | (2,465.55)                 | 21,492.78                  |
| <b>Federal Agency Coupon Securities</b> |              |                      |                                        |                         |                         |                         |               |                |                                                     |                  |                            |                            |                            |
| 3133EFQT7                               | 14361        | Fed Farm Credit Bank | 2,600,000.00                           | 2,609,368.25            | 2,608,913.48            | 2,879,786.00            | 11/25/2025    | AAA            | 2.700                                               | 2.599            | 17,550.00                  | (454.77)                   | 17,095.23                  |
| <b>Municipal Bonds</b>                  |              |                      |                                        |                         |                         |                         |               |                |                                                     |                  |                            |                            |                            |
| 672319CC2                               | 14283        | OAKGEN               | 2,750,000.00                           | 2,743,960.01            | 2,745,212.54            | 2,835,387.50            | 12/15/2021    | AA2            | 3.800                                               | 3.957            | 26,125.00                  | 1,252.53                   | 27,377.53                  |
| 786091AG3                               | 14316        | SACGEN               | 5,000,000.00                           | 5,261,171.26            | 5,247,662.40            | 6,237,150.00            | 08/01/2025    | A3             | 7.250                                               | 5.823            | 90,625.00                  | (13,508.86)                | 77,116.14                  |
| <b>Savo Island Loan</b>                 |              |                      |                                        |                         |                         |                         |               |                |                                                     |                  |                            |                            |                            |
| SYS10988                                | 10988        | EMPMED               | 233,000.00                             | 233,000.00              | 233,000.00              | 233,000.00              | 09/01/2025    | N/A            | 8.000                                               | 8.000            | 4,698.30                   | -                          | 4,698.30                   |
| <b>Preferred Securities</b>             |              |                      |                                        |                         |                         |                         |               |                |                                                     |                  |                            |                            |                            |
| 00206R706                               | 14591        | AT&T Inc.            | 1,680,033.60                           | 1,680,033.60            | 1,680,033.60            | 1,784,035.68            | N/A           | N/A            | 4.596                                               | 4.674            | 19,792.02                  | -                          | 19,792.02                  |
| 00206R706                               | 14596        | AT&T Inc.            | 1,680,008.40                           | 1,680,008.40            | 1,680,008.40            | 1,784,008.92            | N/A           | N/A            | 4.640                                               | 4.064            | 17,210.36                  | -                          | 17,210.36                  |
| 00206R706                               | 14597        | AT&T Inc.            | 2,520,000.00                           | 2,520,000.00            | 2,520,000.00            | 2,676,000.00            | N/A           | N/A            | 4.643                                               | 4.674            | 29,687.46                  | -                          | 29,687.46                  |
| <b>Total</b>                            |              |                      | <b>\$ 18,129,708.67</b>                | <b>\$ 18,397,331.22</b> | <b>\$ 18,382,154.57</b> | <b>\$ 20,101,001.44</b> |               |                |                                                     | <b>4.627</b>     | <b>\$ 229,646.47</b>       | <b>\$ (15,176.65)</b>      | <b>\$ 214,469.82</b>       |

|                                                     |                                |
|-----------------------------------------------------|--------------------------------|
| Total Investments (Book Value)                      | \$ 18,382,154.57               |
| Gain/Loss on Investments                            | <u>1,718,846.87</u>            |
| Total Investments (Market Value)                    | 20,101,001.44                  |
| Temporarily Invested with Pooled Cash & Investments | <u>11,142,955.00</u>           |
| <b>Total Pooled Cash and Investments</b>            | <b><u>\$ 31,243,956.44</u></b> |



**Fire Retiree Medical  
Fund 736  
Interest Earnings  
October 1 to December 31, 2020**

| Investments<br>As of December 31, 2020  |              |                            |                        |                        |                        |                        |               |                | Interest Earnings<br>October 1 to December 31, 2020 |                  |                            |                            |                            |
|-----------------------------------------|--------------|----------------------------|------------------------|------------------------|------------------------|------------------------|---------------|----------------|-----------------------------------------------------|------------------|----------------------------|----------------------------|----------------------------|
| CUSIP                                   | Investment # | Issuer                     | Par Value              | Beginning Book Value   | Ending Book Value      | Market Value           | Maturity Date | Moody's Rating | Current Rate                                        | Annualized Yield | Adjusted Interest Earnings |                            |                            |
|                                         |              |                            |                        |                        |                        |                        |               |                |                                                     |                  | Interest Earned            | Amortization/<br>Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                |              |                            |                        |                        |                        |                        |               |                |                                                     |                  |                            |                            |                            |
| 6174467X1                               | 14318        | Morgan Stanley DW DTC#0015 | 2,000,000.00           | 2,039,735.07           | 2,037,805.15           | 2,390,660.00           | 11/24/2025    | BAA1           | 5.000                                               | 4.489            | 25,000.00                  | (1,929.92)                 | 23,070.08                  |
| 61747WAF6                               | 14225        | Morgan Stanley             | 1,666,666.67           | 1,669,789.70           | 1,667,324.15           | 1,671,633.34           | 01/25/2021    | A2             | 5.750                                               | 5.110            | 23,958.33                  | (2,465.55)                 | 21,492.78                  |
| <b>Federal Agency Coupon Securities</b> |              |                            |                        |                        |                        |                        |               |                |                                                     |                  |                            |                            |                            |
| 3133EFQT7                               | 14362        | Fed Farm Credit Bank       | 2,300,000.00           | 2,308,287.30           | 2,307,885.00           | 2,547,503.00           | 11/25/2025    | AAA            | 2.700                                               | 2.599            | 15,525.00                  | (402.30)                   | 15,122.70                  |
| <b>Preferred Securities</b>             |              |                            |                        |                        |                        |                        |               |                |                                                     |                  |                            |                            |                            |
| 00206R706                               | 14592        | AT&T Inc.                  | 1,679,983.20           | 1,679,983.20           | 1,679,983.20           | 1,783,982.16           | N/A           | N/A            | 4.596                                               | 4.674            | 19,791.44                  | -                          | 19,791.44                  |
| 00206R706                               | 14594        | AT&T Inc.                  | 839,991.60             | 839,991.60             | 839,991.60             | 891,991.08             | N/A           | N/A            | 4.640                                               | 4.674            | 9,895.71                   | -                          | 9,895.71                   |
| <b>Total</b>                            |              |                            | <b>\$ 8,486,641.47</b> | <b>\$ 8,537,786.87</b> | <b>\$ 8,532,989.10</b> | <b>\$ 9,285,769.58</b> |               |                |                                                     | <b>4.154</b>     | <b>\$ 94,170.48</b>        | <b>\$ (4,797.77)</b>       | <b>\$ 89,372.71</b>        |

|                                                     |                         |
|-----------------------------------------------------|-------------------------|
| Total Investments (Book Value)                      | \$ 8,532,989.10         |
| Gain/Loss on Investments                            | <u>752,780.48</u>       |
| Total Investments (Market Value)                    | 9,285,769.58            |
| Temporarily Invested with Pooled Cash & Investments | <u>3,224,487.00</u>     |
| Total Pooled Cash and Investments                   | <u>\$ 12,510,256.58</u> |



Police Retiree Medical  
Fund 731 and 706  
Interest Earnings  
October 1 to December 31, 2020

| Investments<br>As of December 31, 2020  |              |                            |                        |                        |                        |                        |               |                | Interest Earnings<br>October 1 to December 31, 2020 |                  |                     |                         |                            |
|-----------------------------------------|--------------|----------------------------|------------------------|------------------------|------------------------|------------------------|---------------|----------------|-----------------------------------------------------|------------------|---------------------|-------------------------|----------------------------|
| CUSIP                                   | Investment # | Issuer                     | Par Value              | Beginning Book Value   | Ending Book Value      | Market Value           | Maturity Date | Moody's Rating | Current Rate                                        | Annualized Yield | Interest Earned     | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                |              |                            |                        |                        |                        |                        |               |                |                                                     |                  |                     |                         |                            |
| 6174467X1                               | 14319        | Morgan Stanley DW DTC#0015 | 500,000.00             | 509,933.77             | 509,451.29             | 597,665.00             | 11/24/25      | BAA1           | 5.000                                               | 4.489            | 6,250.00            | (482.48)                | 5,767.52                   |
| 61747WAF6                               | 14226        | Morgan Stanley             | 1,666,666.67           | 1,669,789.70           | 1,667,324.15           | 1,671,633.34           | 01/25/21      | A2             | 5.750                                               | 5.110            | 23,958.33           | (2,465.55)              | 21,492.78                  |
| <b>Federal Agency Coupon Securities</b> |              |                            |                        |                        |                        |                        |               |                |                                                     |                  |                     |                         |                            |
| 3133EFQT7                               | 14363        | Fed. Farm Credit Banks     | 2,300,000.00           | 2,308,287.30           | 2,307,885.00           | 2,547,503.00           | 11/25/25      | AAA            | 2.700                                               | 2.599            | 15,525.00           | (402.30)                | 15,122.70                  |
| <b>Preferred Securities</b>             |              |                            |                        |                        |                        |                        |               |                |                                                     |                  |                     |                         |                            |
| 00206R706                               | 14593        | AT&T Inc.                  | 1,679,983.20           | 1,679,983.20           | 1,679,983.20           | 1,783,982.16           | N/A           | N/A            | 4.596                                               | 4.064            | 17,209.95           | -                       | 17,209.95                  |
| <b>Total</b>                            |              |                            | <b>\$ 6,146,649.87</b> | <b>\$ 6,167,993.97</b> | <b>\$ 6,164,643.64</b> | <b>\$ 6,600,783.50</b> |               |                |                                                     | <b>3.834</b>     | <b>\$ 62,943.28</b> | <b>\$ (3,350.33)</b>    | <b>\$ 59,592.95</b>        |

|                                                     |                 |
|-----------------------------------------------------|-----------------|
| Total Investments (Book Value)                      | \$ 6,164,643.64 |
| Gain/Loss on Investments                            | 436,139.86      |
| Total Investments (Market Value)                    | 6,600,783.50    |
| Temporarily Invested with Pooled Cash & Investments | 1,940,667.00    |
| Total Pooled Cash and Investments                   | \$ 8,541,450.50 |



Office of the City Manager

INFORMATION CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Henry Oyekanmi, Director, Finance Department  
Subject: FY 2021 Third Quarter Investment Report: Ended March 31, 2021

SUMMARY

The City's investment policy requires that a quarterly investment report be submitted to the City Council on the status of the investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the types, values (par, book, and market), term, and yield of each security.

- The return on pooled investments for the quarter ended March 31, 2020 was .87%, 46 basis points more than the .41% earned by the State Local Agency Investment Fund (State LAIF), which is the benchmark for investment performance used by the City. The return on pooled investments of 1.08% for the quarter ended December 31, 2020 was 21 basis points less than the rate of 1.08% earned in the quarter ended December 31, 2020.
- The average return on all Retiree Medical Trust Fund investments was 4.32% for the quarter ended March 31, 2021.

CURRENT SITUATION AND ITS EFFECTS

Attached is a summary of quarterly reports for the fiscal year 2021 Third quarter ending March 31, 2021 representing the status of the City's investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the values (par, book, and market), term, and yield of each security.

Summary information by type of security and detailed information on each security is provided on Exhibit 2-A. An evaluation of portfolio performance for this accounting period compared to the previous three accounting periods is also included in Attachment 1.

## **A. Portfolio Results**

As a result of the differences in the investment policies of different cities, including responsible investing policies, maturity restrictions, investment restrictions, etc., it was difficult for the City of Berkeley to come up with a reasonable performance measure for pooled cash investments. In order to provide some measure of the relative performance of the City's investment returns, many years ago the City established the State Local Agency Investment Fund (LAIF) as the performance measure to be reported in the quarterly investment reports, since many local governments invested significant portions of their investment portfolios in LAIF.

LAIF was intended to be a reference point to compare the City's investment performance against, rather than a true performance measure, since most cities typically earn a yield higher than LAIF in normal interest rate environments, and because LAIF's average maturity of its investments is generally shorter than most cities. As a result, past City Councilmembers requested that information about the rates earned by other California cities be included in the quarterly investment reports for comparison purposes, despite the differences in the investment policies of the various cities.

### **1. Liquidity of Portfolio:**

The average investment in the pooled portfolio matures in 1,158 days as of March 31, 2021. This is 47 days less than the 1,205 maturity days as of December 31, 2020.

