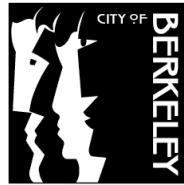


AGENDA



BERKELEY CITY COUNCIL MEETING

**Tuesday, April 12, 2022
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 Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be 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/86759332010>. 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: **867 5933 2010**. 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.

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. Implementation of Redistricting Plan for City Council District Boundaries
From: Independent Redistricting Commission**

Recommendation: Adopt second reading of Ordinance No. 7,803-N.S. implementing the adjusted City Council District Boundaries as approved by the Independent Redistricting Commission.

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

Financial Implications: None

Contact: Mark Numainville, Commission Secretary, (510) 981-6900

**2. Amending Berkeley Municipal Code (BMC) Chapter 12.70 Sections 12.70.031 and 12.70.050A.1 to align with State and Local Laws
From: City Manager**

Recommendation: Adopt second reading of Ordinance No. 7,804-N.S. amending Berkeley Municipal Code (BMC) Chapter 12.70 Smoking Pollution Control to incorporate two changes:

- 1) Amending BMC 12.70.030 to replace the outdated term “Dispensary” with “Cannabis Retailer” in order to align with the State’s Medicinal and Adult-Use of Cannabis Safety and Regulation Act (MAUCSRA); and
- 2) Revise BMC Chapter 12.70.050.A.1 to clarify that smoking tobacco is allowed at a tobacco retailer, and smoking cannabis is allowable at a Cannabis Retailer, subject to Council-approved BMC Sections 23.320.020.F.2, 12.21.020.U, V, and Y, and 12.22.040.F.2 allowing “Cannabis Lounges”.

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

Financial Implications: None

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

**3. Referral Response: Research and Development (R&D) Definition
From: City Manager**

Recommendation: Adopt second reading of Ordinance No. 7,805-N.S. that modifies the land use definition of Research and Development (R&D) [Berkeley Municipal Code (BMC) Division 5: Glossary – Defined Terms 23.502.020].

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

Financial Implications: None

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

Consent Calendar

4. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

From: City Manager

Recommendation: Adopt a Resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, and March 22, 2022.

Financial Implications: To be determined

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

5. Collection of Parking Space Rental Tax for City Owned Parking Lots; and Amending BMC Section 6.24.050

From: City Manager

Recommendation: Adopt a Resolution authorizing the collection of Parking Space Rental Tax for City of Berkeley owned off street parking lots pursuant to BMC 7.48.070 starting June 1, 2022, and adopt first reading an Ordinance amending BMC 6.24.050 to allow Parking Space Rental Tax to be placed in the general fund instead of a special fund.

Financial Implications: See report

Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000

6. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 12, 2022

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 - \$710,000

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

7. Purchase Order: Eight (8) Emergency Vehicle Utility Pickup Trucks for the Berkeley Fire Department

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to waive the competitive procurement process for purchase and upfitting of emergency vehicles for the Berkeley Fire Department (Department) for eight (8) utility pickup vehicles in an amount not to exceed \$621,000.

Financial Implications: Various Funds - \$621,000

Contact: Abe Roman, Fire, (510) 981-3473

Consent Calendar

- 8. Mental Health Services Act Innovations - Encampment-Based Mobile Wellness Center Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to approve the Mental Health Services Act (MHSA) Innovations (INN) Encampment-based Mobile Wellness Center Project Plan and any extensions, for services, activities, and supports for unhoused individuals in Berkeley, in a total amount not to exceed \$2,802,400 over a five-year period beginning in FY2023.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 9. Revenue Contract: Mental Health Services Oversight and Accountability Commission for \$2,500,000 for Coordination and Provision of Mental Health Services in Berkeley Unified School District**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to apply for funding provided by the Mental Health Services Oversight and Accountability Commission (MHSOAC) through the Mental Health Student Services Act Request for Applications, accept the funding, and execute any resultant revenue agreements and amendments to coordinate and provide mental health services in the Berkeley Unified School District (BUSD) for \$2,500,000 in FY 2022 through FY 2027.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 10. Revenue Grant Agreement: Funding Support from the California Department of Public Health, Oral Health Program to conduct Public Health Promotion, Protection, and Prevention Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to California Department of Public Health, Oral Health Program, to accept the grant, execute any resultant revenue agreement and amendments, and implement the project and appropriation of funding for related expenses to conduct public health promotion, protection, and prevention services for the California Department of Public Health-Oral Health Program, in the projected amount of \$173,408 annually for Fiscal Years 2023, 2024, 2025, 2026, and 2027.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

- 11. Ratify the execution of the pre-approved PARS Plan document, amended and restated effective January 1, 2022, and related Amendments by Interim Deputy City Manager on December 27, 2021**

From: City Manager

Recommendation: Adopt a Resolution to acknowledge and ratify the execution of the pre-approved PARS Plan document, amended and restated effective January 1, 2022, and related Amendments by Interim Deputy City Manager on December 27, 2021.

Financial Implications: None

Contact: Donald E. Ellison, Commission Secretary, (510) 981-6800

- 12. Re-establish Senior Engineering Inspector Classification**

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 69,996-N.S.

Memorandum of Understanding: Public Employees Union – Local 1, Re-establishing the Senior Engineering Inspector classification.

Financial Implications: See report

Contact: Donald E. Ellison, Human Resources, (510) 981-6800

- 13. Contract: Sysco San Francisco for Food Services for Tuolumne and Echo Lake Resident Camps**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Sysco San Francisco for food services at the City of Berkeley Tuolumne and Echo Lake Resident Camps for a five-year period, beginning May 1, 2022 and ending May 1, 2027, in an amount not to exceed \$4,468,610, subject to the City's annual budget appropriation process.

Financial Implications: See report

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

- 14. Donation: Bench and picnic equipment at Codornices Park in memory of Lucinda Sikes**

From: City Manager

Recommendation: Adopt a Resolution accepting a donation in the amount of \$16,000 donation from the local friends of Lucinda Sikes for a memorial bench and picnic equipment to be placed at Codornices Park in memory of Lucinda.

Financial Implications: Revenue - \$16,000 (donation)

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

Consent Calendar

15. Revenue Grant: FEMA Hazard Mitigation Grant Program

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to submit a letter of commitment of matching funds in the amount of \$1.25 million, comprising at least \$910,000 from property owner funds, with the remainder through in-kind City staff time, for a Hazard Mitigation Grant application in the amount of \$3.75 million for the Retrofit Grants Program to the Federal Emergency Management Agency (FEMA), and subject to its award, to accept the grant and execute any resultant revenue agreements and amendments including any additional funding allocations from the Hazard Mitigation Grant Program and designating the applicant's authorized agent.

Financial Implications: See report

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

16. Revenue Grant: Fiscal Year 2022-2025 Department of Justice Tobacco Grant

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager, and/or Chief of Police to execute a grant contract and any subsequent amendments with the State of California Department of Justice (DOJ) in the amount of \$191,053 for three fiscal years, 2021-22 through 2024-25.

Financial Implications: See report

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

17. Contract: Bay Cities Paving & Grading, Inc. for Street Rehabilitation FY 2022 Project

From: City Manager

Recommendation: Adopt a Resolution: 1) approving plans and specifications for the Street Rehabilitation FY 2022 Project, Specification No. 22-11470-C; 2) approving the plans for the Intersection Reconfiguration at Dwight Way and California Street Project, Specification No. 22-11485-C; 3) rejecting the lowest bid from Azul Works, Inc. as non-responsive; 4) accepting the bid of the lowest responsive and responsible bidder, Bay Cities Paving & Grading, Inc.; and 5) authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project, in accordance with the approved plans and specifications in an amount not to exceed \$6,084,809.

Financial Implications: See Report

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

Consent Calendar

18. **Master License Agreement Template for the Non-Exclusive Installation of Small Cell Telecommunications Facilities on City Owned and Maintained Streetlight Poles in the Public Right-of-Way**
From: City Manager
Recommendation: Adopt a Resolution directing staff to 1) prepare a draft Master License Agreement template for the non-exclusive installation of small cell telecommunication facilities on City-owned and maintained streetlight poles in the public right-of-way, and 2) return to City Council for review and consideration of template approval.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Council Consent Items

19. **Budget Referral: \$60,000 to the FY 2023-2024 Budget Process for Supply Bank School Supply Distribution**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Refer to the FY 2023-2024 budget process \$60,000 for Supply Bank (\$30k for each fiscal year) to support their services in providing essential school supplies to Berkeley families.
Financial Implications: \$60,000
Contact: Jesse Arreguin, Mayor, (510) 981-7100
20. **Assembly Bill 1944: Support and Seek Amendments**
From: Mayor Arreguin (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt a Resolution approving a support and seek amendments position on Assembly Bill (AB) 1944 (Lee), which amends the Brown Act to permanently enable meetings of legislative bodies to be conducted through videoconference or teleconference with flexibility on noticing requirements. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Alex Lee.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
21. **Support of AB 1947 – Addressing Hate Crimes**
From: Mayor Arreguin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt a Resolution in support of Assembly Bill (AB) 1947 (Ting), which will require law enforcement agencies to adopt policies around how to identify, respond to, and report hate crimes. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Phil Ting.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

- 22. Resolution Reaffirming the City of Berkeley's Commitment to Transgender Rights**
From: Councilmember Kesarwani (Author), Councilmember Droste (Co-Sponsor), Councilmember Taplin (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt a Resolution reaffirming the City of Berkeley's commitment to Transgender and Gender Expansive Rights
Financial Implications: None
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110
- 23. Budget Referral: Municipal Electric Vehicle Charging Infrastructure**
From: Councilmember Taplin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation: That the City Council refer to the FY2023-24 budget process the funding of electric charging infrastructure for the City's fleet of electric vehicles.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 24. Budget Referral: West Berkeley Park Ambassadors**
From: Councilmember Taplin (Author)
Recommendation: That the City Council refer to the FY2023-24 budget process the funding for Park Ambassadors at San Pablo Park, Strawberry Creek Park, and Aquatic Park.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 25. Support for AB-1608 (Angelo Quinto Act of 2022)**
From: Councilmember Taplin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Send a letter to the state legislature in Support of Assembly Bill 1608: Independent Coroner's Offices (Gipson).
Financial Implications: None
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 26. Native and Drought Resistant Plants and Landscaping Policy Update** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*
From: Councilmember Taplin (Author)
Recommendation: Adopt a Resolution amending the Native Species/Bay-Friendly Landscaping Policy to require, when appropriate, the prioritization of native, non-invasive, and pollinator friendly plantings on City property.
Policy Committee Recommendation: On March 9, 2022, the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee made a Positive Recommendation to forward the item to the City Council.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Council Consent Items

- 27. Community Policing: Flex Team for Problem-Oriented Policing Under the Scanning, Analysis, Response, and Assessment (SARA) Model and Other Applicable Community Engagement Models** *(Reviewed by the Public Safety Committee)*
From: Councilmember Taplin (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Councilmember Droste (Co-Sponsor)
Recommendation: Refer to the City Manager the establishment of a Flexible Team for Problem-Oriented Policing in the Berkeley Police Department, following the SARA model and other applicable community engagement models, including Berkeley Ceasefire.
Policy Committee Recommendation: On March 7, 2022, the Public Safety Committee made a Positive Recommendation to the City Council for the item to be considered as part of the reimagining public safety process.
Financial Implications: Staff time
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 28. Budget Referral to Fund Mayoral Budgetary Analyses Pursuant to Charter Article VI. Section 24**
From: Councilmember Harrison (Author)
Recommendation: Refer to the FY 23 and FY 24 Bi-annual Budget Process \$100,000 to provide the Mayor, on behalf of the Budget Committee and Council, the means to hire a certified public accountant throughout both fiscal years to provide supplemental assistance in fulfilling budgetary obligations pursuant to the Charter.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 29. Berkeley Public Library Foundation's 19th Annual Authors Dinner Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Hahn (Author), Mayor Arreguin (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: Adopt a resolution approving the expenditure of an amount not to exceed \$600 per Councilmember, including \$500 from Councilmember Wengraf, \$200 from Mayor Arreguín, and \$200 from Councilmember Hahn, to the Berkeley Public Library Foundation's 19th Annual Authors Dinner event with funds relinquished to the City's general fund for this purpose from the discretionary Council office budget of Councilmember Hahn, and additional funds from Councilmembers who would like to contribute. The Berkeley Public Library Foundation raises funds to support and enhance facilities, programs, and services of the Berkeley Public Library. Recent gifts to the Foundation helped the library redesign its services during the pandemic, outfit a culinary tool lending library, and complete needed capital improvements to the downtown Central Library.
Financial Implications: See report
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Council Consent Items