### **2. Comparison of Results to Performance Measures – Pooled investments: Quarter Ended March 31, 2021**

The City's yield on investments for the quarter ended March 31, 2021 was .87%, a decrease of 21 basis points (.21%) from the 1.08% earned during the quarter ended December 30, 2020. The average yield on a 90-day Treasury bill at the end of the quarter ended March 31, 2021 was .015%, a decrease of 4.3 basis points (.043%) from the .058% at the end of the previous quarter.

As summarized in Table 1, staff's overall results were above the performance measure for the quarter. Staff's performance was above the performance measure in January by approximately 37 basis points (+.37%); over the performance measure in February by approximately 52 basis points (+.52%); and, was over the performance measure in March by approximately 49 basis points (+.49%). The performance measure for the return on investments is compared to the rate of return of the State LAIF.

**Table 1**

| For Quarter Ending March 31, 2021 |      |            |            |
|-----------------------------------|------|------------|------------|
| Period                            | City | State LAIF | Difference |
| Jan-21                            | .83% | .46%       | +0.37%     |
| Feb-21                            | .93% | .41%       | +0.52%     |
| Mar-21                            | .85% | .36%       | +0.49%     |
| Jan-Mar 21                        | .87% | .41%       | 0.46%      |

3. Investment Results-Retiree Health Insurance Funds:

Average interest rates earned on the retiree health insurance trust funds for the quarter ended December 31, 2020 compared to the quarter ended March 31 2021, were as follows:

**Table 2**

| EARNED INTEREST RATES                              |                     |                    |
|----------------------------------------------------|---------------------|--------------------|
| For Quarter Ended 12/31/2020 Compared To 3/31/2021 |                     |                    |
| Trust Fund                                         | 2nd Qtr<br>12/31/20 | 3rd Qtr<br>3/31/21 |
| Retiree Medical Trust Fund (Misc Employees)        | 4.627%              | 4.656%             |
| Fire Retiree Medical Trust Fund                    | 4.154%              | 4.035%             |
| Police Retiree Medical Trust Fund                  | 3.834%              | 3.569%             |

The rates earned on these plans are expected to be higher in the future, as staff plans to use the investment authority granted by Council to purchase Bond and Stock Mutual Funds or Index Funds.

Details related to retiree health trust fund investments are in Attachment 3, Exhibits 3-A, 3-B, and 3-C of this report.

**B. Discussion of Interest Rate Environment and Outlook**

In its March 17, 2021 statement, the Federal Open Market Committee indicated that “the Federal Reserve is committed to use its full range of tools to support the U.S. economy in this challenging time, thereby promoting its maximum employment and price stability goals.

The COVID-19 pandemic is causing tremendous human and economic hardship across the United States and around the world. Following a moderation in the pace of the economic recovery, indicators of economic activity and employment have turned up recently, although the sectors most adversely affected by the pandemic remain weak. Inflation continues to run below 2 percent. Overall financial conditions remain accommodative, in part reflecting policy measures to support the economy and the flow of credit to U.S. households and businesses.

The path of the economy will depend significantly on the course of the virus, including progress on vaccinations. The ongoing public health crisis continues to weigh on economic activity, employment, and inflation in the near term, and poses considerable risks to the economic outlook. “

### Yield Trend

“The Committee seeks to achieve maximum employment and inflation at the rate of 2 percent over the longer run. With inflation running persistently below this longer-run goal, the Committee will aim to achieve inflation moderately above 2 percent for some time so that inflation averages 2 percent over time and longer-term inflation expectations remain well anchored at 2 percent. The Committee expects to maintain an accommodative stance of monetary policy until these outcomes are achieved. The Committee decided to keep the target range for the federal funds rate at 0 to .25% and expects it will be appropriate to maintain this target range until labor market conditions have reached levels consistent with the Committee’s assessments of maximum employment and inflation has risen to 2 percent and is on track to moderately exceed 2 percent for some time”.

As a result of these moves by the Fed, staff expects returns in FY 2021 and beyond to decline sharply from those returns earned in FY 2019 and FY 2020. Also, the City’s earned rate is expected to be above the City’s benchmark (State LAIF) and the City’s return is expected to be comparable to rates earned by most other cities in California. A sample of rates earned by Northern and Southern California cities is reflected in table 3 below (previously only Northern California cities were included):



Table 3

| <b>Other California Cities<br/>Earned Interest Rates</b> |                     |
|----------------------------------------------------------|---------------------|
| For the Quarter Ending March 31, 2021                    |                     |
| <b>City</b>                                              | <b>Rates Earned</b> |
| Palo Alto                                                | 1.67%               |
| San Diego                                                | 1.07%               |
| Los Angeles                                              | 1.20%               |
| Sacramento                                               | 1.15%               |
| <b>Berkeley</b>                                          | .87%                |
| San Francisco                                            | .59%                |
| Oakland                                                  | .21%                |

Until rates return to more normal levels, the City's investment strategy will be to focus on (1) purchasing more Commercial Paper for the short-term portfolio, since rates on short-term Agencies (including those in money market funds) are close to zero. Commercial Paper is a money-market security issued by large corporations to obtain funds to meet short-term obligations, and is backed by the company's promise to pay the face amount, plus interest, on the maturity date. Interest rates paid on Commercial Paper currently range between .10% and .25%, versus .01% paid by money-market funds; (2) purchasing more callable, Agency step-up securities, where rates are higher than the rates paid by money market funds, and the rates increase on a periodic basis. In addition, the City will not lock in any securities with a maturity beyond three years, unless it is a step-up security. Most Agency notes pay a fixed rate of interest or fixed coupon rate semi-annually, and most are non-callable or bullets. Currently, Agency bullets pay the following approximate rates:

Table 4

| <b>No. of Years</b> | <b>1</b> | <b>2</b> | <b>3</b> | <b>4</b> | <b>5</b> |
|---------------------|----------|----------|----------|----------|----------|
| Interest Rates      | .06%     | .15%     | .28%     | .58%     | .79%     |

However, issuers do structure their note to meet different investor needs. As more people go back to work and the economy improves, as the pandemic recedes, staff expects interest rates to rise. Since rates are low now, but expected to rise, one strategy to mitigate this interest rate risk of buying bullets (i.e., locking in a fixed rate, and not being able to take advantage of rising rates) is to purchase Agency callable step-up securities. Agency callable step-up notes are securities that have a pre set coupon rate "step-up" that provides for increases in interest rates as the notes approach maturity. For example, following is an Agency, one-time callable step-up structure staff recently purchased:

**Table 5**

| <b>Interest Payment Date</b> | <b>Rate Paid</b> |
|------------------------------|------------------|
| 11/26/21                     | .50%             |
| 5/26/22                      | .50%             |
| 11/26/22 If not called       | 1.25%            |
| 5/26/23 If not called        | 1.25%            |
| 11/26/23 If not called       | 1.25%            |
| 5/26/24 If not called        | 1.25%            |
| 11/26/24 If not called       | 1.25%            |
| 5/26/25 If not called        | 1.25%            |
| 11/26/25 If not called       | 1.25%            |
| 5/26/26 If not called        | 1.25%            |

While there is the risk that the security could be called at some date in the future, if that happens, the rate earned by the City during the period held would still be significantly higher than the rate earned on a bullet (as reflected in Table 4 above) or in a money market fund (currently .01%); and (3) matching investment maturities to cash flow.

## BACKGROUND

- Pooled Investments

Short-term cash is invested primarily in government sponsored enterprises (referred to as Federal Agency) notes and medium-term corporate notes for periods of one to five years. Additional cash is invested in a money market fund or overnight securities to meet the liquidity needs of the City.

In some cases, the City may have investments with a current market value that is greater or less than the recorded cost. These changes in market value are due to fluctuations in the market and have no effect on yield, as the City does not intend to sell securities prior to maturity.

- Retiree Health Trust Fund Investments

The City agreed to provide retiree Health insurance coverage for fire, police and miscellaneous employees under certain terms and conditions. An actuarial study commissioned by the City many years ago determined that, in addition to City Contributions, an average rate of return of 7% on miscellaneous employees trust fund assets invested must be achieved to fund the retiree health benefit at the desired 70% level. Primarily as a result of the Federal Reserve Board's decision to keep short-term rates near zero for the last 12 years, the average rate currently earned is significantly below that 7% level. City Finance Department staff manages these investment portfolios.

ENVIRONMENTAL SUSTAINABILITY

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. Portfolio Evaluation FY 2021 Third Quarter
2. Investment Report Analysis FY 2021 Third Quarter
  - a. Exhibit 2-A: Pooled Cash and Investments
  - b. Exhibit 2-B.1 through 2-B.3: Interest Earnings January 2021 – March 2021
  - c. Exhibit 2-C: Book Value By Investment Type
  - d. Exhibit 2-D: Current Holdings vs. Policy Limits
  - e. Exhibit 2-E: Investment Portfolio Trend
3. Summary of Pooled and Cash Investments FY 2021 Third Quarter –Trust Funds
  - a. Exhibit 3-A: Retiree Medical Trust Funds –Misc.
  - b. Exhibit 3-B: Retiree Medical Trust Funds –Fire
  - c. Exhibit 3-C: Retiree Medical Trust Funds –Police



**Portfolio Evaluation**  
**Quarter Ended March 31, 2021**

|                                             | Quarter Ending |                    |                |                    |                    |                    |           |                    |                |    |                    |                |
|---------------------------------------------|----------------|--------------------|----------------|--------------------|--------------------|--------------------|-----------|--------------------|----------------|----|--------------------|----------------|
|                                             | March 2021     |                    | December 2020  |                    | September 2020     |                    | June 2020 |                    |                |    |                    |                |
| <b>Total Portfolio</b>                      |                |                    |                |                    |                    |                    |           |                    |                |    |                    |                |
| Pooled Cash and Investments (COB)           | \$             | 485,079,936        | \$             | 502,205,525        | \$                 | 458,510,489        | \$        | 545,024,336        |                |    |                    |                |
| Pooled Cash and Investments (Trust)         |                | <u>51,878,656</u>  |                | <u>52,295,664</u>  |                    | <u>51,162,127</u>  |           | <u>49,718,286</u>  |                |    |                    |                |
| Total Cash and Investments                  | \$             | <u>536,958,592</u> | \$             | <u>554,501,189</u> | \$                 | <u>509,672,616</u> | \$        | <u>594,742,622</u> |                |    |                    |                |
| <b>Average Life of Investment Portfolio</b> |                |                    |                |                    |                    |                    |           |                    |                |    |                    |                |
| Pooled Investments (CoB)                    |                | 1,158              |                | 1,205              |                    | 1,184              |           | 963                |                |    |                    |                |
| Trust Investments                           |                | 2.745 years        |                | 2.368 years        |                    | 2.620 years        |           | 2.870 years        |                |    |                    |                |
| <b>Weighted Yield</b>                       |                |                    |                |                    |                    |                    |           |                    |                |    |                    |                |
| Pooled Investments (CoB)                    |                | 0.868%             |                | 1.081%             |                    | 1.145%             |           | 1.233%             |                |    |                    |                |
| Trust Investments                           |                | 4.319%             |                | 4.357%             |                    | 4.085%             |           | 3.730%             |                |    |                    |                |
| Prime Rate                                  |                | 3.250%             |                | 3.250%             |                    | 3.250%             |           | 3.250%             |                |    |                    |                |
| 91-day Treasury Bill Rate                   |                | 0.015%             |                | 0.058%             |                    | 0.092%             |           | 0.129%             |                |    |                    |                |
| 2-year Treasury Note Rate                   |                | 0.160%             |                | 0.121%             |                    | 0.127%             |           | 0.149%             |                |    |                    |                |
| <b>Cash and Investments Maturity</b>        |                |                    |                |                    |                    |                    |           |                    |                |    |                    |                |
| Within one year                             | \$             | 384,540,339        | 71.61%         | \$                 | 404,368,543        | 70.95%             | \$        | 331,894,784        | 65.12%         | \$ | 413,689,969        | 69.56%         |
| Between 1 to 3 years                        |                | 54,215,103         | 10.10%         |                    | 53,336,175         | 10.29%             |           | 50,549,828         | 9.92%          |    | 48,355,395         | 8.13%          |
| Between 3 to 5 years                        |                | 76,708,237         | 14.29%         |                    | 68,834,300         | 14.67%             |           | 77,306,662         | 15.17%         |    | 70,937,367         | 11.93%         |
| Between 5 to 10 years                       |                | 21,494,913         | 4.00%          |                    | 27,962,170         | 4.08%              |           | 49,921,343         | 9.79%          |    | 61,759,892         | 10.38%         |
| Over 10 years                               |                | -                  | 0.00%          |                    | -                  | 0.00%              |           | -                  | 0.00%          |    | -                  | 0.00%          |
| Total                                       | \$             | <u>536,958,592</u> | <u>100.00%</u> | \$                 | <u>554,501,189</u> | <u>100.00%</u>     | \$        | <u>509,672,616</u> | <u>100.00%</u> | \$ | <u>594,742,622</u> | <u>100.00%</u> |