- 30. Kala Art Institute 2022 Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (Co-Sponsor)
Recommendation: Adopt a resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$500 from Councilmember Taplin, \$250 from Councilmember Hahn and \$250 from Mayor Arreguín, to the Kala Art Institute, a 501(c)(3) non-profit organization, to support Art Kala 2022, an exhibition, auction, and benefit to support Kala's artistic, cultural, and educational programs, with funds relinquished to the City's general fund for this purpose from the discretionary Council office budget of Councilmembers Hahn and Taplin, Mayor Arreguín, and any other Councilmembers who would like to contribute.
Financial Implications: See report
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150
- 31. Proclamation in Honor of Holocaust Remembrance Day**
From: Councilmember Wengraf (Author), Councilmember Hahn (Author), Mayor Arreguin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt the Holocaust Remembrance Day Proclamation for the 19th Annual Holocaust Remembrance Day program to be held virtually Thursday, April 28th from 2:00 – 3:00 PM.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 32. Budget Referral: City of Berkeley Annual Holocaust Remembrance Day**
From: Councilmember Wengraf (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Refer to the Fiscal Year 2023/2024 budget process a request for \$6,000 annually to fund the City of Berkeley's Annual Holocaust Remembrance Day Program.
Financial Implications: See report
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 33. Budget Referral: Downtown Berkeley BART Station Modernization Design**
From: Councilmember Robinson (Author), Councilmember Harrison (Author), Mayor Arreguin (Co-Sponsor), Councilmember Droste (Co-Sponsor)
Recommendation: Refer \$250,000 to the June 2022 budget process to contribute to funding Bay Area Rapid Transit's preliminary design engineering work for the Downtown Berkeley BART Station Modernization project.
Financial Implications: General Fund - \$250,000
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Council Consent Items

- 34. Relinquishment of Council Office Budget Funds to the General Fund and Grant of Such Funds for the Suitcase Clinic**
From: Councilmember Robinson (Author)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$500 from Councilmember Robinson, to the Suitcase Clinic to fund homeless outreach supplies and in-clinic expenses.
Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 35. Support for AB 2050: Ellis Act Reform**
From: Councilmember Robinson (Author), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Send a letter to Assemblymember Alex Lee, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 2050, which would require five years of ownership before a rental property owner can proceed with an eviction pursuant to the Ellis Act, with exemptions for small landlords.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 36. Support for SB 649: Affordable Housing Local Tenant Preference**
From: Councilmember Robinson (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Send a letter to Senator Dave Cortese, Assemblymember Buffy Wicks, and Senator Nancy Skinner in support of Senate Bill 649, which would enable the creation of local tenant preferences policies for affordable housing.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 37. Support for AB 2147: Jaywalking Decriminalization**
From: Councilmember Robinson (Author)
Recommendation: Send a letter to Assemblymember Phil Ting, Assemblymember Friedman, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of AB 2147, related to jaywalking enforcement.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 38. Support for SCA 2: Article 34 Repeal**
From: Councilmember Robinson (Author), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Droste (Co-Sponsor)
Recommendation: Adopt a Resolution supporting SCA 2 to repeal Article 34 of the California Constitution, eliminating the required city-wide vote for construction of publicly-funded low-income housing projects. Send copies of the Resolution to Senators Ben Allen, Scott Wiener, Nancy Skinner, and Assemblymember Buffy Wicks.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Action Calendar

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

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

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

Action Calendar – Old Business

- 39. Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities** *(Continued from March 22, 2022. Item contains supplemental material.)*

From: Auditor

Recommendation: We recommend City Council request that the City Manager report back by September 29, 2022, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Berkeley Police Department (BPD). They have agreed to our findings and recommendations. Please see our report for their complete response.

Financial Implications: None

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

Action Calendar – New Business

- 40a. Fair Workweek Ordinance; Adding Berkeley Municipal Code Chapter 13.110**

From: Commission on Labor

Recommendation: Adopt first reading of the proposed Fair Workweek Ordinance, adding Berkeley Municipal Code Chapter 13.110.

Financial Implications: See report

Contact: Margot Ernst, Commission Secretary, (510) 981-5400

- 40b. Companion Report: Fair Workweek Ordinance; Adding Berkeley Municipal Code Chapter 13.110**

From: City Manager

Recommendation: Direct this item to the Health, Life Enrichment, Equity, and Community Policy Committee for the following: Review and evaluate the proposed policy; and Evaluate resources needed to conduct the necessary analysis of impacts and costs associated with implementing the proposed policy.

Financial Implications: See report

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

Action Calendar – New Business

41a. UC Berkeley Agreement

From: Disaster and Fire Safety Commission

Recommendation: The University of California recently agreed to pay the City of Berkeley \$4.3 million a year to cover cost expended by the City due to the University's expansion and cost on the City. The funding is intended to 'support fire and city services.' The DSFC recommends that the City administer the funds separately from the general funds and with public review under the DSFC similar to FF and GG for the duration of the agreement.

Financial Implications: None

Contact: Keith May, Commission Secretary, (510) 981-3473

41b. Companion Report: UC Berkeley Agreement

From: City Manager

Recommendation: Use the General Fund and existing budget process to administer payments received through the University of California settlement.

Financial Implications: See Report

Contact: Abe Roman, Fire, (510) 981-3473

Public Comment – Items Not Listed on the Agenda

Adjournment

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

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

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

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

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

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

COMMUNICATION ACCESS INFORMATION:

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



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

I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on March 31, 2022.

A handwritten signature in black ink that reads "Mark Numainville".

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 #27: Community Policing: Flex Team for Problem-Oriented Policing Under the Scanning, Analysis, Response, and Assessment (SARA) Model and Other Applicable Community Engagement Models

1. Susan Payne
2. Matt Ruby
3. Jeff Vincent
4. Phyllis Kamrin
5. Alicia Carter
6. Paula Hollowell
7. Bradley Morris
8. Charlene Washington
9. aliciacatherinemorre@
10. Michelle Braasch-Carman
11. Frances Haselsteiner
12. Damian Park
13. Sarah Garrett
14. Kenneth Berland
15. Nancy Chamberlain
16. Naomi Marks
17. Stacey Murphy
18. David Lerman

- 19. Charles Clarke
- 20. Eric Friedman
- 21. Nathan Scullion
- 22. Antoine Grondin
- 23. Thomas Luce
- 24. Stephen Wilson
- 25. Kitt Saginor
- 26. Diana Bohn

Vision 2050

- 27. David Lerman

UC Berkeley Students Cap

- 28. Michael Fullerton (2)

Housing

- 29. Grayson Peters
- 30. Avran Gur Arye (3)

Paving Ballot Measure

- 31. Alex Sharenko

Hazardous Condition of Crosswalk at Francisco Street and Sacramento

- 32. David Lerman

Landmark Preservation of the California Theatre

- 33. Sonia Mistry

Revitalization of the Downtown Area

- 34. Steven Schuyler

Parking Enforcement Outside the SPARK Program

- 35. Diana Bohn

Corporate Money in Berkeley Elections

- 36. Nilang Gor

Underground Wiring of PG&E

- 37. Pamela Doolan

Project of “The Next One”

- 38. Anonymous

Bench Needed at Caesar Chavez Park

- 39. Michael Fullerton
- 40. Michelle Silver

Climate Change

- 41. Jeff White
- 42. Thomas Lord

COVID-19 and Masks

- 43. George Torgun

Eden I&R Newsletter

- 44. Eden I&R

Freedom of Speech

- 45. Nilang Gor

Berkeley Food Procurement

- 46. Nilang Gor, on behalf of the Sierra Club

Shut Down America's Coal Industry

- 47. Jeff White

Station Access at North Berkeley BART

- 48. David Brandon

Sanctuary Contracting Ordinance

- 49. Elana Auerbach

Redistricting

- 50. Elisabeth Watson

North Berkeley BART Development

- 51. 35 similarly-worded from letters
- 52. Charlene Woodcock
- 53. Aimee Baldwin
- 54. Vicki Sommer
- 55. Kenneth Gross
- 56. Sean Bouvet
- 57. Holly Scheider
- 58. Kevin James and Tom Reilly
- 59. Deborah Gouailhardou
- 60. Carol Hirth
- 61. Larry Orman
- 62. Toni Casal (2)
- 63. Tony Corman
- 64. Roberta Silverstein
- 65. Maud Engel
- 66. S.P. Neyhart

Paid Parking System – Smart Space

67. Kit Vanbuskirk

Tenant Opportunity to Purchase Act (TOPA)

68. 10 similarly-worded form letters

69. Rahel Smith

70. Ginny Madsen

71. Jeffrey Melcher

72. Ayanna Davis

Dog's Off Leash

73. Heather Lee Khvatsky

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. 7,803–N.S.

AUTHORIZING THE ADJUSTMENT OF BERKELEY CITY COUNCIL DISTRICT BOUNDARIES PURSUANT TO ARTICLE V, SECTION 9.5 OF THE BERKELEY CITY CHARTER, TO EQUALIZE POPULATION IN THE DISTRICTS AS A RESULT OF POPULATION CHANGES REFLECTED IN THE 2020 DECENNIAL FEDERAL CENSUS

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

Section 1. Purpose.

In order that the eight City Council Districts shall continue to be nearly equal in population as may be according to said 2020 Decennial Federal Census, the City Council Districts are hereby adjusted as set forth in Section 2.

Section 2. District Boundaries.

FIRST COUNCIL DISTRICT shall comprise all of that portion of the City of Berkeley included in the following 2020 Census Tract and Block numbers:

Tracts (First 11 Digits) and Blocks (Last 4 Digits)

060014220001003	060014220002049	060014221001021
060014220001001	060014220002048	060014220002056
060014220002028	060014220002041	060014220002064
060014220002070	060014220002042	060014220002057
060014220001002	060014220002035	060014221001007
060014220002037	060014220002046	060014220002022
060014220002038	060014220002036	060014220002021
060014220002068	060014220002045	060014220002020
060014220002069	060014220002047	060014221001008
060014220002039	060014220002043	060014221001009
060014220002052	060014220002044	060014221001006
060014220002058	060014220002023	060014221001010
060014220002059	060014220002040	060014221001005
060014220002051	060014220002053	060014220002019
060014220002061	060014220002054	060014220002018
060014220002060	060014220002055	060014221002033
060014221002008	060014220002066	060014221002022
060014220002030	060014220002065	060014221002017
060014220002031	060014220002062	060014221002018
060014220002032	060014221002007	060014221002019
060014220002034	060014221002006	060014222003009
060014220002033	060014220002063	060014222003008
060014220002050	060014221001022	060014221002016

060014222003016	060014222001024	060014219004008
060014222003015	060014222001023	060014219004014
060014222003010	060014219002017	060014219004017
060014222003007	060014222001022	060014219004007
060014222003011	060014219002016	060014219004004
060014221002005	060014222003004	060014219004003
060014221002010	060014222003001	060014219004005
060014221001024	060014222001021	060014219004006
060014221001020	060014222001020	060014219004002
060014221002004	060014219003013	060014219004001
060014221001019	060014219003009	060014219004000
060014221001018	060014219003010	060014222003014
060014221002011	060014219003012	060014222003012
060014221002012	060014219003011	060014222003013
060014221002013	060014219003005	060014222003006
060014221002003	060014219003004	060014222002010
060014221002002	060014219002015	060014222002005
060014221001017	060014219002014	060014222002011
060014221002001	060014219002013	060014222002012
060014221001023	060014219003003	060014222002009
060014221001011	060014219003002	060014222002006
060014221001004	060014220001000	060014222002013
060014221001003	060014220002029	060014222002008
060014221001012	060014220002027	060014222002007
060014221001013	060014220002025	060014223003006
060014220002017	060014220002026	060014223003005
060014221001002	060014220002024	060014222003005
060014220002016	060014220002004	060014222003000
060014220002015	060014220002006	060014222001019
060014221001014	060014220002005	060014222001004
060014221001016	060014220002007	060014222002004
060014219003014	060014220002003	060014222001018
060014221001015	060014220002008	060014222002003
060014219003008	060014220002009	060014222001017
060014221001001	060014220002002	060014222001007
060014221001000	060014220002010	060014222001006
060014220002014	060014220002011	060014222001005
060014219004016	060014220002012	060014222001008
060014219003007	060014220002013	060014222001002
060014219003006	060014220002001	060014219002012
060014219004015	060014220002000	060014219002008
060014221002014	060014219004010	060014219002011
060014221002015	060014219004011	060014219001008
060014222003002	060014219004012	060014219001007
060014222003003	060014219004013	060014219001009
060014221002000	060014219004009	060014222001003

060014219002009	060014223003004	060014213003016
060014219002010	060014223002017	060014219001005
060014219002007	060014223002008	060014219001006
060014219001010	060014223003003	060014220002067
060014219002005	060014223002005	060014221002028
060014219002006	060014223001013	060014221002029
060014219001011	060014223002004	060014221002030
060014222002002	060014223003002	060014221002024
060014222001016	060014223002016	060014221002027
060014222001009	060014223002009	060014221002026
060014222001001	060014223002003	060014221002009
060014222001010	060014223001006	060014221002025
060014222001011	060014223001007	060014221002031
060014222002001	060014223001005	060014221002032
060014222001015	060014223003001	060014221002023
060014222002000	060014223002015	060014221002020
060014223002018	060014223002002	060014221002021
060014222001014	060014223002010	060014223002013
060014222001013	060014223003010	060014223002011
060014223002007	060014223003000	060014223002001
060014223002006	060014223002014	060014223001008
060014223001012	060014223002012	060014223001004
060014219002003	060014223002000	060014223001009
060014219002004	060014224003003	060014223001003
060014219002002	060014219003001	060014223001002
060014219002001	060014219003000	060014223001001
060014222001012	060014219001003	060014223001000
060014222001000	060014219001002	060014223003015
060014219002020	060014219001004	060014223003007
060014219002018	060014219001012	060014223003014
060014223001011	060014219001000	060014223003008
060014223001010	060014219002000	060014223003013
060014219002019	060014219001013	060014223003012
060014223003011	060014219001001	060014223003009