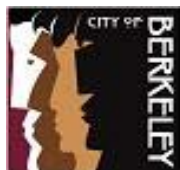
**Investment Report Analysis  
As of March 31, 2021**

| <b>Investments</b>                                     | <b>Pooled Investments</b> | <b>Pension and OPEB</b>  |                       |
|--------------------------------------------------------|---------------------------|--------------------------|-----------------------|
|                                                        |                           | <b>Trust Investments</b> | <b>Total</b>          |
| Portfolio                                              | \$ 484,512,629            | \$ 28,061,887            | \$ 512,574,516        |
| Unrecognized gain/(loss)                               | 7,040,564                 | 1,887,344                | 8,927,908             |
| <b>Total Investments</b>                               | <b>491,553,193</b>        | <b>29,949,231</b>        | <b>521,502,424</b>    |
| <br>                                                   |                           |                          |                       |
| <b>Cash</b>                                            | <b>Pooled Cash</b>        | <b>Pension and OPEB</b>  |                       |
|                                                        |                           | <b>Trust Cash</b>        | <b>Total</b>          |
| Cash with Fiscal Agents                                | 1,215,043                 | -                        | 1,215,043             |
| Cash Deposits in Banks                                 | 14,241,125                | -                        | 14,241,125            |
| Pooled Cash Adjustment                                 | (21,929,425)              | 21,929,425               | -                     |
| <b>Total Cash</b>                                      | <b>(6,473,257)</b>        | <b>21,929,425</b>        | <b>15,456,168</b>     |
| <br>                                                   |                           |                          |                       |
| <b>Adjusted Grand Total (All Cash and Investments)</b> | <b>\$ 485,079,936</b>     | <b>\$ 51,878,656</b>     | <b>\$ 536,958,592</b> |

**Pooled Cash Portfolio Breakdown As of March 31, 2021**

|                               | <b>Book Value</b>     | <b>Market Value</b>   |
|-------------------------------|-----------------------|-----------------------|
| Investments                   | \$ 133,511,056        | \$ 140,551,620        |
| Fidelity Money Market (TRANS) | 21,203,017            | 21,203,017            |
| Fidelity Money Market         | 329,798,556           | 329,798,556           |
|                               | <b>\$ 484,512,629</b> | <b>\$ 491,553,193</b> |

Note: Pooled cash for General Fund includes Rent Board cash of \$2,878,040.13



City of Berkeley  
Pooled Cash and Investments  
As of March 31, 2021

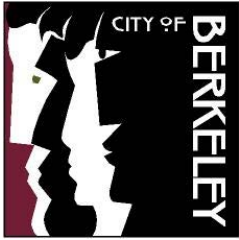
| CUSIP                               | Investment # | Issuer                       | Book Value           | Par Value            | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Moody's Rating |
|-------------------------------------|--------------|------------------------------|----------------------|----------------------|-----------------------|--------------|--------------|---------------|------------------|----------------|
| <b>Certificates of Deposits</b>     |              |                              |                      |                      |                       |              |              |               |                  |                |
| 254673RD0                           | 14539        | Discover Bank                | 250,000.00           | 250,000.00           | 267,520.00            | 3.300        | 3.300        | 07/05/2023    | 825              | N/A            |
| 795450T47                           | 14540        | Sallie Mae Bank              | 250,000.00           | 250,000.00           | 267,482.50            | 3.300        | 3.300        | 07/03/2023    | 823              | N/A            |
| <b>Subtotal and Average</b>         |              |                              | <b>500,000.00</b>    | <b>500,000.00</b>    | <b>535,002.50</b>     |              | 3.300        |               | 824              |                |
| <b>Medium Term Notes</b>            |              |                              |                      |                      |                       |              |              |               |                  |                |
| 008252AM0                           | 14582        | Affiliated Managers Group    | 1,052,993.05         | 1,000,000.00         | 1,096,100.00          | 4.250        | 2.300        | 02/15/2024    | 1,050            | A3             |
| 037833AK6                           | 14536        | Apple Inc                    | 4,920,814.60         | 5,000,000.00         | 5,223,300.00          | 2.400        | 3.225        | 05/03/2023    | 762              | AA1            |
| 04685A2L4                           | 14590        | Athene Global Funding        | 5,988,071.54         | 5,950,000.00         | 6,161,344.00          | 2.500        | 2.320        | 01/14/2025    | 1,384            | N/A            |
| 04685A2L4                           | 14602        | Athene Global Funding        | 4,869,315.24         | 5,000,000.00         | 5,177,600.00          | 2.500        | 3.250        | 01/14/2025    | 1,384            | N/A            |
| 084670BJ6                           | 14542        | Berkshire Hathaway           | 4,987,062.35         | 5,000,000.00         | 5,240,700.00          | 3.000        | 3.150        | 02/11/2023    | 681              | AA2            |
| 20030NBN0                           | 14563        | Comcast Corp                 | 5,054,167.42         | 5,000,000.00         | 5,441,950.00          | 3.375        | 3.100        | 08/15/2025    | 1,597            | A3             |
| 233851CU6                           | 14571        | Daimler Finance              | 5,066,038.25         | 5,000,000.00         | 5,405,700.00          | 3.450        | 3.190        | 01/06/2027    | 2,106            | A3             |
| 233851CU6                           | 14574        | Daimler Finance              | 3,810,887.02         | 3,725,000.00         | 4,027,246.50          | 3.450        | 3.000        | 01/06/2027    | 2,106            | A3             |
| 233851DN1                           | 14586        | Daimler Finance              | 5,050,724.21         | 5,000,000.00         | 5,097,350.00          | 3.750        | 2.000        | 11/05/2021    | 218              | A3             |
| 24422EUM9                           | 14554        | John Deere Cap               | 5,040,576.34         | 5,000,000.00         | 5,396,850.00          | 3.650        | 3.300        | 10/12/2023    | 924              | A2             |
| 375558BF9                           | 14570        | Gilead Sciences              | 5,117,058.18         | 5,000,000.00         | 5,495,750.00          | 3.650        | 3.118        | 03/01/2026    | 1,795            | A3             |
| 49327M2X1                           | 14560        | Key Bank NA                  | 5,007,899.30         | 5,000,000.00         | 5,125,600.00          | 3.300        | 3.100        | 02/01/2022    | 306              | A3             |
| 53944VAS8                           | 14580        | Lloyds Bank Plc              | 5,003,277.61         | 5,000,000.00         | 5,125,050.00          | 2.250        | 2.200        | 08/14/2022    | 500              | A1             |
| 540424AQ1                           | 14555        | Loews Corporation            | 4,928,877.37         | 5,000,000.00         | 5,182,950.00          | 2.625        | 3.350        | 05/15/2023    | 774              | A3             |
| 589331AT4                           | 14545        | Merck & Co Inc               | 4,957,156.91         | 5,000,000.00         | 5,124,150.00          | 2.400        | 3.030        | 09/15/2022    | 532              | A1             |
| 68389XAS4                           | 14548        | Oracle Corp                  | 5,023,610.51         | 5,000,000.00         | 5,332,950.00          | 3.625        | 3.388        | 07/15/2023    | 835              | BAA2           |
| 747525AT0                           | 14564        | Qualcomm Inc                 | 4,978,315.44         | 5,000,000.00         | 5,330,700.00          | 2.900        | 3.050        | 05/20/2024    | 1,145            | A2             |
| 747525AU7                           | 14587        | Qualcomm Inc                 | 6,234,241.80         | 5,963,000.00         | 6,508,316.35          | 3.250        | 2.435        | 05/20/2027    | 2,240            | A2             |
| 828807CS4                           | 14606        | Simon Property Group         | 4,995,891.19         | 5,000,000.00         | 5,375,800.00          | 3.375        | 3.353        | 10/01/2024    | 1,279            | A3             |
| 07330MAA5                           | 14588        | Truist Bank                  | 5,367,736.84         | 5,000,000.00         | 5,553,650.00          | 3.800        | 2.365        | 10/30/2026    | 2,038            | A3             |
| <b>Subtotal and Average</b>         |              |                              | <b>97,454,715.17</b> | <b>96,638,000.00</b> | <b>102,423,056.85</b> |              | <b>2.920</b> |               | <b>1,197</b>     |                |
| <b>Medium-Term Notes - Callable</b> |              |                              |                      |                      |                       |              |              |               |                  |                |
| 05531FBF9                           | 14561        | BB&T Corporation             | 5,091,510.61         | 5,000,000.00         | 5,412,700.00          | 3.750        | 3.012        | 12/06/2023    | 979              | A3             |
| 05531FBG7                           | 14585        | BB&T Corporation             | 5,060,136.69         | 5,000,000.00         | 5,153,850.00          | 3.050        | 2.000        | 06/20/2022    | 445              | A3             |
| 06406HBY4                           | 14538        | Bank of New York Mellon Corp | 3,549,637.66         | 3,542,000.00         | 3,587,160.50          | 3.550        | 3.150        | 09/23/2021    | 175              | A1             |
| 06406FAB9                           | 14541        | Bank of New York Mellon Corp | 1,456,754.30         | 1,458,000.00         | 1,458,000.00          | 2.050        | 3.060        | 05/03/2021    | 32               | A1             |
| 693475AV7                           | 14557        | PNC Financial Services       | 5,016,471.64         | 5,000,000.00         | 5,391,500.00          | 3.500        | 3.425        | 01/23/2024    | 1,027            | A3             |
| 751212AC5                           | 14566        | Ralph Lauren                 | 5,127,382.65         | 5,000,000.00         | 5,499,600.00          | 3.750        | 3.106        | 09/15/2025    | 1,628            | A3             |
| 91159HHU7                           | 14562        | US Bancorp                   | 5,195,727.12         | 5,000,000.00         | 5,585,950.00          | 3.950        | 2.848        | 11/17/2025    | 1,691            | A1             |
| <b>Subtotal and Average</b>         |              |                              | <b>30,497,620.67</b> | <b>30,000,000.00</b> | <b>32,088,760.50</b>  |              | <b>2.918</b> |               | <b>989</b>       |                |



City of Berkeley  
Pooled Cash and Investments  
As of March 31, 2021

| CUSIP                                | Investment # | Issuer                              | Book Value            | Par Value             | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Moody's Rating |
|--------------------------------------|--------------|-------------------------------------|-----------------------|-----------------------|-----------------------|--------------|--------------|---------------|------------------|----------------|
| <b>Municipal Bonds</b>               |              |                                     |                       |                       |                       |              |              |               |                  |                |
| 13063DGB8                            | 14559        | California State General Obligation | 5,058,720.65          | 5,000,000.00          | 5,504,800.00          | 3.375        | 3.087        | 04/01/2025    | 1,461            | AA2            |
|                                      |              | <b>Subtotal and Average</b>         | <b>5,058,720.65</b>   | <b>5,000,000.00</b>   | <b>5,504,800.00</b>   |              | <b>3.087</b> |               | <b>1,461</b>     |                |
| <b>Money Market</b>                  |              |                                     |                       |                       |                       |              |              |               |                  |                |
| SYS14190                             | 14190        | Fidelity Money Market               | 21,203,016.85         | 21,203,016.85         | 21,203,016.85         | 0.002        | 0.002        |               | 1                | N/A            |
| SYS14265                             | 14265        | Fidelity Money Market               | 329,798,555.89        | 329,798,555.89        | 329,798,555.89        | 0.003        | 0.003        |               | 1                | N/A            |
|                                      |              | <b>Subtotal and Average</b>         | <b>351,001,572.74</b> | <b>351,001,572.74</b> | <b>351,001,572.74</b> |              | <b>0.003</b> |               | <b>1</b>         |                |
| <b>Total Investments and Average</b> |              |                                     | <b>484,512,629.23</b> | <b>483,139,572.74</b> | <b>491,553,192.59</b> |              | <b>2.884</b> |               |                  |                |

|                                                     |                |
|-----------------------------------------------------|----------------|
| Total Investments (Book Value)                      | 484,512,629.23 |
| Cash                                                | (6,473,257.00) |
| Total Investments (Book Value) and Cash             | 478,039,372.23 |
| Increase / (Decrease) in Market Value of Securities | 7,040,563.36   |
| Total Investments (Market Value) and Cash           | 485,079,935.59 |