The foregoing list of Census Blocks in the FIRST COUNCIL DISTRICT is generally located within a boundary line commencing on the point at the intersection of Martin Luther King, Jr. Way and University Avenue; thence westerly along University Avenue to intersection of University Avenue and Marina Boulevard; thence northerly along Marina Boulevard to a point at latitude - 37.8677586, longitude -122.3128683; thence continuing on the shoreline of the Bay to the Berkeley northern border; thence easterly along said border to a point between Albina Avenue and Monterey Avenue (latitude - 37.8829531, longitude -122.2828323); thence southerly to Hopkins Court, thence southerly to Hopkins Street; thence westerly along Hopkins Street to the intersection of Hopkins Street and Sacramento Street; thence southerly along Sacramento Street to the intersection of Sacramento Street and Cedar Street; thence easterly along Cedar Street to the

intersection of Cedar Street and Martin Luther King, Jr. Way; thence southerly along Martin Luther King, Jr. Way to the point of the beginning

SECOND COUNCIL DISTRICT shall comprise all of that portion of the City of Berkeley included in the following 2020 Census Tract and Block numbers:

Tracts (First 11 Digits) and Blocks (Last 4 Digits)

060019900000002	060014220001034	060014232001001
060014220001004	060014220001051	060014232001000
060014220001005	060014220001042	060014231001006
060014220001007	060014220001050	060014231001008
060014220001006	060014220001035	060014231001005
060014220001010	060014220001036	060014220001064
060014220001011	060014220001027	060014220001062
060014220001075	060014232002011	060014220001066
060014220001070	060014232002004	060014220001061
060014220001065	060014232002010	060014220001058
060014220001071	060014232002003	060014220001055
060014220001052	060014220001028	060014220001056
060014220001074	060014220001029	060014220001059
060014220001076	060014220001030	060014220001063
060014220001068	060014232002009	060014220001060
060014220001067	060014232002008	060014240021006
060014220001069	060014232002002	060014240021005
060014220001053	060014232002007	060014233003016
060014220001073	060014220001008	060014233003015
060014220001072	060014220001009	060014220001057
060014220001054	060014220001015	060014233003006
060014220001012	060014220001013	060014240021012
060014220001044	060014220001032	060014240022002
060014220001046	060014220001019	060014240021011
060014220001045	060014220001016	060014240022003
060014220001014	060014220001020	060014240021009
060014220001024	060014220001021	060014233003013
060014220001023	060014220001018	060014240021007
060014220001022	060014220001017	060014240021004
060014220001026	060014232002000	060014233003009
060014220001025	060014231003007	060014233003007
060014232002015	060014232001014	060014233003008
060014232002016	060014231001007	060014240021008
060014232002012	060014231002006	060014240021003
060014232002014	060014231002005	060014233003010
060014232002013	060014231001015	060014233003014
060014220001043	060014232001003	060014233003011
060014220001033	060014232001002	060014233003012

060014220001049	060014231002001	060014233001008
060014220001041	060014231003001	060014233001001
060014220001048	060014231003000	060014231004004
060014220001047	060014231002000	060014231004003
060014220001040	060014231001012	060014233001011
060014220001037	060014231001002	060014231004002
060014220001039	060014231001014	060014233001000
060014233002004	060014231001013	060014231004001
060014220001038	060014231001001	060014240022015
060014233003005	060014231001000	060014240022010
060014233003004	060014232001007	060014240022004
060014233003003	060014232001008	060014240022014
060014233002003	060014232001006	060014240022009
060014233002005	060014232002005	060014240022013
060014233001013	060014232001020	060014240022001
060014220001031	060014232001009	060014240022005
060014233001004	060014232001010	060014240022012
060014233001005	060014232001005	060014240022011
060014233001003	060014232001004	060014240022008
060014232002006	060014232001019	060014240022007
060014231004009	060014232001018	060014240022006
060014231004008	060014232001017	060014240022000
060014231003008	060014232001011	060014240021010
060014231004007	060014232001012	060014240021002
060014233001006	060014232001013	060014233002013
060014233001007	060014232002001	060014233002012
060014231003006	060014232001016	060014233002014
060014231002004	060014232001015	060014240021001
060014231002003	060014233001002	060014240021000
060014231001010	060014231004006	060014233002015
060014231003005	060014231004005	060014233002011
060014231003004	060014233003002	060014233002010
060014231002002	060014233002006	060014233002009
060014231001009	060014233002002	060014233002008
060014231001004	060014233003001	060014233002000
060014231001011	060014233003000	060014233001010
060014231001003	060014233002001	060014233001009
060014231003003	060014233002007	060014231004000
060014231003002	060014233001012	

The foregoing list of Census Blocks in the SECOND COUNCIL DISTRICT is generally located within a boundary line commencing at the intersection of Sacramento Street and the southern border of the City; thence westerly along said border until it reaches the Bay; thence including the portion of the City of Berkeley in the Bay; thence including the portion of the Berkeley Marina south and west of the harbor shoreline to the intersection of Marina Boulevard and University Avenue; thence easterly along University

Avenue to the intersection of University Avenue and Sacramento Street; thence southerly along Sacramento Street to the point of the beginning.

THIRD COUNCIL DISTRICT shall comprise all of that portion of the City of Berkeley included in the following 2020 Census Tract and Block numbers:

Tracts (First 11 Digits) and Blocks (Last 4 Digits)

060014240014016	060014236021005	060014236012007
060014240014015	060014236021006	060014236012005
060014240014011	060014236021007	060014236011016
060014240014017	060014240014004	060014236011010
060014240014018	060014235002008	060014236011008
060014240014013	060014235002009	060014236011005
060014240014014	060014235002003	060014236023013
060014239011029	060014235001014	060014236011004
060014234004002	060014235001011	060014236023009
060014234003012	060014235001006	060014236023006
060014234003007	060014235002002	060014236023010
060014234003002	060014235001015	060014236023005
060014234004001	060014235002001	060014236011009
060014234003011	060014235001016	060014236011003
060014234003008	060014235001010	060014236023011
060014234003001	060014235001007	060014236023004
060014234002009	060014235001009	060014234004000
060014234002002	060014235001008	060014234003010
060014234001007	060014235003014	060014234003009
060014234002001	060014235003015	060014234003000
060014234002010	060014235003000	060014235003006
060014234001008	060014235002012	060014235003004
060014240014001	060014236012011	060014235002014
060014240014012	060014236012010	060014235002005
060014240014010	060014236012009	060014234002000
060014240014009	060014236012008	060014234002011
060014240013001	060014235002000	060014234001009
060014240013002	060014235001017	060014235001012
060014240014000	060014236023008	060014235002004
060014240013000	060014236023007	060014235001013
060014240012006	060014236021003	060014235001005
060014239011023	060014236011007	060014235003007
060014239011027	060014236011006	060014235003008
060014239011028	060014236023012	060014235003003
060014239011024	060014236021004	060014235003009
060014239011026	060014236012013	060014235003002
060014239011021	060014236012012	060014235002013
060014239011020	060014236012006	060014235002010

060014235002006	060014240012003	060014239011017
060014235003010	060014240011007	060014239011005
060014235003011	060014240012007	060014239011002
060014235003012	060014239011012	060014239011000
060014235003001	060014239011022	060014239011004
060014235003013	060014239011019	060014239011003
060014235002011	060014240012002	060014240011003
060014235002007	060014240011002	060014234004011
060014240013006	060014240012001	060014234004007
060014240013005	060014234004009	060014234004008
060014240012005	060014240011001	060014234003004
060014240011005	060014234004010	060014234002006
060014234004005	060014240012000	060014234002007
060014234004012	060014239011011	060014234004004
060014234004006	060014239011013	060014234003014
060014240014003	060014239011010	060014234004003
060014240014005	060014240011000	060014234003013
060014240014006	060014235003005	060014234003005
060014240013007	060014239011009	060014234003003
060014240013004	060014239011025	060014234003006
060014240014002	060014239011014	060014234002005
060014240014008	060014239011006	060014234002004
060014240014007	060014239011008	060014234001005
060014240013008	060014239011007	060014234002008
060014240013003	060014239011001	060014234002003
060014240012004	060014239011015	060014234001006
060014240011006	060014239011018	
060014240011004	060014239011016	

The foregoing list of Census Blocks in the THIRD COUNCIL DISTRICT is generally located within a boundary line commencing on the point where the southern boundary line of the City of Berkeley intersects Sacramento Street; thence easterly, along said southern boundary line to the intersection of said southern boundary line and Shattuck Avenue; thence northerly, along Shattuck Avenue to the intersection of Shattuck Avenue and Ashby Avenue; thence easterly, along Ashby Avenue to the intersection of Ashby Avenue and Telegraph Avenue; thence northerly, along Telegraph Avenue to the intersection of Telegraph Avenue and Blake Street; thence westerly, along Blake Street to the intersection of Blake Street and Sacramento Street; thence southerly, along Sacramento Street to the point of the beginning.

FOURTH COUNCIL DISTRICT shall comprise all of that portion of the City of Berkeley included in the following 2020 Census Tract and Block numbers:

Tracts (First 11 Digits) and Blocks (Last 4 Digits)

060014234001003	060014224002013	060014229012005
060014230003014	060014224002003	060014235001000
060014234001002	060014224002002	060014229011004
060014234001001	060014224003007	060014229011003
060014230003006	060014224003004	060014229012004
060014230003007	060014224002010	060014229011002
060014230003008	060014224002011	060014229011001
060014230003005	060014224002004	060014229011000
060014230003004	060014224002006	060014229023004
060014230003003	060014224002005	060014229022013
060014230003002	060014224002001	060014229023003
060014230003009	060014224002000	060014229022009
060014230003013	060014224003008	060014229023001
060014230003010	060014224003002	060014229023000
060014230003001	060014224003001	060014229022003
060014230001006	060014224003005	060014229022008
060014230001007	060014224003006	060014229022004
060014230001000	060014224003000	060014229022012
060014224002009	060014224002014	060014229022010
060014224002008	060014228004001	060014229022011
060014224002007	060014235001003	060014234001000
060014224001004	060014230002009	060014235001004
060014229022002	060014230002010	060014230001008
060014224001003	060014230002008	060014230001009
060014224001005	060014229021005	060014230001005
060014224004007	060014229021007	060014230001004
060014224004008	060014229021006	060014230001010
060014224004009	060014229021004	060014230001012
060014229022001	060014230002001	060014230001011
060014224001002	060014230002000	060014230001003
060014229022000	060014229021003	060014230001002
060014224001006	060014230001016	060014230003012
060014224001001	060014229021001	060014230003011
060014224004005	060014229021000	060014230002013
060014224004004	060014229021002	060014230003000
060014224004006	060014229023002	060014230002005
060014224004002	060014229012008	060014230002004
060014224004003	060014229012007	060014230002011
060014224004001	060014229012006	060014230002012
060014236021002	060014229012003	060014230002006
060014228004003	060014229012002	060014230002007
060014228004002	060014229012001	060014230001013
060014229022007	060014229012000	060014230001001
060014229022005	060014235001002	060014230002003
060014229022006	060014229012009	060014230001014
060014224002012	060014235001001	060014230002002

060014230001015
060014234001004

060014230003017
060014230003016

060014230003015

The foregoing list of Census Blocks in the FOURTH COUNCIL DISTRICT is generally located within a boundary line commencing on the point at the intersection of Ellsworth Street and Blake Street; thence northerly, along Ellsworth Street to the intersection of Ellsworth Street and Channing Way; thence westerly, along Channing Way to the intersection of Channing Way and Fulton Street; thence northerly, along Fulton Street to where it becomes Oxford Street and continuing northerly, along Oxford Street to the intersection of Oxford Street and Cedar Street; thence westerly along Cedar Street to the intersection of Cedar Street and Martin Luther King Jr. Way; thence southerly along Martin Luther King Jr. Way to the intersection of Martin Luther King Jr. Way and University Avenue; thence westerly along University Avenue to the intersection of University Avenue and Sacramento Street; thence southerly along Sacramento Street to the intersection of Sacramento Street and Blake Street; thence easterly along Blake Street to the point of the beginning.