**Pooled Investments Selected Funds  
Interest Earnings  
Sorted by Fund - Fund  
January 1, 2021 - January 31, 2021  
Yield on Average Book Value**

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 02/16/2021    | 1.750                   | 1.717 | 7,291.67                   | 0.00                    | 7,291.67                   |
| 53944VAS8                                  | 14580        | 010  | MTN           | 5,000,000.00     | 5,003,875.96         | 5,003,769.80       | 08/14/2022    | 2.250                   | 2.159 | 9,375.00                   | -199.45                 | 9,175.55                   |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,911,337.63         | 4,913,019.02       | 05/03/2023    | 2.400                   | 3.154 | 10,000.00                  | 3,158.99                | 13,158.99                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 06406FAB9                                  | 14541        | 010  | MC3           | 1,458,000.00     | 1,453,250.78         | 1,453,872.38       | 05/03/2021    | 2.050                   | 2.963 | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,553,634.11         | 3,552,925.06       | 09/23/2021    | 3.550                   | 3.031 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 795450T47                                  | 14540        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/03/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 084670BJ6                                  | 14542        | 010  | MTN           | 5,000,000.00     | 4,985,324.46         | 4,985,632.79       | 02/11/2023    | 3.000                   | 3.089 | 12,500.00                  | 579.29                  | 13,079.29                  |
| 589331AT4                                  | 14545        | 010  | MTN           | 5,000,000.00     | 4,949,798.37         | 4,951,103.92       | 09/15/2022    | 2.400                   | 2.961 | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN           | 5,000,000.00     | 5,026,189.32         | 5,025,731.79       | 07/15/2023    | 3.625                   | 3.337 | 15,104.17                  | -859.60                 | 14,244.57                  |
| 24422EUM9                                  | 14554        | 010  | MTN           | 5,000,000.00     | 5,044,584.98         | 5,043,873.77       | 10/12/2023    | 3.650                   | 3.238 | 15,208.33                  | -1,336.21               | 13,872.12                  |
| 540424AQ1                                  | 14555        | 010  | MTN           | 5,000,000.00     | 4,920,499.05         | 4,921,985.53       | 05/15/2023    | 2.625                   | 3.285 | 10,937.50                  | 2,792.77                | 13,730.27                  |
| 693475AV7                                  | 14557        | 010  | MC3           | 5,000,000.00     | 5,017,936.51         | 5,017,676.61       | 01/23/2024    | 3.500                   | 3.307 | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN           | 5,000,000.00     | 5,062,390.69         | 5,061,739.55       | 04/01/2025    | 3.375                   | 2.987 | 14,062.50                  | -1,223.35               | 12,839.15                  |
| 49327M2X1                                  | 14560        | 010  | MTN           | 5,000,000.00     | 5,010,269.09         | 5,009,848.65       | 02/01/2022    | 3.300                   | 3.046 | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBG7                                  | 14585        | 010  | MC3           | 5,000,000.00     | 5,072,465.40         | 5,070,278.05       | 06/20/2022    | 3.050                   | 1.997 | 12,708.33                  | -4,109.57               | 8,598.76                   |
| 05531FBF9                                  | 14561        | 010  | MC3           | 5,000,000.00     | 5,100,045.28         | 5,098,531.06       | 12/06/2023    | 3.750                   | 2.951 | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 91159HHU7                                  | 14562        | 010  | MC3           | 5,000,000.00     | 5,206,300.62         | 5,204,424.68       | 11/17/2025    | 3.950                   | 2.926 | 16,458.33                  | -3,524.50               | 12,933.83                  |
| 20030NBN0                                  | 14563        | 010  | MTN           | 5,000,000.00     | 5,057,264.67         | 5,056,715.16       | 08/15/2025    | 3.375                   | 3.034 | 14,062.50                  | -1,032.42               | 13,030.08                  |
| 747525AT0                                  | 14564        | 010  | MTN           | 5,000,000.00     | 4,976,586.82         | 4,976,893.51       | 05/20/2024    | 2.900                   | 2.995 | 12,083.33                  | 576.21                  | 12,659.54                  |
| 747525AU7                                  | 14587        | 010  | MTN           | 5,963,000.00     | 6,245,292.85         | 6,243,332.18       | 05/20/2027    | 3.250                   | 2.351 | 16,149.79                  | -3,683.68               | 12,466.11                  |
| 751212AC5                                  | 14566        | 010  | MC3           | 5,000,000.00     | 5,134,530.06         | 5,133,261.97       | 09/15/2025    | 3.750                   | 3.037 | 15,625.00                  | -2,382.47               | 13,242.53                  |
| 375558BF9                                  | 14570        | 010  | MTN           | 5,000,000.00     | 5,123,010.29         | 5,121,954.27       | 03/01/2026    | 3.650                   | 3.040 | 15,208.33                  | -1,984.04               | 13,224.29                  |
| 233851CU6                                  | 14571        | 010  | MTN           | 5,000,000.00     | 5,068,902.55         | 5,068,394.37       | 01/06/2027    | 3.450                   | 3.118 | 14,375.00                  | -954.77                 | 13,420.23                  |
| 233851CU6                                  | 14574        | 010  | MTN           | 3,725,000.00     | 3,814,612.24         | 3,813,951.31       | 01/06/2027    | 3.450                   | 2.923 | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851DN1                                  | 14586        | 010  | MTN           | 5,000,000.00     | 5,072,056.82         | 5,068,272.00       | 11/05/2021    | 3.750                   | 1.978 | 15,625.00                  | -7,110.87               | 8,514.13                   |
| 008252AM0                                  | 14582        | 010  | MTN           | 1,000,000.00     | 1,057,605.60         | 1,056,787.24       | 02/15/2024    | 4.250                   | 2.233 | 3,541.67                   | -1,537.52               | 2,004.15                   |
| 07330MAA5                                  | 14588        | 010  | MTN           | 5,000,000.00     | 5,384,210.87         | 5,381,293.96       | 10/30/2026    | 3.800                   | 2.263 | 15,833.33                  | -5,491.34               | 10,341.99                  |
| 04685A2L4                                  | 14590        | 010  | MTN           | 5,950,000.00     | 5,990,585.44         | 5,990,139.42       | 01/14/2025    | 2.500                   | 2.272 | 12,395.83                  | -837.97                 | 11,557.86                  |
| 04685A2L4                                  | 14602        | 010  | MTN           | 5,000,000.00     | 4,860,686.02         | 4,862,217.01       | 01/14/2025    | 2.500                   | 3.219 | 10,416.67                  | 2,876.41                | 13,293.08                  |



Pooled Investments Selected Funds  
Interest Earnings  
January 1, 2021 - January 31, 2021

Exhibit 2-B.1

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Yield        | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|--------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |              | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |              |                            |                         |                            |
| 828807CS4                                  | 14606        | 010  | MTN             | 5,000,000.00          | 4,995,597.70          | 4,995,649.77          | 10/01/2024    | 3.375                   | 3.337        | 14,062.50                  | 97.83                   | 14,160.33                  |
|                                            |              |      | <b>Subtotal</b> | <b>137,138,000.00</b> | <b>138,598,844.18</b> | <b>138,583,274.84</b> |               |                         | <b>2.828</b> | <b>362,063.02</b>          | <b>-29,262.57</b>       | <b>332,800.45</b>          |
| <b>Fund: Fidelity MM - Trans</b>           |              |      |                 |                       |                       |                       |               |                         |              |                            |                         |                            |
| SYS14190                                   | 14190        | 030  | RRP             | 21,202,673.75         | 0.00                  | 21,202,505.60         |               | 0.002                   | 0.002        | 42.76                      | 0.00                    | 42.76                      |
|                                            |              |      | <b>Subtotal</b> | <b>21,202,673.75</b>  | <b>0.00</b>           | <b>21,202,505.60</b>  |               |                         | <b>0.002</b> | <b>42.76</b>               | <b>0.00</b>             | <b>42.76</b>               |
| <b>Fund: Fidelity MM - Regular</b>         |              |      |                 |                       |                       |                       |               |                         |              |                            |                         |                            |
| SYS14265                                   | 14265        | 040  | RRP             | 311,393,652.48        | 343,593,426.38        | 319,181,336.90        |               | 0.003                   | 0.010        | 2,726.10                   | 0.00                    | 2,726.10                   |
|                                            |              |      | <b>Subtotal</b> | <b>311,393,652.48</b> | <b>343,593,426.38</b> | <b>319,181,336.90</b> |               |                         | <b>0.010</b> | <b>2,726.10</b>            | <b>0.00</b>             | <b>2,726.10</b>            |
|                                            |              |      | <b>Total</b>    | <b>469,734,326.23</b> | <b>482,192,270.56</b> | <b>478,967,117.35</b> |               |                         | <b>0.825</b> | <b>364,831.88</b>          | <b>-29,262.57</b>       | <b>335,569.31</b>          |



**Pooled Investments Selected Funds**  
**Interest Earnings**  
**Sorted by Fund - Fund**  
**February 1, 2021 - February 28, 2021**  
**Yield on Average Book Value**

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 0.00             | 5,000,000.00         | 2,678,571.43       | 02/16/2021    | 1.750                   | 1.774 | 3,645.83                   | 0.00                    | 3,645.83                   |
| 53944VAS8                                  | 14580        | 010  | MTN           | 5,000,000.00     | 5,003,676.51         | 5,003,579.64       | 08/14/2022    | 2.250                   | 2.390 | 9,375.00                   | -199.45                 | 9,175.55                   |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,914,496.62         | 4,916,030.98       | 05/03/2023    | 2.400                   | 3.489 | 10,000.00                  | 3,158.99                | 13,158.99                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 632.88                     | 0.00                    | 632.88                     |
| 06406FAB9                                  | 14541        | 010  | MC3           | 1,458,000.00     | 1,454,418.62         | 1,454,985.86       | 05/03/2021    | 2.050                   | 3.278 | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,552,301.96         | 3,551,654.91       | 09/23/2021    | 3.550                   | 3.357 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 795450T47                                  | 14540        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/03/2023    | 3.300                   | 3.300 | 632.88                     | 0.00                    | 632.88                     |
| 084670BJ6                                  | 14542        | 010  | MTN           | 5,000,000.00     | 4,985,903.75         | 4,986,185.12       | 02/11/2023    | 3.000                   | 3.419 | 12,500.00                  | 579.30                  | 13,079.30                  |
| 589331AT4                                  | 14545        | 010  | MTN           | 5,000,000.00     | 4,952,251.22         | 4,953,442.60       | 09/15/2022    | 2.400                   | 3.277 | 10,000.00                  | 2,452.84                | 12,452.84                  |
| 68389XAS4                                  | 14548        | 010  | MTN           | 5,000,000.00     | 5,025,329.72         | 5,024,912.19       | 07/15/2023    | 3.625                   | 3.695 | 15,104.17                  | -859.61                 | 14,244.56                  |
| 24422EUM9                                  | 14554        | 010  | MTN           | 5,000,000.00     | 5,043,248.77         | 5,042,599.75       | 10/12/2023    | 3.650                   | 3.586 | 15,208.33                  | -1,336.21               | 13,872.12                  |
| 540424AQ1                                  | 14555        | 010  | MTN           | 5,000,000.00     | 4,923,291.82         | 4,924,648.31       | 05/15/2023    | 2.625                   | 3.634 | 10,937.50                  | 2,792.78                | 13,730.28                  |
| 693475AV7                                  | 14557        | 010  | MC3           | 5,000,000.00     | 5,017,448.22         | 5,017,211.05       | 01/23/2024    | 3.500                   | 3.662 | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN           | 5,000,000.00     | 5,061,167.34         | 5,060,573.14       | 04/01/2025    | 3.375                   | 3.307 | 14,062.50                  | -1,223.35               | 12,839.15                  |
| 49327M2X1                                  | 14560        | 010  | MTN           | 5,000,000.00     | 5,009,479.16         | 5,009,095.48       | 02/01/2022    | 3.300                   | 3.373 | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBG7                                  | 14585        | 010  | MC3           | 5,000,000.00     | 5,068,355.83         | 5,066,359.76       | 06/20/2022    | 3.050                   | 2.212 | 12,708.33                  | -4,109.57               | 8,598.76                   |
| 05531FBF9                                  | 14561        | 010  | MC3           | 5,000,000.00     | 5,097,200.39         | 5,095,818.58       | 12/06/2023    | 3.750                   | 3.269 | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 91159HHU7                                  | 14562        | 010  | MC3           | 5,000,000.00     | 5,202,776.12         | 5,201,064.22       | 11/17/2025    | 3.950                   | 3.242 | 16,458.33                  | -3,524.50               | 12,933.83                  |
| 20030NBN0                                  | 14563        | 010  | MTN           | 5,000,000.00     | 5,056,232.25         | 5,055,730.79       | 08/15/2025    | 3.375                   | 3.360 | 14,062.50                  | -1,032.41               | 13,030.09                  |
| 747525AT0                                  | 14564        | 010  | MTN           | 5,000,000.00     | 4,977,163.03         | 4,977,442.90       | 05/20/2024    | 2.900                   | 3.315 | 12,083.33                  | 576.21                  | 12,659.54                  |
| 747525AU7                                  | 14587        | 010  | MTN           | 5,963,000.00     | 6,241,609.17         | 6,239,819.95       | 05/20/2027    | 3.250                   | 2.604 | 16,149.79                  | -3,683.68               | 12,466.11                  |
| 751212AC5                                  | 14566        | 010  | MC3           | 5,000,000.00     | 5,132,147.59         | 5,130,990.39       | 09/15/2025    | 3.750                   | 3.364 | 15,625.00                  | -2,382.47               | 13,242.53                  |
| 375558BF9                                  | 14570        | 010  | MTN           | 5,000,000.00     | 5,121,026.25         | 5,120,062.58       | 03/01/2026    | 3.650                   | 3.367 | 15,208.33                  | -1,984.03               | 13,224.30                  |
| 233851CU6                                  | 14571        | 010  | MTN           | 5,000,000.00     | 5,067,947.78         | 5,067,484.04       | 01/06/2027    | 3.450                   | 3.452 | 14,375.00                  | -954.77                 | 13,420.23                  |
| 233851CU6                                  | 14574        | 010  | MTN           | 3,725,000.00     | 3,813,370.50         | 3,812,767.37       | 01/06/2027    | 3.450                   | 3.237 | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851DN1                                  | 14586        | 010  | MTN           | 5,000,000.00     | 5,064,945.95         | 5,061,492.10       | 11/05/2021    | 3.750                   | 2.193 | 15,625.00                  | -7,110.87               | 8,514.13                   |
| 008252AM0                                  | 14582        | 010  | MTN           | 1,000,000.00     | 1,056,068.08         | 1,055,321.29       | 02/15/2024    | 4.250                   | 2.476 | 3,541.67                   | -1,537.52               | 2,004.15                   |
| 07330MAA5                                  | 14588        | 010  | MTN           | 5,000,000.00     | 5,378,719.53         | 5,376,052.30       | 10/30/2026    | 3.800                   | 2.508 | 15,833.33                  | -5,491.34               | 10,341.99                  |
| 04685A2L4                                  | 14590        | 010  | MTN           | 5,950,000.00     | 5,989,747.47         | 5,989,340.46       | 01/14/2025    | 2.500                   | 2.516 | 12,395.83                  | -837.96                 | 11,557.87                  |
| 04685A2L4                                  | 14602        | 010  | MTN           | 5,000,000.00     | 4,863,562.43         | 4,864,959.54       | 01/14/2025    | 2.500                   | 3.562 | 10,416.67                  | 2,876.40                | 13,293.07                  |