FIFTH COUNCIL DISTRICT shall comprise all of that portion of the City of Berkeley included in the following 2020 Census Tract and Block numbers:

Tracts (First 11 Digits) and Blocks (Last 4 Digits)

060014218002022	060014217003002	060014217001006
060014218002023	060014217003001	060014214002011
060014218002013	060014217003000	060014214002007
060014218002014	060014212004002	060014217001005
060014218002011	060014212004006	060014217001004
060014218002008	060014212003005	060014217001003
060014212002006	060014212003006	060014214002005
060014212002003	060014212003001	060014214002010
060014212002004	060014212004005	060014217002003
060014214001003	060014212003000	060014217002002
060014214001002	060014212004004	060014217002001
060014214001001	060014212004001	060014213001007
060014212002005	060014212004000	060014213001008
060014214001000	060014217002009	060014213001009
060014218002016	060014217002008	060014218002003
060014218002021	060014217001010	060014218002002
060014218002015	060014217001011	060014218002007
060014218002012	060014217002007	060014213003014
060014218002020	060014217002006	060014213003010
060014218002017	060014217002005	060014218002000
060014218002006	060014217002004	060014213003009
060014218002018	060014217001012	060014218002001
060014218002005	060014217001013	060014213003015
060014217003003	060014217001014	060014213003012

060014213003011	060014218001010	060014213001013
060014213004012	060014218001007	060014213001018
060014213004011	060014218001008	060014213001020
060014213004006	060014217003008	060014213001017
060014213004005	060014212002002	060014212003010
060014213004004	060014212003003	060014213001016
060014213004013	060014212002001	060014213003003
060014213004010	060014212002000	060014217001015
060014213003008	060014212001012	060014217001016
060014213004008	060014212001010	060014217002000
060014213004007	060014212001009	060014217001017
060014213004009	060014212001006	060014217001002
060014218001012	060014212001005	060014217001001
060014218001002	060014212001007	060014214001011
060014218001006	060014212001008	060014214001010
060014218001009	060014212001001	060014217001000
060014218001005	060014212001002	060014214001009
060014217002010	060014212001011	060014214002000
060014218001003	060014212001004	060014214002006
060014217003007	060014212001003	060014214002004
060014217003006	060014212001000	060014214001007
060014217003005	060014218001001	060014214001008
060014217003004	060014218001004	060014212002018
060014218002010	060014217001009	060014212002016
060014218002009	060014213003006	060014212002024
060014218002004	060014213003005	060014212002023
060014213003013	060014213003004	060014212002022
060014213002018	060014218001000	060014214001006
060014213002017	060014213003007	060014214001005
060014213002003	060014217001008	060014212002021
060014213002004	060014217001007	060014214001004
060014213002002	060014214002009	060014212002007
060014213002010	060014214002008	060014212002008
060014213002016	060014214002003	060014214002002
060014213002015	060014213004001	060014213003000
060014213002005	060014213004003	060014212002020
060014213002011	060014213004002	060014212002014
060014213002007	060014213002014	060014214002001
060014213002006	060014213003002	060014212002019
060014213002001	060014213004000	060014212002015
060014213002000	060014213003001	060014212002013
060014213002008	060014213001021	060014212003013
060014213002012	060014213002013	060014212003009
060014213002009	060014213001019	060014212002017
060014218002019	060014213001012	060014212002012
060014218001011	060014213001015	060014212002009

060014212002011	060014213001003	060014212003011
060014212002010	060014213001002	060014212003008
060014212003004	060014213001010	060014212004003
060014212003002	060014213001011	060014212003012
060014213001006	060014213001001	060014212003007
060014213001005	060014213001000	
060014213001004	060014213001014	

The foregoing list of Census Blocks in the FIFTH COUNCIL DISTRICT is generally located within a boundary line commencing on the point at the intersection of Spruce Street and Cedar Street; thence northerly, along Spruce Street to the northern boundary line of the City of Berkeley; thence westerly, and southerly along said northern boundary line to a point between Albina Avenue and Monterey Avenue (37.8829531,-122.2828323); thence southerly to Hopkins Court; thence southerly to Hopkins Street; thence westerly along Hopkins Street to the intersection of Hopkins Street and Sacramento Street; thence southerly along Sacramento Street to the intersection of Sacramento Street and Cedar Street; thence easterly along Cedar Street to the point of the beginning.

SIXTH COUNCIL DISTRICT shall comprise all of that portion of the City of Berkeley included in the following 2020 Census Tract and Block numbers:

Tracts (First 11 Digits) and Blocks (Last 4 Digits)

060014225001014	060014225003010	060014216002009
060014225001003	060014225003000	060014216002008
060014225001002	060014225001013	060014216002002
060014225003006	060014225001005	060014216002006
060014225003007	060014225001004	060014216002003
060014225003008	060014225003013	060014216002000
060014225003005	060014225002003	060014216002007
060014225001010	060014225002008	060014216002012
060014216004007	060014225002004	060014216001009
060014225001011	060014225002002	060014216002001
060014225001008	060014211001004	060014216001001
060014225001009	060014211001005	060014216001002
060014225003004	060014211001006	060014216001010
060014225003003	060014215001004	060014216001003
060014225003002	060014215001006	060014215003014
060014225003001	060014215001002	060014215002022
060014225001012	060014215001001	060014215002021
060014225001006	060014215001003	060014215001027
060014225001007	060014215001005	060014215001018
060014225003011	060014225001000	060014215001028
060014225003012	060014216002010	060014216003002
060014225003009	060014216002005	060014215003017

060014215003018	060014216003011	060014215001009
060014215003021	060014216003012	060014215001010
060014216003001	060014216004004	060014215001026
060014215003019	060014216003015	060014215001024
060014215003020	060014216004003	060014215001025
060014216003000	060014216003014	060014216001000
060014216004002	060014216003013	060014215001021
060014216004008	060014216003005	060014215001022
060014216004001	060014224001000	060014215001023
060014215003023	060014224004000	060014216001007
060014215003022	060014225001001	060014216001008
060014216004000	060014225002001	060014216001006
060014216004009	060014225002000	060019821001000
060014216004010	060019821001001	060014216001005
060014216002004	060014225002007	060014216001004
060014215003011	060014225002005	060014215001007
060014215003012	060014225002006	060014215001008
060014216002011	060014215002016	060014215001000
060014215003004	060014215002008	060014211002001
060014215003013	060014211002023	060014211002000
060014215003009	060014215002002	060014211002014
060014215003007	060014215002007	060014211002011
060014215002017	060014215002006	060014211002012
060014215002014	060014215002000	060014211002007
060014215002015	060014215002001	060014211002008
060014215003010	060014215001016	060014211002017
060014215003006	060014215003005	060014211002018
060014215003003	060014215003002	060014211002009
060014215002023	060014215002019	060014211002004
060014215002009	060014215003001	060014211002002
060014215003008	060014215003000	060014211002003
060014215002018	060014215002020	060014211001002
060014215002012	060014215002003	060014211001001
060014215002013	060014215002004	060014211001000
060014211002015	060014215001015	060014211002019
060014211002016	060014215002005	060014211002010
060014215002011	060014215001019	060014211001003
060014211002020	060014215001013	060014211001008
060014215002010	060014215001014	060014211001007
060014211002022	060014215001011	060014216003009
060014211002021	060014211002013	060014216003008
060014216004006	060014211002006	060014216003004
060014216003010	060014211002005	060014216003003
060014216004005	060014215001017	060014215003016
060014216003007	060014215001020	060014215003015
060014216003006	060014215001012	

The foregoing list of Census Blocks in the SIXTH COUNCIL DISTRICT is generally located within a boundary line commencing on the point at the intersection of Oxford Street and Hearst Avenue; thence easterly, along Hearst Avenue to the intersection of Hearst Avenue and Gayley Road; thence southerly along Gayley Road to the intersection of Gayley Road and Stadium Rim Way; thence easterly along Stadium Rim Way to the intersection of Stadium Rim Way and Centennial Drive; thence easterly along Centennial Drive to the eastern boundary line of the City of Berkeley; thence northwesterly along said eastern boundary line to the intersection of the eastern boundary line and Spruce Street; thence southerly along Spruce Street to the intersection of Spruce Street and Cedar Street; thence westerly, along Cedar Street to the intersection of Cedar Street and Oxford Street; thence southerly along Oxford Street to the point of the beginning.

SEVENTH COUNCIL DISTRICT shall comprise all of that portion of the City of Berkeley included in the following 2020 Census Tract and Block numbers:

Tracts (First 11 Digits) and Blocks (Last 4 Digits)

060019821001007	060014228001012	060014228001004
060019821001008	060014228001013	060014227003004
060019821001010	060014228002005	060014227003001
060019821001012	060014228002004	060014227004002
060019821001009	060014228002002	060014227004001
060019821001014	060014228002003	060014227004000
060019821001013	060014228002001	060014227002005
060014228003004	060014228001009	060014227002004
060014228003003	060014228001008	060014227002003
060014236021001	060014228001007	060014227002002
060014228004004	060014228002000	060014227002001
060014228003005	060014228001002	060014227003003
060014228004000	060014228001001	060014227003002
060014228003006	060014228001006	060014227003000
060014228003002	060014228001010	060019821001005
060019821001011	060014228001011	060014227002000
060014228003001	060014228001005	060019821001002
060014228003000	060014228001003	060019821001016
060019821001015	060014228001000	
060014236021000	060019821001006	

The foregoing list of Census Blocks in the SEVENTH COUNCIL DISTRICT is generally located within a boundary line commencing on the point at the intersection of Ellsworth Street and Blake Street; thence northerly, along Ellsworth Street to the intersection of Ellsworth Street and Channing Way; thence westerly, along Channing Way to the intersection of Channing Way and Fulton Street; thence northerly, along Fulton Street to where it becomes Oxford Street and continuing northerly, along Oxford Street to the intersection of Oxford Street and Hearst Avenue; thence easterly, along Hearst

Avenue to the intersection of Hearst Avenue and Gayley Road; thence southerly along Gayley Road to the intersection of Gayley Road and Stadium Rim Way; thence southerly along Stadium Rim Way to the intersection of Stadium Rim Way and Canyon Road; thence southerly along Canyon Road to where it becomes Panoramic Way and continuing southerly along Panoramic Way to the intersection of Panoramic Way and Bancroft Way; then westerly along Bancroft Way to the intersection of Bancroft Way and Prospect Street; thence southerly along Prospect Street to the intersection of Prospect Street and Dwight Way; thence westerly along Dwight Way to the intersection of Dwight Way and Telegraph Avenue; thence southerly along Telegraph Avenue to the intersection of Telegraph Avenue and Blake Street; thence westerly along Blake Street to the point of the beginning.

EIGHTH COUNCIL DISTRICT shall comprise all of that portion of the City of Berkeley included in the following 2020 Census Tract and Block numbers:

Tracts (First 11 Digits) and Blocks (Last 4 Digits)

060014239022015	060014237001001	060014239012009
060014239021007	060014227002006	060014239012006
060014239021006	060014227001003	060014239012005
060014239021004	060014237001000	060014239012003
060014239021003	060014227001004	060014239012002
060014238003020	060014227001005	060014239012008
060014238003019	060014227001006	060014239012001
060014238003018	060019821001004	060014239022012
060014238003016	060014227001001	060014239022013
060014238003017	060014227001002	060014239022011
060014238003013	060019821001003	060014239022010
060014238003012	060014227001000	060014239022006
060014238003014	060014238001013	060014239022016
060014238003015	060014238001011	060014239022014
060014239022001	060014238001012	060014239022009
060014239021005	060014238001010	060014239022007
060014236011012	060014238001007	060014239022008
060014236012002	060014238001006	060014239012004
060014239021000	060014238001005	060014239012000
060014239021001	060014238001004	060014239022005
060014239021002	060014238001008	060014239022004
060014236012001	060014238001003	060014239022003
060014236011013	060014238001001	060014239022002
060014236012000	060014238001002	060014236012004
060014236011014	060014238001009	060014239022000
060014236023002	060014238001000	060014236012003
060014236023001	060014236022005	060014236011015
060014236011001	060014236022004	060014236011011
060014236011000	060014239012007	060014236011002

060014236023003	060014238002003	060014238003002
060014238003009	060014238002000	060014237002011
060014238003001	060014238002002	060014237002004
060014237002013	060014237002015	060014237002005
060014238002008	060014237002000	060014237003004
060014238003010	060014237001012	060014237003002
060014238003000	060014236022003	060014237003003
060014237002018	060014236022001	060014237002007
060014237002006	060014236022002	060014237002012
060014237002003	060014236022000	060014237001005
060014237001007	060014237003001	060014237001006
060014237001003	060014237003000	060014238002014
060014237001008	060014237001004	060014238002009
060014237002014	060014237001002	060014238002011
060014237002001	060014236023000	060014238002004
060014237002002	060014238003007	060014238002010
060014237001009	060014238003004	060014238002005
060014237001010	060014237002009	060014238002015
060014237001011	060014238003006	060014238002013
060014238002006	060014237002010	060014238002012
060014238002001	060014238003005	060014238002007
060014237002016	060014237002008	060014238003011
060014237002017	060014238003008	
060014237002019	060014238003003	

EIGHTH COUNCIL DISTRICT shall comprise all of that portion of the City not otherwise described as constituting the First, Second, Third, Fourth, Fifth, Sixth and Seventh Council Districts.

Section 3. Effective date of Adjustments.

The district boundaries established herein shall govern the election of Councilmembers beginning with the November 8, 2022 General Municipal Election.

Section 4. Posting.

Copies of this Bill 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 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 special meeting of the Council of the City of Berkeley held on March 22, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: Droste.