Pooled Investments Selected Funds  
Interest Earnings  
February 1, 2021 - February 28, 2021

Exhibit 2-B.2

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 828807CS4                                  | 14606        | 010  | MTN             | 5,000,000.00          | 4,995,695.53          | 4,995,743.05          | 10/01/2024    | 3.375                   | 3.695            | 14,062.50                  | 97.83                   | 14,160.33                  |
|                                            |              |      | <b>Subtotal</b> | <b>132,138,000.00</b> | <b>138,569,581.61</b> | <b>136,233,939.80</b> |               |                         | <b>3.148</b>     | <b>358,281.58</b>          | <b>-29,262.55</b>       | <b>329,019.03</b>          |
| <b>Fund: Fidelity MM - Trans</b>           |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14190                                   | 14190        | 030  | RRP             | 21,202,836.23         | 21,202,673.75         | 21,202,679.55         |               | 0.002                   | 0.002            | 38.61                      | 0.00                    | 38.61                      |
|                                            |              |      | <b>Subtotal</b> | <b>21,202,836.23</b>  | <b>21,202,673.75</b>  | <b>21,202,679.55</b>  |               |                         | <b>0.002</b>     | <b>38.61</b>               | <b>0.00</b>             | <b>38.61</b>               |
| <b>Fund: Fidelity MM - Regular</b>         |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14265                                   | 14265        | 040  | RRP             | 300,795,993.51        | 311,393,652.48        | 305,115,164.66        |               | 0.003                   | 0.010            | 2,341.03                   | 0.00                    | 2,341.03                   |
|                                            |              |      | <b>Subtotal</b> | <b>300,795,993.51</b> | <b>311,393,652.48</b> | <b>305,115,164.66</b> |               |                         | <b>0.010</b>     | <b>2,341.03</b>            | <b>0.00</b>             | <b>2,341.03</b>            |
|                                            |              |      | <b>Total</b>    | <b>454,136,829.74</b> | <b>471,165,907.84</b> | <b>462,551,784.02</b> |               |                         | <b>0.934</b>     | <b>360,661.22</b>          | <b>-29,262.55</b>       | <b>331,398.67</b>          |



**Pooled Investments Selected Funds**  
**Interest Earnings**  
**Sorted by Fund - Fund**  
**March 1, 2021 - March 31, 2021**  
**Yield on Average Book Value**

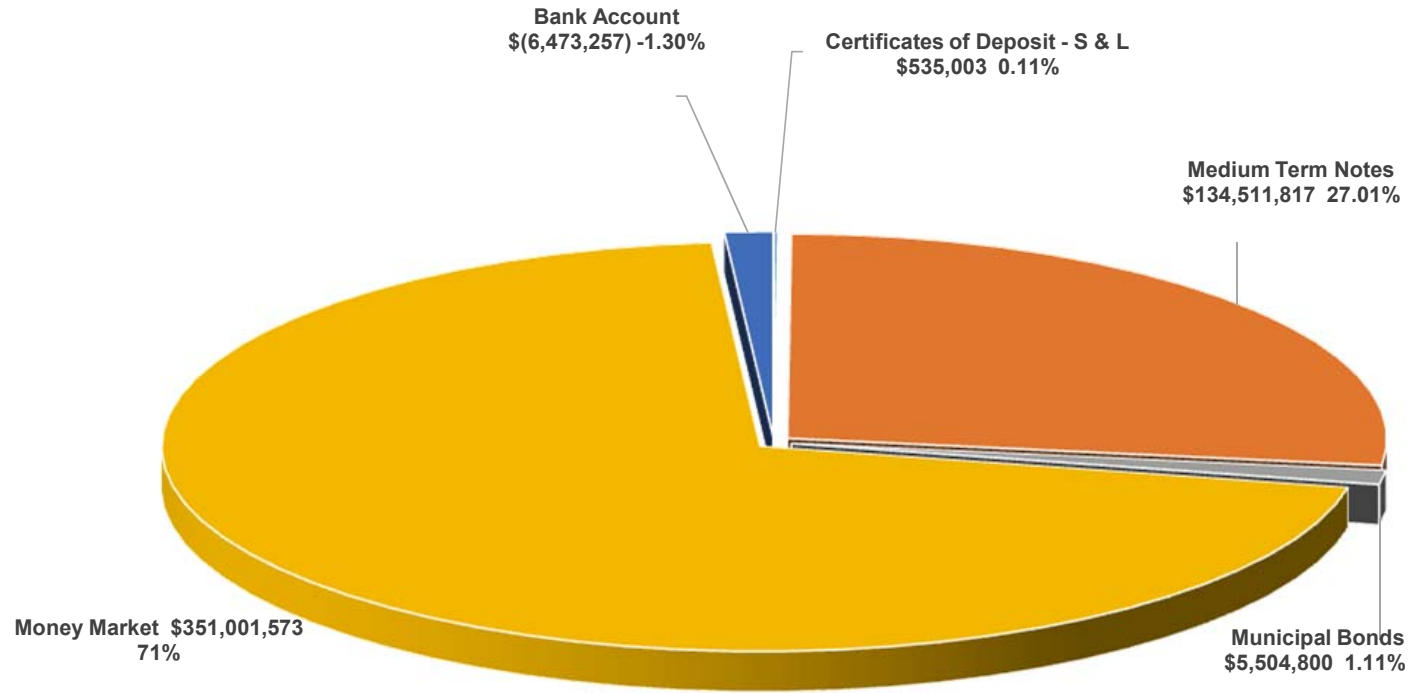
| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 53944VAS8                                  | 14580        | 010  | MTN           | 5,000,000.00     | 5,003,477.06         | 5,003,370.90       | 08/14/2022    | 2.250                   | 2.159 | 9,375.00                   | -199.45                 | 9,175.55                   |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,917,655.61         | 4,919,337.01       | 05/03/2023    | 2.400                   | 3.150 | 10,000.00                  | 3,158.99                | 13,158.99                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 06406FAB9                                  | 14541        | 010  | MC3           | 1,458,000.00     | 1,455,586.46         | 1,456,208.06       | 05/03/2021    | 2.050                   | 2.958 | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,550,969.81         | 3,550,260.76       | 09/23/2021    | 3.550                   | 3.033 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 795450T47                                  | 14540        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/03/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 084670BJ6                                  | 14542        | 010  | MTN           | 5,000,000.00     | 4,986,483.05         | 4,986,791.39       | 02/11/2023    | 3.000                   | 3.088 | 12,500.00                  | 579.30                  | 13,079.30                  |
| 589331AT4                                  | 14545        | 010  | MTN           | 5,000,000.00     | 4,954,704.06         | 4,956,009.61       | 09/15/2022    | 2.400                   | 2.958 | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN           | 5,000,000.00     | 5,024,470.11         | 5,024,012.58       | 07/15/2023    | 3.625                   | 3.338 | 15,104.17                  | -859.61                 | 14,244.56                  |
| 24422EUM9                                  | 14554        | 010  | MTN           | 5,000,000.00     | 5,041,912.56         | 5,041,201.35       | 10/12/2023    | 3.650                   | 3.240 | 15,208.33                  | -1,336.22               | 13,872.11                  |
| 540424AQ1                                  | 14555        | 010  | MTN           | 5,000,000.00     | 4,926,084.60         | 4,927,571.07       | 05/15/2023    | 2.625                   | 3.281 | 10,937.50                  | 2,792.77                | 13,730.27                  |
| 693475AV7                                  | 14557        | 010  | MC3           | 5,000,000.00     | 5,016,959.93         | 5,016,700.03       | 01/23/2024    | 3.500                   | 3.308 | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN           | 5,000,000.00     | 5,059,943.99         | 5,059,292.86       | 04/01/2025    | 3.375                   | 2.988 | 14,062.50                  | -1,223.34               | 12,839.16                  |
| 49327M2X1                                  | 14560        | 010  | MTN           | 5,000,000.00     | 5,008,689.23         | 5,008,268.79       | 02/01/2022    | 3.300                   | 3.047 | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBG7                                  | 14585        | 010  | MC3           | 5,000,000.00     | 5,064,246.26         | 5,062,058.91       | 06/20/2022    | 3.050                   | 2.000 | 12,708.33                  | -4,109.57               | 8,598.76                   |
| 05531FBF9                                  | 14561        | 010  | MC3           | 5,000,000.00     | 5,094,355.50         | 5,092,841.28       | 12/06/2023    | 3.750                   | 2.955 | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 91159HHU7                                  | 14562        | 010  | MC3           | 5,000,000.00     | 5,199,251.62         | 5,197,375.68       | 11/17/2025    | 3.950                   | 2.930 | 16,458.33                  | -3,524.50               | 12,933.83                  |
| 20030NBN0                                  | 14563        | 010  | MTN           | 5,000,000.00     | 5,055,199.84         | 5,054,650.32       | 08/15/2025    | 3.375                   | 3.035 | 14,062.50                  | -1,032.42               | 13,030.08                  |
| 747525AT0                                  | 14564        | 010  | MTN           | 5,000,000.00     | 4,977,739.24         | 4,978,045.93       | 05/20/2024    | 2.900                   | 2.994 | 12,083.33                  | 576.20                  | 12,659.53                  |
| 747525AU7                                  | 14587        | 010  | MTN           | 5,963,000.00     | 6,237,925.49         | 6,235,964.82       | 05/20/2027    | 3.250                   | 2.354 | 16,149.79                  | -3,683.69               | 12,466.10                  |
| 751212AC5                                  | 14566        | 010  | MC3           | 5,000,000.00     | 5,129,765.12         | 5,128,497.03       | 09/15/2025    | 3.750                   | 3.040 | 15,625.00                  | -2,382.47               | 13,242.53                  |
| 375558BF9                                  | 14570        | 010  | MTN           | 5,000,000.00     | 5,119,042.22         | 5,117,986.20       | 03/01/2026    | 3.650                   | 3.042 | 15,208.33                  | -1,984.04               | 13,224.29                  |
| 233851CU6                                  | 14571        | 010  | MTN           | 5,000,000.00     | 5,066,993.01         | 5,066,484.83       | 01/06/2027    | 3.450                   | 3.119 | 14,375.00                  | -954.76                 | 13,420.24                  |
| 233851CU6                                  | 14574        | 010  | MTN           | 3,725,000.00     | 3,812,128.76         | 3,811,467.83       | 01/06/2027    | 3.450                   | 2.925 | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851DN1                                  | 14586        | 010  | MTN           | 5,000,000.00     | 5,057,835.08         | 5,054,050.26       | 11/05/2021    | 3.750                   | 1.983 | 15,625.00                  | -7,110.87               | 8,514.13                   |
| 008252AM0                                  | 14582        | 010  | MTN           | 1,000,000.00     | 1,054,530.56         | 1,053,712.21       | 02/15/2024    | 4.250                   | 2.239 | 3,541.67                   | -1,537.51               | 2,004.16                   |
| 07330MAA5                                  | 14588        | 010  | MTN           | 5,000,000.00     | 5,373,228.19         | 5,370,311.28       | 10/30/2026    | 3.800                   | 2.267 | 15,833.33                  | -5,491.35               | 10,341.98                  |
| 04685A2L4                                  | 14590        | 010  | MTN           | 5,950,000.00     | 5,988,909.51         | 5,988,463.49       | 01/14/2025    | 2.500                   | 2.272 | 12,395.83                  | -837.97                 | 11,557.86                  |
| 04685A2L4                                  | 14602        | 010  | MTN           | 5,000,000.00     | 4,866,438.83         | 4,867,969.83       | 01/14/2025    | 2.500                   | 3.215 | 10,416.67                  | 2,876.41                | 13,293.08                  |
| 828807CS4                                  | 14606        | 010  | MTN           | 5,000,000.00     | 4,995,793.36         | 4,995,845.43       | 10/01/2024    | 3.375                   | 3.337 | 14,062.50                  | 97.83                   | 14,160.33                  |