ORDINANCE NO. 7,804-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 12.70 SMOKING POLLUTION CONTROL

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

Section 1. That Berkeley Municipal Code Subsection 12.70.031 is amended to read as follows:

12.70.031 Smoking Medical Cannabis at Cannabis Retailers

Notwithstanding anything to the contrary in this Chapter, the inhalation of medical cannabis through the use of an electronic smoking device inside a Cannabis Retailer and on the public right of way within 50 feet of such a Cannabis Retailer, is not prohibited by this Chapter.

Section 2. That Berkeley Municipal Code Subsection 12.70.050.A.1 is amended to read as follows:

12.70.050 Where Smoking is not Regulated

A. This chapter is not intended to regulate smoking in the following places and under the following conditions within the City:

1. Tobacco in retail tobacco stores and cannabis in State-permitted Storefront Cannabis Retailers within a Designated Smoking Room in compliance with the Environmental Health Division's Lounge Operating Standards and except as stated in Section 12.70.031;
2. Private residences, which may serve as a place of employment except when used as a childcare or health care facility and except as stated in Sections 12.70.035 and 12.70.037.

B. Notwithstanding any other provision of this section, any owner, operator, manager, or other person who controls a business or other establishment may declare that entire establishment as a nonsmoking establishment.

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 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 March 22, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: Droste.

ORDINANCE NO. 7,805-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 23.502 TO MODIFY THE RESEARCH AND DEVELOPMENT LAND USE DEFINITION

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

Section 1. That Berkeley Municipal Code 23.502.020 R.8 is amended to read as follows:

23.502.020 R.8

8. **Research and Development:** An establishment engaged in the following activities: 1) industrial, biological or scientific research; and/or 2) product or process design, development, prototyping, or testing. This may include labs, offices, warehousing, and light manufacturing functions as part of the overall Research and Development use.

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

At a regular meeting of the Council of the City of Berkeley held on March 22, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: Hahn and Droste.



Office of the City Attorney

CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council
Madame City Manager

From: Farimah Faiz Brown, City Attorney

Subject: Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RECOMMENDATION

Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, and March 22, 2022.

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

The City Council made the initial findings required under the Government Code on September 28, 2021. The Council must make the findings every thirty days in order to continue to meet exclusively through video conference or teleconference.

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88.040, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County has declared a local health emergency. On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19. On March 10, 2020, the City

Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20, which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) related to the holding of teleconferenced meetings by City legislative bodies. Among other things, Executive Order N-29-20 suspended requirements that each location from which an official accesses a teleconferenced meeting be accessible to the public. These changes were necessary to allow teleconferencing to be used as a tool for ensuring social distancing. City legislative bodies have held public meetings via videoconference and teleconference pursuant to these provisions since March 2020. These provisions of Executive Order N-29-20 will expire on September 30, 2021.

COVID-19 continues to pose a serious threat to public health and safety. There are now over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley. Additionally, the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease.

As a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination. Holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time

Assembly Bill 361 (Rivas), signed into law by Governor Newsom on September 16, 2021, amended a portion of the Brown Act (Government Code Section 54953) to authorize the City Council, during the state of emergency, to determine that, due to the spread of COVID-19, holding in-person public meetings would present an imminent risk to the health or safety of attendees, and therefore City legislative bodies must continue to meet via videoconference and teleconference. Assembly Bill 361 requires that the City Council must review and ratify such a determination every thirty (30) days. Therefore, if the Council passes this resolution on March 22, 2022, the Council will need to review and ratify the resolution by April 21, 2022.

This item requests that the Council review the circumstances of the continued state of emergency posed by the spread of COVID-19, and find that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination. This item further requests that the Council determine that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference

and teleconference, and that City legislative bodies shall continue to comply with all provisions of the Brown Act, as amended by SB 361.

BACKGROUND

On March 1, 2020, Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 3, 2020, the City's Director of Emergency Services proclaimed a local emergency due to the spread of COVID-19, including a confirmed case in the City of Berkeley and multiple confirmed and presumed cases in Alameda County.

On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19.

On March 10, 2020, the City Council ratified the Proclamation of Local Emergency. Since that date, there have been over 4,700 confirmed cases of COVID-19 and at least 57 deaths in the City of Berkeley.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20 which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) to allow teleconferencing of public meetings to be used as a tool for ensuring social distancing. As a result, City legislative bodies have held public meetings via teleconference throughout the pandemic. The provisions of Executive Order N-29-20 allowing teleconferencing to be used as a tool for social distancing will expire on September 30, 2021.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Not applicable.

RATIONALE FOR RECOMMENDATION

The Resolution would enable the City Council and its committees, and City boards and commissions to continue to hold public meetings via videoconference and teleconference in order to continue to socially distance and limit the spread of COVID-19.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998
Mark Numainville, City Clerk, (510) 981-6908

Attachments:1: Resolution Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RESOLUTION NO. –N.S.

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 54953(E)(3) AND DIRECTING CITY LEGISLATIVE BODIES TO CONTINUE TO MEET VIA VIDEOCONFERENCE AND TELECONFERENCE

WHEREAS, in accordance with Berkeley Municipal Code section 2.88.040 and sections 8558(c) and 8630 of the Government Code, which authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a City exist, the City Manager, serving as the Director of Emergency Services, beginning on March 3, 2020, did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (“COVID-19”), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency pursuant to the California Emergency Services Act, in particular, Government Code section 8625; and

WHEREAS, the Proclamation of a State of Emergency issued by Governor Newsom on March 4, 2020 continues to be in effect; and

WHEREAS, on September 16, 2021, Governor Newsom signed into law AB 361, which authorizes the City Council to determine that, due to the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference; and

WHEREAS, the City Council does find that the aforesaid conditions of extreme peril continue to exist, and now include over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley; and

WHEREAS, the City Council recognizes that the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease; and

WHEREAS, as a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination; and

WHEREAS, holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time; and

WHEREAS, the City Council made the initial findings required by the Government Code on September 28, 2021; and

WHEREAS, the City Council made subsequent findings required by the Government Code on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, and March 22, 2022; and

WHEREAS, the City Council will need to again review the need for the continuing necessity of holding City legislative body meetings via videoconference and teleconference by May 12, 2022.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that, pursuant to Government Code section 54953, the City Council has reviewed the circumstances of the continued state of emergency posed by the spread of COVID-19, and finds that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination.

BE IT FURTHER RESOLVED that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference and teleconference.

BE IT FURTHER RESOLVED that all City legislative bodies shall comply with the requirements of Government Code section 54953(e)(2) and all applicable laws, regulations and rules when conducting public meetings pursuant to this resolution.



Office of the City Manager

CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Paul Buddenhagen, Deputy City Manager, City Manager

Subject: Collection of Parking Space Rental Tax for City Owned Parking Lots; and
Amending BMC Section 6.24.050

RECOMMENDATION

Adopt a resolution authorizing the collection of Parking Space Rental Tax for City of Berkeley owned off street parking lots pursuant to BMC 7.48.070 starting June 1, 2022, and adopt a first reading an Ordinance amending BMC 6.24.050 to allow Parking Space Rental Tax to be placed in the general fund instead of a special fund.

FISCAL IMPACTS OF RECOMMENDATION

Parking Space Rental Tax is calculated at a rate of ten percent based on the rent collected for every occupancy of an off-street parking space. Each occupant will pay the tax at the time the rent is paid to the City's parking lot operator. The tax will be included in the published parking fees. The lot operator remits the tax within the next month following the month it was collected.

This tax would be imposed on the occupant of the parking spaces, but included in the published and posted parking fees. The goBerkeley program sets parking fees in response to parking demand. Based on current demand there would be no change in the total parking fees. Per BMC 7.48.190, "The tax collector shall transmit all moneys collected pursuant to this chapter to the treasurer for deposit to the credit of the general fund." Thus, payment of the tax from the off-street parking fund to the general fund would decrease net parking fund revenue, but not impact total City revenues. Since the Parking Space Rental Tax is a general fund tax, any future tax payment would be an increase in general fund revenue. Parking revenue has declined dramatically as a result of Covid-19 related travel reductions. The City's FY 2022 off street parking revenue is budgeted at \$2.2M. Moving forward 10% of revenue would be parking tax and instead of supporting the parking tax fund, would revert to the general fund. This will create a parking tax deficit that will need to be addressed through the budget process.

Imposing this tax on city owned off street parking lots will allow for the University of California, Berkeley to impose a tax on lots owned by UC. This will generate revenue which will revert to the City of Berkeley, though it is currently unclear how much.

CURRENT SITUATION AND ITS EFFECTS

The City is not currently collecting this parking lot tax on City owned parking lots. In the UC Berkeley and City of Berkeley settlement agreement signed on July 27, 2021, both parties agreed to begin to collect the Parking Space Rental Tax. There are two conditions for the University to comply, first, the City needs to start collecting the tax on its lots; second, the City needs to send a demand letter to BART to collect the Parking Space Rental Tax for BART parking facilities in Berkeley. The City plans to accomplish both of these before June 1, 2022.

BACKGROUND

The City passed the Parking Space Rental Tax ordinance in 1978 and it was imposed on privately operated parking effective August 1, 1979.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The UC Berkeley and City of Berkeley 2021 settlement agreement section 4.8 states, *“The University will cooperate in good faith with City efforts to collect and remit the City Parking Space Rental Tax from University-owned lots. The University will make best efforts to collect the tax from users by the date that the City begins collecting the tax from City-owned lots and demands collection by BART. The City acknowledges that the administrative processes between the City and the University related to collection of the tax must be established and that such establishment could preclude collection of the tax on behalf of the City prior to January 1, 2022.”*

This council item, if approved, would satisfy one of two settlement agreement conditions and support the city receiving parking tax revenue from the University of California that it does not currently receive.

CONTACT PERSON

Paul Buddenhagen, Deputy City Manager, City Manager, 981-7014

Attachments:

1. Resolution
2. Ordinance amending BMC 6.24.050
3. UC Berkeley and City of Berkeley Settlement Agreement July 2021

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

COLLECTION OF PARKING SPACE RENTAL TAX FOR CITY OWNED PARKING
LOTS

WHEREAS, the City of Berkeley passed the Parking Space Rental Tax ordinance in 1978 and it was imposed on privately operated parking effective August 1, 1979; and

WHEREAS, the City of Berkeley is not currently collecting this parking lot tax on City owned parking lots; and

WHEREAS, in the UC Berkeley and City of Berkeley settlement agreement signed on July 27, 2021, both parties agreed to begin to collect the Parking Space Rental Tax; and

WHEREAS, the University will make best efforts to collect the tax from users by the date that the City begins collecting the tax from City-owned lots and demands collection by BART; and

WHEREAS, the City of Berkeley wishes to begin collecting tax on lots it owns and from the University of California.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it authorizes the collection of Parking Space Rental Tax for City of Berkeley owned off street parking lots pursuant to BMC 7.48.070 starting June 1, 2022.

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

AMENDING BERKELEY MUNICIPAL CODE SECTION 6.24.050 USE OF MONEY
DEPOSITED IN PARKING METERS AND PAY-AND-DISPLAY STATIONS

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

Section 1. That Berkeley Municipal Code Section 6.24.050 is amended to read as follows:

Except as permitted under subsection H of this section, all moneys collected from parking meters and pay-and-display stations used on municipal off-street parking lots, other than the Parking Space Rental Tax (BMC Chapter 7.48), shall be placed in a special fund, which fund shall be devoted exclusively to the following purposes:

- A. For the purchasing, leasing, installing, repairing, maintaining, operating, removing, regulating and policing of parking meters in the City, and for the payment of any and all expenses relating or incidental thereto;
- B. For the purchasing, leasing, acquiring, improving, operating and maintaining of off-street parking facilities in the City;
- C. For the installation and maintenance of traffic control devices and signals;
- D. For the painting and marking of streets and curbs required for the direction of traffic and the parking of motor vehicles;
- E. For the proper regulation, control and inspection of parking and traffic upon the public streets;
- F. To be pledged as security for the payment of principal of and interest on off-street parking revenue bonds issued by the City;
- G. Additional Revenue deemed to be generated by the goBerkeley Pilot Program will be used to fund goBerkeley efforts, pursuant to Section 1012(b) of Intermodal Surface Transportation Efficiency Act of 1991, as amended, as agreed in the 2012 Cooperative Agreement between the City of Berkeley, the California Department of Transportation and the Federal Highway Administration.
- H. Surplus money not utilized under subsections A through F of this section may be transferred to the General Fund. The City Manager or their designee may make an annual determination as to what is surplus based on the needs and obligations of the special fund and transfer such surplus to the General Fund.

Section 2. Posting.

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.

UC BERKELEY – CITY OF BERKELEY SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into and effective as of the date last signed below (“Effective Date”), by and between the City of Berkeley (“City”), a charter city, and the Regents of the University of California (“Regents”) and the University of California, Berkeley campus (the “University”) (each a “party” and collectively the “parties”).

RECITALS

WHEREAS, the City is a municipal corporation established pursuant to Article XI of the California Constitution; and

WHEREAS, the University is a constitutionally created entity pursuant to Article IX, Section 9 of the California Constitution, with property located within the City’s boundaries; and

WHEREAS, the University and the City entered into the 2020 LRDP Litigation Settlement Agreement in 2005 (the “2005 Settlement Agreement”), in order to settle litigation with respect to the University’s 2020 Long Range Development Plan (“2020 LRDP”) and the related Environmental Impact Report (“2020 LRDP EIR”); and

WHEREAS, the 2005 Settlement Agreement terminates at the conclusion of the 2020-2021 academic year (on or about August 13, 2021); and

WHEREAS, the Regents have adopted the 2021 Long Range Development Plan (“2021 LRDP”) and certified the 2021 LRDP EIR on July 22, 2021; and

WHEREAS, in addition to evaluating the environmental effects of the 2021 LRDP, the 2021 LRDP EIR includes project-level review of two proposed student housing projects, the “Anchor House Student Housing Project” and the “People Park’s Housing Project;” and

WHEREAS, in June 2019, the City filed a lawsuit challenging the adoption of the Supplemental Environmental Impact Report for the Upper Hearst Development for the Goldman School of Public Policy; and

WHEREAS, on December 29, 2020, the City moved to be made a party to case, *Save Berkeley’s Neighborhoods v. UC Regents, Case No. RG19006256*. The action relates to the University’s proposed intercollegiate beach volleyball facility at its Clark Kerr Campus and reformation of the Declaration of Covenants and Restrictions relating to land use restrictions at the Clark Kerr Campus entered into by the University in 1982. The Alameda County Superior Court granted the City’s motion on January 28, 2021; and

WHEREAS, the parties wish to continue and enhance the cooperative relationship they have enjoyed during the term of the 2005 Settlement Agreement as well as to settle ongoing disputes over certain University projects and avoid litigation over certain pending and future University projects, including the 2021 LRDP and the aforementioned housing projects; and

WHEREAS, the parties have negotiated in good faith and agreed to the terms of this Agreement.

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the City and the University agree as follows:

1. **STATEMENT OF SHARED GOALS AND PRINCIPLES**

1.1 The City recognizes the significant contributions that the University makes to the surrounding community and supports its efforts to plan for its future needs.

1.2 The University recognizes that the City environs are as much a part of the University experience as the campus itself, and the quality of City life is a large part of what makes the University a unique and desirable place to learn, work, and live.

1.3 The City wishes to work cooperatively with the University in planning for future capital projects on the Clark Kerr Campus and City Environs and advance projects that will improve the neighborhoods adjacent to the main campus and the Clark Kerr Campus.

1.4 The City and University have successfully completed various planning documents including the 2001 Transportation Demand Management Study, the 2003 Draft Southside Plan and the 2012 Downtown Area Plan, with broad citizen participation and community engagement.

1.5 The 2005 Settlement Agreement resulted in a historic partnership between the parties, including a joint planning process for the Downtown area, annual payments to support city services and the initiation of the Chancellor's Community Partnership Fund.

1.6 The City and the University wish to build on the positive relationship established through the 2005 Settlement Agreement.

1.7 The City and the University support efforts to increase the production and supply of housing for University students, to reduce housing instability and pressures on the city housing market.

1.8 The City seeks to increase the availability and production of housing at all income levels, and is evaluating zoning adjustments (e.g. by allowing construction of housing facilities up to twelve stories) to encourage the construction of more student housing in the City's Southside Area, located directly south of the University's main campus.

1.9 The City and the University have a shared interest in collaboration to improve their surrounding community, in particular neighborhoods that are adjacent to the main campus.

1.10 To wit, the University makes annual contributions to the City's Proposition 218 Stormwater and Street Light Fund, the Downtown Berkeley Association, and the Telegraph Improvement District.

1.11 The parties acknowledge the importance to the City of maintaining properties on the City's tax rolls, and the University commits that University-owned land will always be the first option explored by the University for both new program space and parking.

1.12 The University has set a goal in its 2021 Long Range Development Plan to limit undergraduate enrollment over the term of the planning horizon to an average of one percent per year, compounded annually.

2. **DEFINITIONS & ABBREVIATIONS**

2.1 The Upper Hearst Development for the Goldman School of Public Policy shall be referred to herein as “Upper Hearst Project,” and the Supplemental Environmental Impact Report prepared for the Upper Hearst Project shall be referred to herein as “SEIR”.

2.2 The “main campus” of the University is defined as all property owned by the University within the area bounded by Hearst Avenue to the north, Gayley Road/Piedmont Avenue to the east, Bancroft Way to the south, and Oxford Street/Fulton Street to the west.

2.3 The “Clark Kerr Campus” of the University is defined as all property owned by the University within the area bounded by Dwight Way to the north, East Bay Regional Park District to the east, Derby Street to the south, Warring Street to the west.

2.4 “Section” refers to each numbered paragraph of the Agreement.

2.5 Unless this Agreement specifically states otherwise, all terms are binding on the parties only during the term of the Agreement.

3. **FINANCIAL CONSIDERATION: ANNUAL PAYMENT**

3.1 The University agrees to make an annual payment to the City of \$4,100,000, which amount shall be increased annually by three percent compounding as described in Section 3.4 below (the “Annual Payment”) each year from 2021 through 2036 inclusive. The University shall make each Annual Payment each year by July 1 or, in 2021, by the Effective Date.

3.2 The Annual Payment is intended to be comprehensive and is inclusive of any costs to mitigate financial impacts to the City resulting from the approval, adoption or certification of the following projects: (1) the Upper Hearst Project and the SEIR, (2) any projects implementing the 2021 LRDP, including projects located on the main campus, the Clark Kerr Campus, and any other projects located off of the University’s main campus that consist of at least 80 percent assignable square footage of housing, (3) the Anchor House Student Housing Project, and (4) the People’s Park Housing Project. The City reserves all of its rights with regards to off-main campus capital projects that are not identified in this paragraph.

3.3 The Annual Payment shall not eliminate or otherwise supersede ongoing fees for services paid to the City by the University as of June 1, 2021, which fees may be increased pursuant to Section 5.1 of this Agreement. The Annual Payment supersedes and replaces the contributions specified in the 2005 Settlement Agreement annual allocation.

3.4 Except as provided in Sections 3.5 and 3.6, the City shall allocate the Annual Payment funds as follows, unless otherwise agreed to by the parties during the term of the Agreement. Each allocation is individually subject to the annual three percent increase and

shall be transferred to the City in a single payment no later than July 31st of each year during the term of the Agreement. The City is not required to spend the entire Annual Payment every year, and may accumulate funds from year to year. This agreement provides a funding mechanism only and does not constitute approval of any of the improvements listed herein.

3.4.1. \$2.8 million (increased by three percent per year) for fire and other City services;

3.4.2. \$1.3 million (increased by three percent per year) for capital projects and other services benefiting residents living within one-half mile of the University's main campus boundaries and the Clark Kerr Campus, including but not limited to a joint BPD-UCPD Telegraph Area Beat (a community-based policing program). Priorities for these projects shall be determined by City and University leaders pursuant to Section 3.7.

3.5 Notwithstanding the above, with regard only to the Annual Payment made in 2021 ("2021 Annual Payment"):

3.5.1. \$920,000 shall be allocated by the City to the City's Housing Trust Fund, in recognition of the demolition of eight rent-controlled units at 1921 Walnut Street for the Anchor House Student Housing Project;¹

3.5.2. \$130,000 shall be allocated by the City for a permanent restroom in the Telegraph area;

3.5.3. An amount determined through joint planning between the City and the University will be allocated to fund a day-time drop-in/service center in the Telegraph area for the unhoused population;

3.5.4. The City shall allocate the remainder of the 2021 Annual Payment as it determines to be appropriate.

3.6 Notwithstanding the above, with regard only to the Annual Payment made in 2022 ("2022 Annual Payment"):

3.6.1. \$250,000 shall be allocated by the City for Piedmont/Channing traffic circle pedestrian and street lighting improvements;

3.6.2. Amount to be determined for wildfire risk management and fuel reduction on UC owned property;

3.6.3. The City shall allocate the remainder of the 2022 Annual Payment in compliance with Section 3.4.

3.7 The City will spend not less than 30 percent of the Annual Payment on services and infrastructure (inclusive of any services or infrastructure funded pursuant to

¹ This amount does not replace or in any way impact any relocation benefits provided by the University to tenants at 1921 Walnut Street.

Sections 3.4.2, 3.5.2, 3.5.3, or 3.6.1) that benefit City residents living within one-half mile of the University's main campus boundaries and the Clark Kerr Campus. If the City fails to adhere to this commitment, then the University has the right to terminate this Agreement after providing the City written notice of the City's breach and a reasonable opportunity to cure the breach pursuant to Section 8.5. The Chancellor, Mayor, City Manager and Vice Chancellor for Administration shall meet annually to review the City's proposed list of projects and/or services satisfying the requirements of this Section. The parties shall use best efforts to reach mutual agreement on the list of expenditures, but the City shall make the allocations of its own expenditures, consistent with the terms of this Agreement. The City will not allocate any portion of the Annual Payment to the development of a new fire station, should the City decide to develop a new fire station during the term of this Agreement.

3.8 Beginning on July 1, 2023, the City shall make reasonable efforts to provide the University with an annual summary statement setting forth its use of the funds described in Section 3.4 since the prior Annual Payment. If the City fails to adhere to the commitments regarding its expenditures described in Section 3.4 above, then the University may (but is not obligated to) terminate this Agreement, after providing the City written notice of the City's breach and a reasonable opportunity to cure the breach pursuant to Section 8.5.

3.9 The University intends, but is not obligated, to continue to fund the Chancellor's Community Partnership Fund during the term of this Agreement in the amount of approximately \$300,000/year, increased by three (3) percent annually. The University shall provide a summary of these expenditures to the City annually.

4. COOPERATIVE RELATIONSHIP AND PLANNING REGARDING MATTERS OF MUTUAL CONCERN

4.1 The Chancellor, the Vice Chancellor for Administration, the Mayor, and the City Manager, and the City Attorney (as appropriate) will meet quarterly to review implementation of this Agreement and discuss areas of mutual interest or concern. The University will provide the City with timely written updates concerning its implementation of the 2021 LRDP, changes in enrollment, and campus housing production. The City and the University may mutually agree to reduce the frequency of these meetings to not less than annual if there is no longer a perceived need to meet as frequently as quarterly.

4.2 The University and the City will negotiate in good faith to establish within two years of the Effective Date a collaborative planning process for the City to review and comment upon campus capital projects located in the City environs and implementation of sustainable development standards prior to campus approval of such projects.

4.3 The University will continue its practice of typically voluntarily honoring the City's existing zoning standards in the design of projects off the main campus. The University will consult with City staff, the City Council and relevant commissions as well as community members about new projects off of the main campus and respond to any reasonably identified concerns presented during the public process. This consultation shall include, but not be limited to, the following actions:

4.3.1. LRDP Projects. While implementing the 2021 LRDP, the University will continue to review and consider the City's adopted planning and zoning documents, including without limitation the Downtown Area Plan (DAP) and the Southside Area Plan (SAP) when making decisions about the location of University facilities off of the main campus, and will use the design guidelines and standards prescribed in the DAP or SAP, as applicable, when designing projects in the respective plan areas to the extent they are consistent with the program for the building.

4.3.2. Off-Campus Projects. The University will submit all capital projects off of the main campus with an anticipated value in excess of \$5 million to the City's Planning Director and will either incorporate the City Planning Director's comments into the project or explain in writing its decision not to do so. Additionally, the University will submit all capital projects off of the main campus with a value in excess of \$5 million to the City's 4x6 City/Student/UC committee so that the committee and/or its members may provide comments to the University regarding such projects. When the University determines that it will not implement such projects consistent with the City's adopted planning and zoning documents, the University will, upon the request of the City's Planning Director, provide a written explanation of the reasons for such decision.

4.4 If campus undergraduate enrollment growth exceeds one percent per year on average over three consecutive years, then the Mayor, City Manager, the Chancellor and the Vice Chancellor for Administration shall meet to discuss the potential physical impacts of enrollment increases on the City and whether any amendments should be made to the terms of this Agreement to address the increase. The City shall present specific data and evidence to illustrate the physical impacts of campus enrollment increases on the City.

4.5 During the term of this Agreement, so long as there is demonstrated need on and in areas adjacent to University, the University will continue to fund a position of a campus social worker to work with the unhoused population who visit People's Park and in the broader Telegraph area, inclusive of Willard Park.

4.6 The City and University are parties to a Memorandum of Understanding (City of Berkeley Resolution No. 51,172-N.S.) regarding the development of the Clark Kerr Campus dated April 23, 1982 (the "MOU"). The terms of the MOU are not altered by this Agreement, though they are generally described for reference in this Section and its subsections. During the remaining term of the MOU, the University and the City will comply with the MOU by working cooperatively in planning and development of projects on the Clark Kerr Campus that would be constructed prior to the expiration of the time term of the MOU in 2032. The City and the University will also consult and work cooperatively regarding potential expanded public access to recreational facilities on the Clark Kerr Campus.