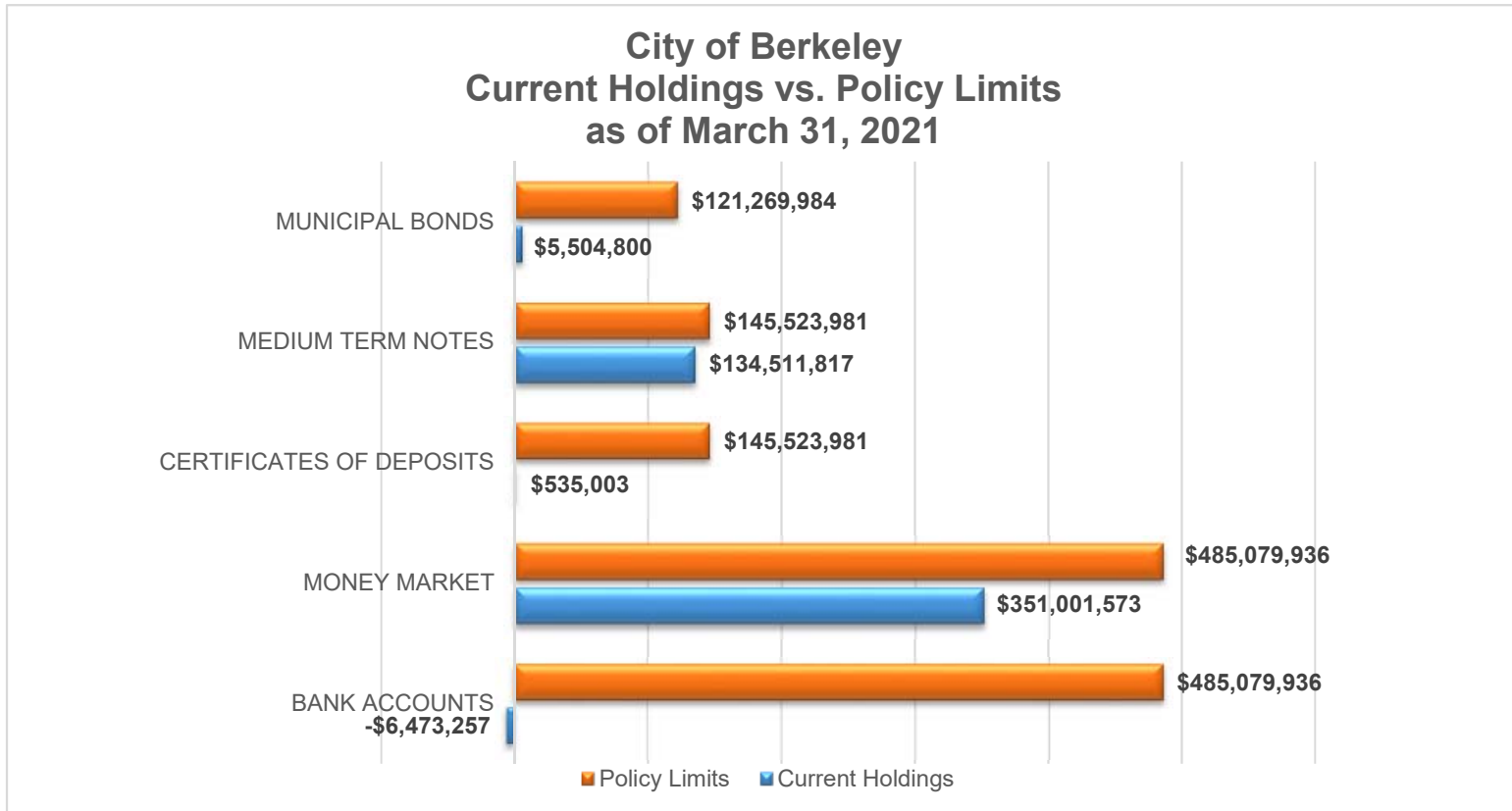
Pooled Investments Selected Funds  
Interest Earnings  
March 1, 2021 - March 31, 2021

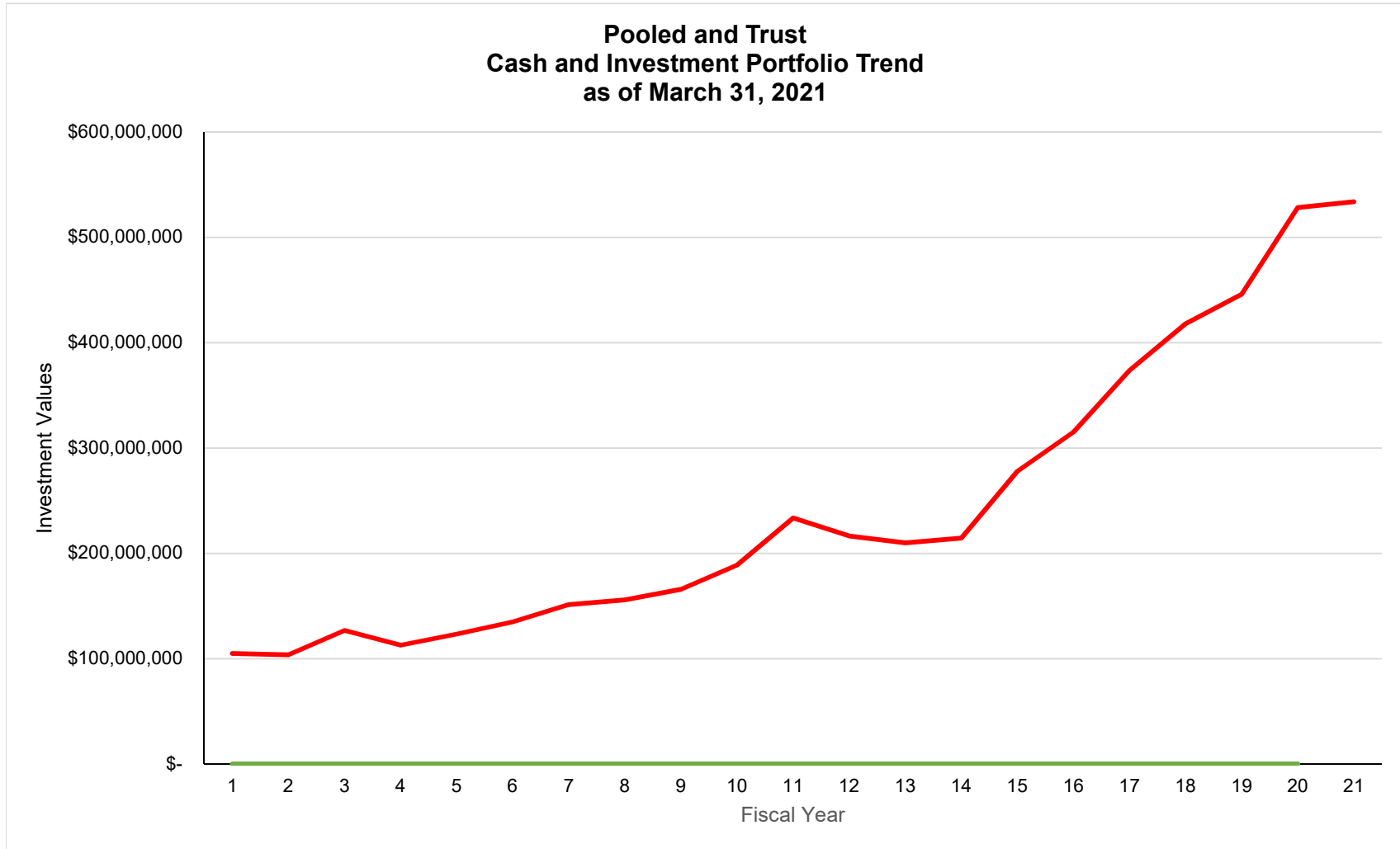
Exhibit 2-B.3

| CUSIP                              | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Yield | Adjusted Interest Earnings |                         |                            |          |
|------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|--------------------------|----------------------------|-------------------------|----------------------------|----------|
|                                    |              |      |                 |                       |                       |                       |               |                          | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |          |
|                                    |              |      | <b>Subtotal</b> | <b>132,138,000.00</b> | <b>133,540,319.06</b> | <b>133,524,749.74</b> |               | <b>2.870</b>             | <b>354,771.35</b>          | <b>-29,262.58</b>       | <b>325,508.77</b>          |          |
| <b>Fund: Fidelity MM - Trans</b>   |              |      |                 |                       |                       |                       |               |                          |                            |                         |                            |          |
| SYS14190                           | 14190        | 030  | RRP             | 21,203,016.85         | 21,202,836.23         | 21,202,842.06         |               | 0.002                    | 0.002                      | 42.76                   | 0.00                       | 42.76    |
|                                    |              |      | <b>Subtotal</b> | <b>21,203,016.85</b>  | <b>21,202,836.23</b>  | <b>21,202,842.06</b>  |               | <b>0.002</b>             | <b>42.76</b>               | <b>0.00</b>             | <b>42.76</b>               |          |
| <b>Fund: Fidelity MM - Regular</b> |              |      |                 |                       |                       |                       |               |                          |                            |                         |                            |          |
| SYS14265                           | 14265        | 040  | RRP             | 329,798,555.89        | 300,795,993.51        | 301,731,560.04        |               | 0.003                    | 0.010                      | 2,562.38                | 0.00                       | 2,562.38 |
|                                    |              |      | <b>Subtotal</b> | <b>329,798,555.89</b> | <b>300,795,993.51</b> | <b>301,731,560.04</b> |               | <b>0.010</b>             | <b>2,562.38</b>            | <b>0.00</b>             | <b>2,562.38</b>            |          |
|                                    |              |      | <b>Total</b>    | <b>483,139,572.74</b> | <b>455,539,148.80</b> | <b>456,459,151.84</b> |               | <b>0.846</b>             | <b>357,376.49</b>          | <b>-29,262.58</b>       | <b>328,113.91</b>          |          |

Pooled Cash and Investments  
(Market Value)  
as of March 31, 2021











**Summary of Pooled Cash and Investments - Trust Funds**  
**(Market Value)**  
**As of March 31, 2021**

|                                         |                                       | <u>Pooled Cash</u>   | <u>Investments<br/>(Book Value)</u> | <u>Gain/Loss on<br/>Investments</u> | <u>Pooled Cash<br/>&amp; Investments<br/>(Market Value)</u> |
|-----------------------------------------|---------------------------------------|----------------------|-------------------------------------|-------------------------------------|-------------------------------------------------------------|
| <b>Retiree Medical Trust Fund</b>       |                                       |                      |                                     |                                     |                                                             |
| <b>Fund No.</b>                         |                                       |                      |                                     |                                     |                                                             |
| 721                                     | BHA                                   | \$ 276,265           | \$ 220,698                          | \$ 9,928                            | \$ 506,891                                                  |
| 722                                     | M1=IBEW                               | 9,687                | 112,697                             | 8,653                               | 131,037                                                     |
| 723                                     | M2=Local 1                            | 4,241,100            | 5,248,931                           | 350,298                             | 9,840,329                                                   |
| 724                                     | MUI=Z1                                | 755,432              | 1,156,021                           | 95,485                              | 2,006,938                                                   |
| 725                                     | MUI=Z2 to Z6                          | 1,070,471            | 1,552,117                           | 117,698                             | 2,740,286                                                   |
| 726                                     | M535= Local 535                       | 4,033,311            | 5,122,596                           | 395,885                             | 9,551,792                                                   |
| 727                                     | M3=Local 790                          | 2,968,504            | 3,289,059                           | 201,291                             | 6,458,854                                                   |
| <b>Total Retiree Medical Trust Fund</b> |                                       | <b>13,354,770</b>    | <b>16,702,119</b>                   | <b>1,179,238</b>                    | <b>31,236,127</b>                                           |
| <b>Fire Medical Trust Fund</b>          |                                       |                      |                                     |                                     |                                                             |
| 736                                     | Fire Medical Trust Fund               | 5,026,862            | 6,863,333                           | 453,494                             | 12,343,689                                                  |
| <b>Total Fire Medical Trust Fund</b>    |                                       | <b>5,026,862</b>     | <b>6,863,333</b>                    | <b>453,494</b>                      | <b>12,343,689</b>                                           |
| <b>Police Medical Trust Fund</b>        |                                       |                      |                                     |                                     |                                                             |
| 731                                     | Police EE Retiree HLT Assistance Plan | 782,872              | 1,642,034                           | 79,149                              | 2,504,055                                                   |
| 701                                     | Safety Members Pension Fund           | 79,097               | -                                   |                                     | 79,097                                                      |
| 706                                     | Police Medical Trust Fund             | 2,685,824            | 2,854,401                           | 175,463                             | 5,715,688                                                   |
| <b>Total Police Medical Trust Fund</b>  |                                       | <b>3,547,793</b>     | <b>4,496,435</b>                    | <b>254,612</b>                      | <b>8,298,840</b>                                            |
| <b>Total Trust Funds</b>                |                                       | <b>\$ 21,929,425</b> | <b>\$ 28,061,887</b>                | <b>\$ 1,887,344</b>                 | <b>\$ 51,878,656</b>                                        |



Retiree Medical Trust Fund  
Fund 721 - 727  
Interest Earnings  
January 1 to March 31, 2021

| CUSIP                                   | Investment # | Issuer               | Investments<br>As of March 31, 2021 |                         |                         |                         |               | Interest Earnings<br>January 1 to March 31, 2021 |              |                  |                            |                         |                            |
|-----------------------------------------|--------------|----------------------|-------------------------------------|-------------------------|-------------------------|-------------------------|---------------|--------------------------------------------------|--------------|------------------|----------------------------|-------------------------|----------------------------|
|                                         |              |                      | Par Value                           | Beginning Book Value    | Ending Book Value       | Market Value            | Maturity Date | Moody's Rating                                   | Current Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|                                         |              |                      |                                     |                         |                         |                         |               |                                                  |              |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                |              |                      |                                     |                         |                         |                         |               |                                                  |              |                  |                            |                         |                            |
| 61747WAF6                               | 14224        | Morgan Stanley       |                                     | 1,667,324.15            |                         |                         |               |                                                  | 5.750        | 5.229            | 6,388.89                   | (657.48)                | 5,731.41                   |
| <b>Federal Agency Coupon Securities</b> |              |                      |                                     |                         |                         |                         |               |                                                  |              |                  |                            |                         |                            |
| 3133EFQT7                               | 14361        | Fed Farm Credit Bank | 2,600,000.00                        | 2,608,913.48            | 2,608,458.71            | 2,816,944.00            | 11/25/2025    | AAA                                              | 2.700        | 2.658            | 17,550.00                  | (454.77)                | 17,095.23                  |
| <b>Municipal Bonds</b>                  |              |                      |                                     |                         |                         |                         |               |                                                  |              |                  |                            |                         |                            |
| 672319CC2                               | 14283        | OAKGEN               | 2,750,000.00                        | 2,745,212.54            | 2,746,465.07            | 2,814,487.50            | 12/15/2021    | AA2                                              | 3.800        | 4.044            | 26,125.00                  | 1,252.53                | 27,377.53                  |
| 786091AG3                               | 14316        | SACGEN               | 5,000,000.00                        | 5,247,662.40            | 5,234,153.54            | 6,120,550.00            | 08/01/2025    | A3                                               | 7.250        | 5.968            | 90,625.00                  | (13,508.86)             | 77,116.14                  |
| <b>Savo Island Loan</b>                 |              |                      |                                     |                         |                         |                         |               |                                                  |              |                  |                            |                         |                            |
| SYS10988                                | 10988        | EMPMED               | 233,000.00                          | 233,000.00              | 233,000.00              | 233,000.00              | 09/01/2025    | N/A                                              | 8.000        | 8.000            | 4,596.16                   | -                       | 4,596.16                   |
| <b>Preferred Securities</b>             |              |                      |                                     |                         |                         |                         |               |                                                  |              |                  |                            |                         |                            |
| 00206R706                               | 14591        | AT&T Inc.            | 1,680,033.60                        | 1,680,033.60            | 1,680,033.60            | 1,684,700.36            | N/A           | N/A                                              | 4.596        | 4.624            | 19,154.66                  | -                       | 19,154.66                  |
| 00206R706                               | 14596        | AT&T Inc.            | 1,680,008.40                        | 1,680,008.40            | 1,680,008.40            | 1,684,675.09            | N/A           | N/A                                              | 4.640        | 4.089            | 16,940.47                  | -                       | 16,940.47                  |
| 00206R706                               | 14597        | AT&T Inc.            | 2,520,000.00                        | 2,520,000.00            | 2,520,000.00            | 2,527,000.01            | N/A           | N/A                                              | 4.643        | 4.654            | 28,918.01                  | -                       | 28,918.01                  |
| <b>Total</b>                            |              |                      | <b>\$ 16,463,042.00</b>             | <b>\$ 18,382,154.57</b> | <b>\$ 16,702,119.32</b> | <b>\$ 17,881,356.96</b> |               |                                                  |              | <b>4.656</b>     | <b>\$ 210,298.19</b>       | <b>\$ (13,368.58)</b>   | <b>\$ 196,929.61</b>       |

|                                                     |                         |
|-----------------------------------------------------|-------------------------|
| Total Investments (Book Value)                      | \$ 16,702,119.32        |
| Gain/Loss on Investments                            | <u>1,179,237.64</u>     |
| Total Investments (Market Value)                    | 17,881,356.96           |
| Temporarily Invested with Pooled Cash & Investments | <u>13,354,770.00</u>    |
| Total Pooled Cash and Investments                   | <u>\$ 31,236,126.96</u> |



**Fire Retiree Medical  
Fund 736  
Interest Earnings  
January 1 to March 31, 2021**

| Investments<br>As of March 31, 2021     |              |                            |                        |                        |                        |                        |               |                | Interest Earnings<br>January 1 to March 31, 2021 |                  |                            |                            |                            |
|-----------------------------------------|--------------|----------------------------|------------------------|------------------------|------------------------|------------------------|---------------|----------------|--------------------------------------------------|------------------|----------------------------|----------------------------|----------------------------|
| CUSIP                                   | Investment # | Issuer                     | Par Value              | Beginning Book Value   | Ending Book Value      | Market Value           | Maturity Date | Moody's Rating | Current Rate                                     | Annualized Yield | Adjusted Interest Earnings |                            |                            |
|                                         |              |                            |                        |                        |                        |                        |               |                |                                                  |                  | Interest Earned            | Amortization/<br>Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                |              |                            |                        |                        |                        |                        |               |                |                                                  |                  |                            |                            |                            |
| 6174467X1                               | 14318        | Morgan Stanley DW DTC#0015 | 2,000,000.00           | 2,037,805.15           | 2,035,875.22           | 2,297,940.00           | 11/24/2025    | BAA1           | 5.000                                            | 4.594            | 25,000.00                  | (1,929.93)                 | 23,070.07                  |
| 61747WAF6                               | 14225        | Morgan Stanley             |                        | 1,667,324.15           |                        |                        |               |                | 5.750                                            | 5.229            | 6,388.89                   | (657.48)                   | 5,731.41                   |
| <b>Federal Agency Coupon Securities</b> |              |                            |                        |                        |                        |                        |               |                |                                                  |                  |                            |                            |                            |
| 3133EFQT7                               | 14362        | Fed Farm Credit Bank       | 2,300,000.00           | 2,307,885.00           | 2,307,482.71           | 2,491,912.00           | 11/25/2025    | AAA            | 2.700                                            | 2.658            | 15,525.00                  | (402.29)                   | 15,122.71                  |
| <b>Preferred Securities</b>             |              |                            |                        |                        |                        |                        |               |                |                                                  |                  |                            |                            |                            |
| 00206R706                               | 14592        | AT&T Inc.                  | 1,679,983.20           | 1,679,983.20           | 1,679,983.20           | 1,684,649.82           | N/A           | N/A            | 4.596                                            | 4.624            | 19,154.08                  | -                          | 19,154.08                  |
| 00206R706                               | 14594        | AT&T Inc.                  | 839,991.60             | 839,991.60             | 839,991.60             | 842,324.91             | N/A           | N/A            | 4.640                                            | 4.652            | 9,635.24                   | -                          | 9,635.24                   |
| <b>Total</b>                            |              |                            | <b>\$ 6,819,974.80</b> | <b>\$ 8,532,989.10</b> | <b>\$ 6,863,332.73</b> | <b>\$ 7,316,826.73</b> |               |                |                                                  | <b>4.035</b>     | <b>\$ 75,703.21</b>        | <b>\$ (2,989.70)</b>       | <b>\$ 72,713.51</b>        |

|                                                     |                         |
|-----------------------------------------------------|-------------------------|
| Total Investments (Book Value)                      | \$ 6,863,332.73         |
| Gain/Loss on Investments                            | <u>453,494.00</u>       |
| Total Investments (Market Value)                    | 7,316,826.73            |
| Temporarily Invested with Pooled Cash & Investments | <u>5,026,862.00</u>     |
| Total Pooled Cash and Investments                   | <u>\$ 12,343,688.73</u> |