The MOU addresses the potential re-development of the property according to the Dwight-Derby Site Plan ("Site Plan") prior to 2032 (the time term of the MOU is fifty years). The MOU generally provides that the Clark Kerr Campus may not be developed, built upon, improved, operated, occupied, used or leased except as provided for and in accordance with the terms of the MOU. The MOU also generally provides that the University will maintain recreational facilities consistent with joint use agreements between the City and University. The

MOU also generally provides that the University will notify the City of Berkeley Landmarks Preservation Commission and provide 60 days to review and comment on any proposal to construct new buildings, demolish or significantly modify existing structures of architectural or historical significance, or remove existing landscaping or other significant site improvement. The MOU also generally provides that the University may depart from the plans, provisions, goals, and objectives of the Site Plan if such departure is authorized by resolution adopted by the City Council. The University reaffirms its commitment to work in partnership with the City as prescribed in the MOU.

With regard to any development planned to be undertaken by the University after the expiration of the MOU in 2032, but during the time term of this Agreement, the City will take a lead role in soliciting community input along with the University for capital renovation and capital projects (demolition, remodeling, retrofit and new construction) at the Clark Kerr Campus. The City and University will work cooperatively to develop any operational mitigations, if necessary, regarding capital renovation and capital Projects at the Clark Kerr Campus, and will consult and work cooperatively with the City regarding public access to recreational facilities on the Clark Kerr Campus.

4.7 The University's leadership will work with the City's elected officials and staff to study the impacts and plan for the potential closure of Alta Bates Hospital and its emergency room in Berkeley, and identify alternatives to continue emergency and acute care for the University and city population.

4.8 The University will cooperate in good faith with City efforts to collect and remit the City Parking Space Rental Tax from University-owned lots. The University will make best efforts to collect the tax from users by the date that the City begins collecting the tax from City-owned lots and demands collection by BART. The City acknowledges that the administrative processes between the City and the University related to collection of the tax must be established and that such establishment could preclude collection of the tax on behalf of the City prior to January 1, 2022.

4.9 The University shall require its commercial tenants in buildings leased to non-University parties by the University (when such buildings are not on the main campus or the Clark Kerr Campus) for the sole purpose of generating revenue (as opposed to carrying out the program of the University) to obtain City permits and pay City impact fees. The University shall determine in good faith whether a space is leased to carry out its programs or exclusively to generate income. Nothing in this Section prevents the City from disagreeing with the University's determination that a commercial tenancy is in furtherance of the University's program.

4.10 The University and the City will collaborate in good faith to reach an agreement regarding the University's master leasing of off-campus residential buildings, and will meet and confer in an effort to reach such an agreement within one year of the Effective Date. The University and City contemplate that such an agreement will set a date by which the University would reduce or eliminate its use of master leasing of residential facilities, excepting only temporary leasing necessary to create surge space during the renovation or construction of

campus housing facilities. This Section does not require either party to enter into such an agreement, but the parties shall use their good faith best efforts to do so.

4.11 The University and the City will work cooperatively in an effort to develop and implement plans to address the impacts of special events planned by either party or by third parties that impact the other party, including but not limited to graduations, game days, move-ins, move-outs, City parades, City street fairs, and temporary traffic changes. The parties will similarly consult about events planned by neither the City nor University but impacting both, such as free speech activities. The plans will address at least the following issues: street closures, temporary and permanent parking changes, illegal dumping, unlawful camping, and responses to persons experiencing homelessness.

4.12 The University commits in concept to assisting the City in its development of a new fire station by contributing land off of the main campus owned by the University as of the Effective Date and suitable for the development of a City fire station intended to serve the City and campus communities. The City and the University will engage in cooperative joint planning for a potential fire station in a location identified through such planning. This provision does not constitute a commitment by either party to entitle or fund a future fire station nor does this provision evidence that the City or the University have determined such a fire station to be necessary at this time.

4.13 The University will make a presentation to the City's Planning Director (who will share the information presented with the City's Design Review Committee for comment) regarding the Upper Hearst Project's proposed final design and exterior color scheme. The University will consider any comments and concerns raised regarding the design and color scheme by the City's Planning Director and address those concerns, in writing, prior to finalizing the construction drawings.

4.14 The University shall consider ground leasing to Resources for Community Development (or a similar private nonprofit housing developer) land at People's Park for the construction of a housing project to provide affordable and permanent supportive housing for the homeless. The University and City agree that the campus will entitle the project in order to enable the non-profit developer to fund and construct the project, and will work with the City and non-profit developer to support state and outside funding to complete the project. The obligations of the University regarding the supportive housing project are contingent upon compliance with the California Environmental Quality Act and the approval of the design of the project by the Board of Regents, which is presently scheduled to consider the project in September of 2021.

4.15 Explore relocation and the cost of relocating the eight-unit building at 1921 Walnut Street, if it is technically feasible, to a site to be determined, prior to the commencement of construction of the Anchor House Student Housing Project, so long as moving the building does not result in increased time to the Anchor House Student Housing Project and/or the University, or delay the construction of the Anchor House Student Housing Project.

4.16 Nothing in this Agreement shall be construed to limit, in any way, the land use or entitlement authority of the parties within their respective jurisdictions, nor to place any limits on either party's authority to undertake land use approvals, including but not limited to capital and other development projects, land use and development plans, or amendments thereto.

4.17 The University and the City will meet in good faith to discuss an extension or replacement of this Agreement beginning no later than two years prior to the Expiration Date, upon the request by either party for such a meeting.

4.18 If a third party challenges this Agreement in court, the parties will work cooperatively to defend the Agreement. If a court determines that there are legal deficiencies in the Agreement or the process used to adopt the Agreement, the parties will work in good faith to correct any legal deficiencies and readopt comparable terms.

5. **CITY SERVICES, FEES AND ASSESSMENTS**

5.1 During the term of the Agreement, the City will not increase any municipal or service fees currently charged to the University by more than the percentage increase applicable to the public generally for such fees or impose or apply any municipal fees (including without limitation sewer fees and any developer impact fees) to the University that are not already being paid by the University. For the purpose of determining the baseline fee to which such increases would apply, the fees charged as of June 1, 2021 shall be the fees that the University is obligated to pay, as those fees may be increased consistent with the fee increase limitation of this Section.

5.2 The City will not make any proposals to include property owned by the University in any new assessments without the prior consent of the University.

6. **CURRENT AND FUTURE LITIGATION**

6.1 **Upper Hearst.** The City agrees to promptly dismiss the Upper Hearst Project lawsuit with prejudice and will represent to any court in the remaining Save Berkeley's Neighborhoods lawsuit challenging the Upper Hearst Project and SEIR (Alameda County Superior Court Case No. RG19022887) that the City does not oppose the Upper Hearst Project or the SEIR. The parties will be responsible for payment of their own attorneys' fees and costs, regardless of any decision issued by the trial court. If the City terminates this Agreement pursuant to either Section 7.3 or 7.4 below, this Section 6.1 shall expressly survive such termination.

6.2 **Clark Kerr.** The City agrees to promptly dismiss the City as a party with prejudice in the Clark Kerr Covenants Lawsuit (Alameda County Superior Court Case No. RG19006256) and will represent to any court in the remaining Save Berkeley's Neighborhoods lawsuit challenging the Clark Kerr Covenants that the City has dismissed or intends to dismiss all causes of action in the lawsuit with prejudice. The parties will be responsible for payment of their own attorneys' fees and costs. If the City terminates this Agreement pursuant to either Section 7.3 or 7.4 below, this Section 6.2 shall expressly survive such termination.

6.3 2021 LRDP, People’s Park Housing Project, and Anchor House Student Housing Projects. The City agrees not to file any lawsuits, pursue any legal challenges, or directly or indirectly support any litigation (including without limitation through funding or by encouraging any litigation by an organization) that opposes: (1) the 2021 LRDP and 2021 LRDP EIR (2) the Anchor House Student Housing Project, (3) the People’s Park Housing Project, including without limitation the permanent supportive housing component; provided, however, the City retains all rights to challenge the Anchor House Student Housing Project and the People’s Park Housing Project if the University materially changes the scope of such projects in such a way that would cause new significant impacts or substantially increase the severity of impacts previously found to be significant. For avoidance of doubt, the City’s agreement in this Section with regard to the 2021 LRDP and 2021 LRDP EIR does not apply to amendments to the 2021 LRDP adopted during the term of this Agreement that are not adopted in furtherance of the projects described in Section 6.4 about which the City agrees that it will not file any lawsuit, pursue any legal challenges, or directly or indirectly support any litigation (including without limitation through funding or by encouraging any litigation by an organization) under the California Environmental Quality Act (“CEQA”) or any other theory. For the purposes of this Section, the scope of the Anchor House Student Housing Project and the scope of the People’s Park Housing Project are the respective project descriptions set forth in the 2021 LRDP EIR presented to the Regents for certification at its regular meeting in July 2021. If the City terminates this Agreement pursuant to either Section 7.3 or 7.4 below, this Section 6.3 shall expressly survive such termination.

6.4 Future Campus Capital Projects, Off-Campus Housing Projects & Enrollment Decisions. Unless the City terminates this Agreement pursuant to the termination rights described in Section 7.3 or 7.4 below, while the Agreement is in effect, the City will not file any lawsuit, pursue any legal challenges, or directly or indirectly support any litigation (including without limitation through funding or by encouraging any litigation by an organization) under CEQA or any other theory to challenge the University’s decision to approve: (1) a campus capital project on the University main campus or the Clark Kerr Campus (“Campus Capital Project”); (2) any other campus capital project off of the University main campus that consists of more than 80 percent assignable square footage of housing (“Off-Campus Housing Project”); or (3) any enrollment decision made by the State of California or the University (“Enrollment Decision”). Unless the City terminates this Agreement pursuant to the termination rights described in Section 7.4 described below, the City will also not file any CEQA action challenging an enrollment increase.

6.5 If Sections 6.3 or 6.4 are violated, this Agreement shall immediately terminate and be of no further force or effect, and the University need not comply with the notice and opportunity to cure provisions set forth in Section 8.5. If the City contends that the University has wrongfully invoked this Section and that the Agreement remains in effect in spite of the University’s contention that this Section applies, the City may commence a lawsuit alleging that this Agreement remains in effect and may seek injunctive relief to compel the University to comply with the Agreement’s terms.

6.6 For avoidance of doubt, the phrase “pursue any legal challenges, or directly or indirectly support any litigation” as used in Sections 6.1, 6.2, 6.3 and 6.4 means a formal action by the City to commence litigation or to provide City funds or City resources to

support litigation instigated by others, and does not mean the enactment of non-binding resolutions of the City Council or City boards and commissions, the statements of individual persons whether acting in their personal or official City capacities, or submission of comments to the University or other public agencies.

7. TERMINATION

7.1 This Agreement shall become effective upon execution of the undersigned, and shall supersede, replace, and terminate the 2005 Settlement Agreement in its entirety. Any monetary payments, if any, by the University to the City that would have been due on July 1, 2021 under the 2005 Settlement Agreement are replaced in full by the payment called for on July 1, 2021, in Section 3.1 of this Agreement. This Agreement shall terminate on June 30, 2037 (“Expiration Date”), or at such earlier date as set forth in this Agreement.

7.2 Intentionally Omitted.

7.3 Upon prior written notice to the University, the City may terminate this Agreement if the City decides to file a lawsuit challenging a Campus Capital Project or Off-Campus Housing Project, as defined in Section 6.4. If the City desires to file such a lawsuit, then the City may terminate this Agreement and permanently forego entitlement to future Annual Payments under this Agreement. In the event of such termination, the City’s obligation to not challenge project approvals under Sections 6.1, 6.2 and 6.3 expressly survive such termination. In the event of such termination, in such litigation or in any litigation filed by the City regarding a specific proposed capital project that is tiered from the 2021 LRDP EIR, the City shall not seek any compensation or damages related to enrollment increases at the University so long as the University does not increase campus undergraduate enrollment by an amount that exceeds one percent annual enrollment growth, compounded annually, compared to the 2020-2021 undergraduate enrollment level, at the time such litigation is filed.

7.4 Upon prior written notice to the University, the City may terminate this Agreement (which shall also permanently terminate the University’s obligation to make Annual Payments pursuant to Section 3.1 of this Agreement) if the University decides to increase campus undergraduate enrollment by an amount that exceeds one percent annual enrollment growth, compounded annually, compared to the 2020-2021 undergraduate enrollment level. In the event of such termination, the University and the City will have no further obligations under this Agreement except that the City’s obligation to not challenge a decision to approve the Upper Hearst Project, the 2021 LRDP, the Anchor House Student Housing Project and the People’s Park Housing Project under Sections 6.1, 6.2 and 6.3 expressly survives such termination.

8. MISCELLANEOUS

8.1 Time shall be of the essence in the performance and/or satisfaction of this Agreement and/or each individual term, promise, provision, obligation, sentence, clause or paragraph thereof.

8.2 The parties intend and agree that this Agreement, and each and every provision thereof, shall be binding and enforceable upon the parties according to the terms and provisions specified herein.

8.3 This written Agreement constitutes the entire Agreement between the parties as to the matters referred to herein. Any other terms, promises, provisions, obligations or agreements by or between the parties shall be enforceable only as set forth in any other applicable written agreement.