Police Retiree Medical  
Fund 731 and 706  
Interest Earnings  
January 1 to March 31, 2021

| Investments<br>As of March 31, 2021     |              |                            |                        |                        |                        |                        |               |                | Interest Earnings<br>January 1 to March 31, 2021 |                  |                     |                         |                            |
|-----------------------------------------|--------------|----------------------------|------------------------|------------------------|------------------------|------------------------|---------------|----------------|--------------------------------------------------|------------------|---------------------|-------------------------|----------------------------|
| CUSIP                                   | Investment # | Issuer                     | Par Value              | Beginning Book Value   | Ending Book Value      | Market Value           | Maturity Date | Moody's Rating | Current Rate                                     | Annualized Yield | Interest Earned     | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                |              |                            |                        |                        |                        |                        |               |                |                                                  |                  |                     |                         |                            |
| 6174467X1                               | 14319        | Morgan Stanley DW DTC#0015 | 500,000.00             | 509,451.29             | 508,968.80             | 574,485.00             | 11/24/25      | BAA1           | 5.000                                            | 4.594            | 6,250.00            | (482.49)                | 5,767.51                   |
| 61747WAF6                               | 14226        | Morgan Stanley             |                        | 1,667,324.15           |                        |                        |               |                | 5.750                                            | 5.229            | 6,388.89            | (657.48)                | 5,731.41                   |
| <b>Federal Agency Coupon Securities</b> |              |                            |                        |                        |                        |                        |               |                |                                                  |                  |                     |                         |                            |
| 3133EFQT7                               | 14363        | Fed. Farm Credit Banks     | 2,300,000.00           | 2,307,885.00           | 2,307,482.71           | 2,491,912.00           | 11/25/25      | AAA            | 2.700                                            | 2.658            | 15,525.00           | (402.29)                | 15,122.71                  |
| <b>Preferred Securities</b>             |              |                            |                        |                        |                        |                        |               |                |                                                  |                  |                     |                         |                            |
| 00206R706                               | 14593        | AT&T Inc.                  | 1,679,983.20           | 1,679,983.20           | 1,679,983.20           | 1,684,649.82           | N/A           | N/A            | 4.596                                            | 4.072            | 16,869.84           | -                       | 16,869.84                  |
| <b>Total</b>                            |              |                            | <b>\$ 4,479,983.20</b> | <b>\$ 6,164,643.64</b> | <b>\$ 4,496,434.71</b> | <b>\$ 4,751,046.82</b> |               |                |                                                  | <b>3.569</b>     | <b>\$ 45,033.73</b> | <b>\$ (1,542.26)</b>    | <b>\$ 43,491.47</b>        |

|                                                     |                 |
|-----------------------------------------------------|-----------------|
| Total Investments (Book Value)                      | \$ 4,496,434.71 |
| Gain/Loss on Investments                            | 254,612.11      |
| Total Investments (Market Value)                    | 4,751,046.82    |
| Temporarily Invested with Pooled Cash & Investments | 3,547,793.00    |
| Total Pooled Cash and Investments                   | \$ 8,298,839.82 |



Commission on Aging

## INFORMATION CALENDAR

June 29, 2021

To: Honorable Mayor and Members of the City Council  
 From: Commission on Aging  
 Submitted by: Ethel Murphy, Chairperson, Commission on Aging  
 Subject: 2021 Commission on Aging Work Plan

### INTRODUCTION

To enhance the quality of life for people 55 years and older in the Berkeley Community, and to increase public awareness of their contributions and needs by actively promoting their health, safety, independence and participation in our community.

Having built both a policy-focused and service-focused framework of senior needs in Berkeley, the Commission on Aging has adopted a set of priorities to advance to the City Council which will serve to organize and direct the Commission's work in the coming years.

### CURRENT SITUATION AND ITS EFFECTS

The Commission on Aging has focused much of its energy on identifying the spectrum and intricacies of senior needs within the city. The Commission has worked to establish a broad knowledge base of City projects, services, and resources which it can use to best address these needs and meet policy and service shortcomings which affect daily life for Berkeley seniors. Given the Commission's consistent work and communication with City commissions, City task forces, the Aging Services Division, and Berkeley's citizenry, the Commission plans to use this information and knowledge to construct a cohesive set of priorities through which it will hold itself accountable to the needs of the public.

### **Finalization of Work Plan 2021**

Motion/Second: Porter/ Cochran

Ayes: Porter, Collins, Murphy, Cochran, Blumstein, Futran, Acampora

Noes: None

Abstain: None

### **PRIORITIES**

#### **1. Referrals from Council**

- a. Staff time will be used to gather the needed official documents for the commission and, when necessary, coordinate presentations from and

communications with the relevant City departments and Commissions regarding these referrals

- b. Commission will take up these issues during regular meetings and, when necessary, create sub-committees to examine these in greater depth.
- c. Reports to Council will be submitted when asked to respond to the specific request in order to reinforce the practice of ensuring that the needs of Seniors are taken into consideration during the development of municipal policy.

## **2. Support Berkeley Age Friendly Initiatives**

- a. Staff time will be used to coordinate Age Friendly “town halls” when necessary, for coordination of presentations to the commission from guests relevant to Age Friendly issues and for assistance in the preparation of recommendations to Council.
- b. If and when needed, the commission will hold “town halls” to better inform the public of the progress of Age Friendly Initiatives in relation to “The Age-Friendly Berkeley Action Plan”. The commission will also seek public input and discussion regarding that Action Plan. Commission will identify key issues in the Age Friendly Initiatives strategic plan and communicate with relevant commissions urging support for the policies that reflect these.
- c. Increased awareness of and communication regarding “The Age-Friendly Berkeley Action Plan” will be maintained as well as recommendations to City Council regarding Age Friendly Initiatives. Short-term desired change is broader community and municipal consideration of age-friendliness. Long-term desired changes are Age-friendly concerns being reflected in the development of all, relevant, city policies.
- d. Enhancing broad participation, public policy engagement, and involvement of the community in Commission meetings.

## **3. Advocate for Needs of Older Citizens in the Implementation of alternative & senior-friendly transportation modes in conjunction with “Safe-Streets” and parking issues.**

- a. Staff time will be used for coordination of presentations to the commissions from guests relevant to the changes in both emerging transportation options and the public policies surrounding these.
- b. Commission will seek public input from Berkeley citizens regarding this changing landscape. The Commission will also designate two commissioners to research the ramifications of these changes specifically as regards Berkeley’s growing senior population. When necessary, the commission will send liaisons to Transportation Commission to directly communicate any concerns we might have.
- c. The Commission will make recommendations to other commissions regarding these concerns. Commission will develop recommendations for

City Council regarding these transportation and associated issues as regards the elder population.

- d. Short-term desired changes: more public awareness of the senior specific concerns surrounding these issues and how these concerns apply to making changes to our current situation. Long-term desired changes: to ensure that these concerns are taken into account as the situation changes resulting in new policy proposals. To report to council about these and make suggestions as to how any senior-specific negative effects can be mitigated and/or positive effects be enhanced.
- 4. Advocate for Affordable Housing for Older Adults as well as other housing policies that are consistent with Berkeley's commitment to encouraging "Aging in Place" and/or "Aging in Community"**
- a. Staff time will be used for coordination of presentations to the commission from guests with information relevant to these issues and to give aid in communication with Council and other City entities.
  - b. The commission will designate two commissioners to identify relevant City Council agenda items and report back to commission. When necessary, the commission will send liaisons to other commissions to address concerns during public comment. The commission may form a subcommittee in order to better prepare any recommendations it may have for council. The commission will invite relevant speakers to present on key issues related to housing policy at commission meetings.
  - c. Commission will actively seek input from Berkeley's aging citizens regarding housing. A clearer understanding of the range of housing concerns facing Berkeley's increasing older population as well as better communication between the City, its various departments and the elder population itself regarding the issue. Recommendations to Council addressing policies that will enable our elder citizens to remain in Berkeley will be made if necessary.
  - d. Short-term desired changes are that current housing policies don't discourage our older citizens from remaining in Berkeley. Long-term desired changes are that any changes to our housing policies not only support the current living situations of elder residents when possible, but also allow for changing residence while still remaining in Berkeley.
- 5. Examine the work-plans and agendas of other commissions for elder relevant items.**
- a. Individual commissioners (with some assistance of staff) will be encouraged to examine the work-plans and agendas of certain, other commissions of their choice for items that may affect the health, well-being, and community participation of the aging population and report back to the full commission regarding these.

- b. When deemed helpful, the CoA will send liaisons to these other commissions to state our position on relevant items. In other cases, we will simply communicate via email with these other commissioners.
- c. Timely input given to other commissions regarding policies early in the process of development. When necessary, communication to City Council regarding those elements of other commission's policy development and/or planning that we deem relevant to senior concerns.
- d. Short term desired changes are other commissions considering the needs of elders as these relate to specific items on their calendar and ensuring that the concerns of our elder community are reflected in all phases of the policy making and planning process.

### BACKGROUND

The City of Berkeley's Commission on Aging is naming the following advocacy categories as "Commission Priorities" on which its members will focus their collective efforts. The Commission will prioritize policy and programming in these priority categories in order to impact and benefit the lives of older adults in a Berkeley whose senior population continues to grow. Each category includes a sampling of priority projects on which the Commission will focus subsequent Commission meetings and discussions.

### ENVIRONMENTAL SUSTAINABILITY

The Commission's work plan does not directly affect the environmental sustainability of the city, yet many of our priorities may lead to a more economical use of City land and commercial/residential spaces. Our work plan may positively impact City expenditures by reducing numbers of homeless individuals and reducing the physical and mental health needs of our seniors that may require emergency attention.

### POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, the Commission will draft and submit recommendations and communications to Council when necessary.

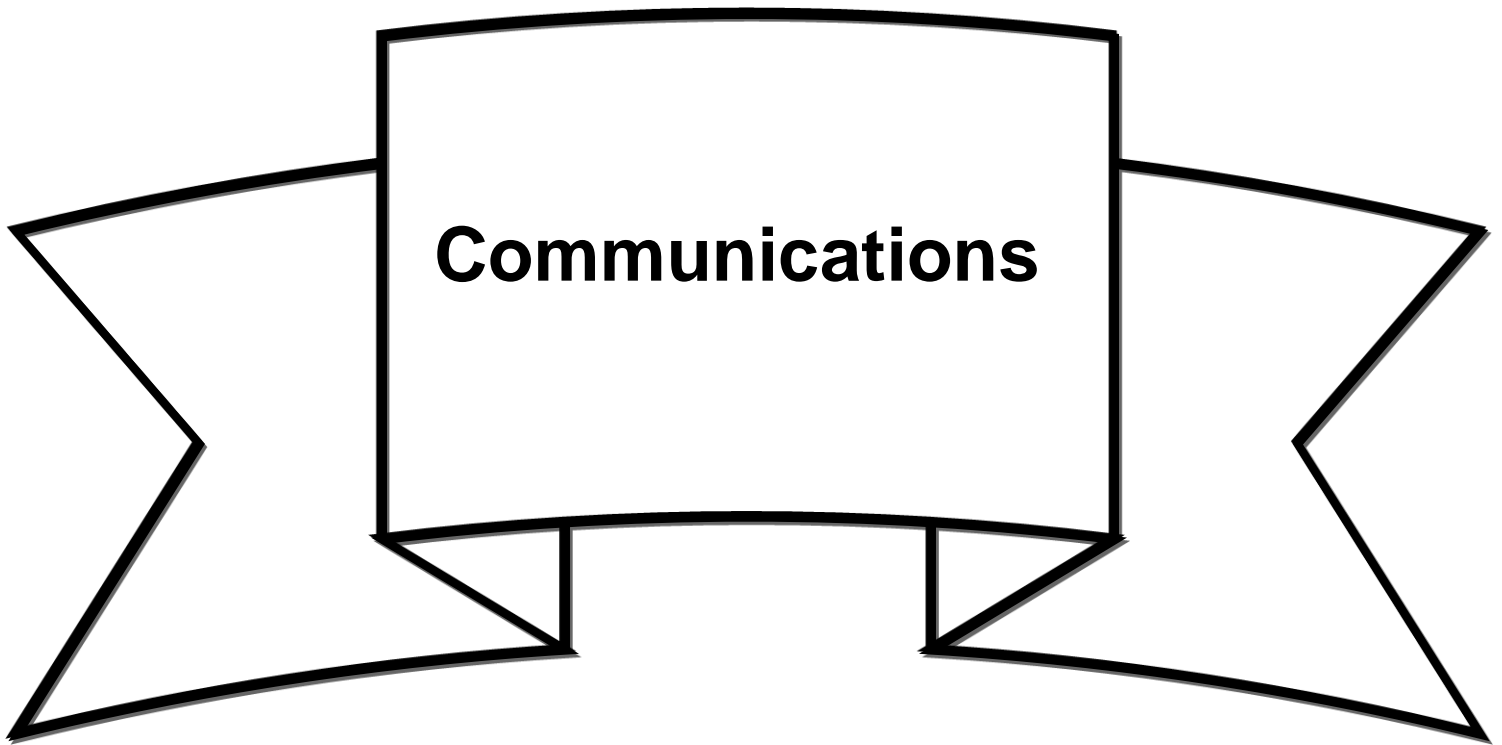
### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The Commission's work plan does not itself does not have any fiscal impact. The execution of many projects outlined in the work plan, however, may require the allocation of existing City funds and services.

### CONTACT PERSON

Richard Castrillon, Commission Secretary, HHCS, 510-981-7777  
Alex Blumstein, Vice Chair, Commission on Aging





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**

<http://www.cityofberkeley.info/recordsonline>

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