8.4 After consultation with the undersigned counsel, each party to this Agreement represents and warrants that it authorized and has the capacity to enter into this Agreement, and that each signatory to this Agreement on its behalf is authorized and has the capacity to sign this Agreement on its behalf.

8.5 Except to the extent other remedies for default under this Agreement are otherwise specified herein, the parties' obligations under this Agreement shall be specifically enforceable, and any non-defaulting party may bring an action for specific performance or any other appropriate relief in the Superior Court, after providing written notice of breach to the breaching party and an opportunity to cure, as provided in Sections 8.5.1 to 8.5.2.

8.5.1. Except with regard to City breaches pursuant to Section 6.3 or Section 6.4, if a party to this Agreement believes another party has violated this Agreement, then the party asserting a violation shall notify the other party in writing. The notice shall state the nature of the alleged violation and any proposed corrective action or remedy.

8.5.1.1 If the University asserts that the City has improperly spent or allocated a portion of an Annual Payment pursuant to Sections 3.4, 3.5, 3.6, or 3.7, the University shall offer as one available corrective action that the City allocate an equivalent amount of City funds for eligible services the following year.

8.5.2. The notifying party and the party receiving notice shall meet within fourteen (14) calendar days after the receiving party receives the notice, unless a different date is agreed to by both parties, to attempt to resolve the issues raised by the notice. If the parties are unable to reach agreement on whether a breach has occurred and/or take corrective action or remedy the breach within forty-five (45) days after this meeting, then the parties may pursue any enforcement process permitted by this Agreement.

8.6 This Agreement is intended only for the benefit of the parties. Nothing in this Agreement, express or implied, is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

[The rest of this page has been intentionally left blank, followed by a signature page.]

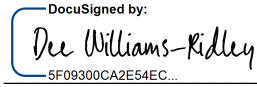
7/27/2021
_____, 2021

CITY OF BERKELEY

DocuSigned by:

161D6700133448

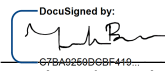
Jesse Arreguin
Mayor

DocuSigned by:

5F09300CA2E54EC...

Dee Williams-Ridley
City Manager

Approved as to form:

CITY ATTORNEY

DocuSigned by:

C7BA026090BF410

Farimah Faiz Brown
City Attorney

7/27/2021
_____, 2021

UNIVERSITY OF CALIFORNIA,
BERKELEY

DocuSigned by:

F18925E28C2C4F4

Carol T. Christ
Chancellor

DocuSigned by:

0FB9345D7C85406...

Marc Fisher
Vice Chancellor, Administration

[Signatures continued on next page]

7/27/2021, 2021

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA

Approved as to form:
GENERAL COUNSEL OF THE REGENTS
OF THE UNIVERSITY OF CALIFORNIA

DocuSigned by:

Alison Krumbein

E715E1990EBD46C

Alison Krumbein
Attorney for the University of California and
the Regents of the University of California



Office of the City Manager

CONSENT CALENDAR
April 12, 2022

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 April 12, 2022

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.

Total estimated cost of items included in this report is **\$710,000**.

<u>PROJECT</u>	<u>Fund</u>	<u>Source</u>	<u>Amount</u>
Aquatic Park Paddling and Rowing Club Parking Lot Improvements	138	Park Tax	\$410,000
Finger Dock Replacements, Phase 4	608	Marina Operations/Maint	\$300,000
Total:			\$710,000

CURRENT SITUATION AND ITS EFFECTS

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

Formal Bid Solicitations and Request for Proposals
Scheduled for Possible Issuance After Council
Approval on April 12, 2022

CONSENT CALENDAR
April 12, 2022

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

BACKGROUND

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

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on April 12, 2022
 - a. Aquatic Park Paddling and Rowing Club Parking Lot Improvements
 - b. Finger Dock Replacement, Phase 4

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

SPECIFICATI ON 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
22-11514-C	Aquatic Park Paddling and Rowing Club Parking Lot Improvements	4/13/2022	5/17/2022	Project consists of re- surfacing and re-striping, and ADA improvements to existing parking lot and pathways.	Parks Tax Fund \$410,000	138-52-545-000-0000-000- 461-663110-PRWPP15002	PRW/Capital	Jesus Espinoza 981-6708
22-11415-C	Finger Dock Replacements, Phase 4	4/13/2022	5/4/2022	Replacement and repair of finger docks at Berkeley Marina	Marina Fund \$300,000	608-52-545-000-0000-000- 473-663110- PRWWF22008	PRW/Capital	Sean Crothers 981-6744
Dept TOTAL					\$710,000			
DEPT. TOTAL					\$710,000			



Office of the City Manager

CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Abraham Roman, Fire Chief, Fire Department

Subject: Purchase Order: Eight (8) Emergency Vehicle Utility Pickup Trucks for the Berkeley Fire Department

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to waive the competitive procurement process for purchase and upfitting of emergency vehicles for the Berkeley Fire Department (Department) for eight (8) utility pickup vehicles in an amount not to exceed \$621,000.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of these vehicles will not exceed \$621,000 and includes delivery, CA tire fees, sales tax and upfitting costs. Funding for this purchase will be provided through the Vehicle Replacement Fund and the FY2022 Measure FF budget (Fund 164).

CURRENT SITUATION AND ITS EFFECTS

The Department has worked with General Services to attempt to procure vehicles through approved Cooperative Contracts since December of 2021. Due to supply chain delays related to the pandemic, these vehicles will either not be in production until an unknown date, or if in production, have forecasted lead times of 30 weeks or longer. An Invitation to Bid would not be advantageous at this time for the same two reasons.

These purchases are “*deemed by the City Manager to be an actual emergency and of urgent necessity for the preservation of life, health or property*” (City Charter Section 67a). They critical to the Departments ability to maintain and expand fire prevention activities in both the built and wildland interface areas of the city, maintain operational readiness for natural disasters and day-to-day emergency operations and advances the city’s strategic goals of creating a resilient, safe, connected, and prepared city and being a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

The Department is requesting to waive competition for purchasing and upfitting these vehicles (with lights, sirens and other emergency accessories) so that the Department can secure the vehicles immediately when they are sourced. Once sourced, the

Department needs to procure immediately from a dealership due to the low inventory of vehicles and high demand in the market.

The Department will be working to procure seven (7) pick-up trucks – either Hybrid Ford Mavericks, Ford F150s or an equivalent and one (1) pick-up truck – Ford F250 or equivalent. The actual mix of units is unknown and is dependent upon the inventory found to be available on dealer lots. Vehicles may be sourced through *one or more than one* dealer.

BACKGROUND

This situation is affecting nearly all public agencies in the market for vehicles. In order to maintain operations and expand our fleet to meet the expectations of the community around projects and programs such as wildfire prevention and emergency response these new fire vehicles are required much sooner than 30 weeks.

On March 22nd, 2019 Governor Newsom declared a state of emergency with regard to wildfire risk, “California and the western U.S. are facing an unparalleled risk of catastrophic wildfire in this new climate reality.”

On October 15th, 2019 the Berkeley City Council passed Resolution 69,147-N.S. declaring wildfire prevention and safety a stated top priority for the city of Berkeley. Much of Berkeley is in the CalFIRE Very High Fire Hazard Severity Zone. A hazard zone that is considered amongst the most vulnerable to life safety during a wildfire event in the state of California. This hazard is based on the physical conditions that create a likelihood and expected fire behavior over a 30 to 50-year period without considering short-term modifications such as fuel reduction efforts.

The Department has been working diligently to implement new programs, projects, and hire new staff following the communities support and mandate enacted through the passage of Measure FF in November of 2020. The pandemic and the resulting shortage of materials, equipment and qualified staff have made this particularly challenging. The Department continues to work with external stakeholders and internal city staff from various departments to develop creative solutions to these novel challenges.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

For every fleet purchase, Public Works staff researches the feasibility and availability of fully electric vehicles and hybrid-electric powertrains to support the City’s transition off fossil fuels. Staff research found that there are no viable electric vehicles for consideration.

In addition to the lack of available electric pickup trucks, there is no current infrastructure at the Fire Stations to support electric charging of vehicles. This purchase aligns with the 2020 Municipal Fleet Electrification assessment that recognized the lack

Purchase Order: eight (8) emergency vehicle utility pickup trucks for the Berkeley Fire Department

CONSENT CALENDAR
April 12, 2022

of commercially available and viable medium and heavy-duty vehicles. The Municipal Fleet Electrification Assessment proposed to install 51 Charging Stations with 100 chargers and upgrade all 129 vehicles in the light duty fleet to EV by 2030. To Date, PW has installed 31 charging stations and 61 chargers. In the next two years, another five charger installations are planned and contingent on an additional budget allocation of \$850,000, primarily for installation at the Corporation yard. In 2020, the fleet included 46 Hybrids and 15 plug-in hybrid-electric vehicles. Since then, the fleet has added 6 EV Sedans, 3 Hybrid SUVs for the Police Departments (PD), and 4 hybrid pickup trucks. In current FY, the city is processing orders for 11 EV Sedans, 8 PD hybrid SUVs. Public Works is on track to complete conversion of sedans and SUVs to EVs by 2028, two years ahead of the assessment's schedule. In additions, the city fleet has reduced its consumption of traditional gasoline by 33% from a high in 2000, in part due to some of the changes above and because so much of the fleet runs on renewable diesel. Twenty on of the last years vehicle replacements were either hybrid or run-on renewable diesel.

RATIONALE FOR RECOMMENDATION

The vehicles are essential vehicles utilized to allow staff to conduct critical prevention activities in the community, respond to emergencies and natural disasters both in the community and throughout the State of California.

ALTERNATIVE ACTIONS CONSIDERED

Continuing with the normal procurement process which will result in a vehicle delivery sometime after November 2022 at the earliest.

CONTACT PERSON

Abraham Roman, Fire Chief, Fire Department, 510-981-3473

Attachments:

1: Resolution

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

PURCHASE ORDER: EIGHT (8) EMERGENCY VEHICLE UTILITY PICKUP TRUCKS
FOR THE BERKELEY FIRE DEPARTMENT

WHEREAS, the Department has worked with General Services to attempt to procure vehicles through approved Cooperative Contracts since December of 2021. Due to supply chain delays related to the pandemic, these vehicles will either not be in production until an unknown date, or if in production, have forecasted lead times of 30 weeks or longer; and

WHEREAS, these purchases are “deemed by the City Manager to be an actual emergency and of urgent necessity for the preservation of life, health or property” (City Charter Section 67a). They critical to the Departments ability to maintain and expand fire prevention activities in both the built and wildland interface areas of the city, maintain operational readiness for natural disasters and day-to-day emergency operations and advances the city’s strategic goals of creating a resilient, safe, connected, and prepared city and being a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community; and

WHEREAS, this situation is affecting nearly all public agencies in the market for vehicles. In order to maintain operations and expand our fleet to meet the expectations of the community around projects and programs such as wildfire prevention and emergency response these new fire vehicles are required much sooner than 30 weeks; and

WHEREAS, the Department is requesting to waive competition for purchasing and upfitting these vehicles (with lights, sirens and other emergency accessories) so that the Department can secure the vehicles immediately when they are sourced. Once sourced, the Department needs to procure immediately from a dealership due to the low inventory of vehicles and high demand in the market; and

WHEREAS, the Department will be working to procure seven (7) pick-up trucks – either Hybrid Ford Mavericks, Ford F150s or an equivalent and one (1) pick-up truck – Ford F250 or equivalent. The actual mix of units is unknown and is dependent upon the inventory found to be available on dealer lots. Vehicles may be sourced through one or more than one dealer.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to waive the competitive procurement process for purchase and upfitting of emergency vehicles for the Berkeley Fire Department (Department) for eight (8) utility pickup vehicles in an amount not to exceed \$621,000.



Office of the City Manager

CONSENT CALENDAR
April 12, 2022

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: Mental Health Services Act Innovations - Encampment-Based Mobile Wellness Center Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to approve the Mental Health Services Act (MHSA) Innovations (INN) Encampment-based Mobile Wellness Center Project Plan and any extensions, for services, activities, and supports for unhoused individuals in Berkeley, in a total amount not to exceed \$2,802,400 over a five-year period beginning in FY2023.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of \$2,802,400 from MHSA INN revenue received from the State of California will be available for this project over a five-year period. The projected spending per each fiscal year will be as follows:

FY2023	FY2024	FY2025	FY2026	FY2027	TOTAL
\$527,350	\$566,150	\$566,150	\$566,150	\$576,600	\$2,802,400

Funding amounts will be made available in the budget each fiscal year in the ERMA GL code: 315-51-503-526-2020-000-451-636110.

CURRENT SITUATION AND ITS EFFECTS

The City receives State Mental Health Services Act (MHSA) Innovations (INN) funds on an annual basis. MHSA regulations require that MHSA INN are to be utilized on short term pilot projects that increase learning in the mental health field.

This proposed INN project will utilize \$2,802,400 of MHSA INN funds to pilot a mobile wellness center that will offer a customizable menu of activities and services (i.e. food/hygiene, service navigation, trauma-informed wellness, and community/enrichment) to Berkeley’s unhoused population. The project will be implemented through a community provider that will be chosen following a Request for Proposal (RFP) process. A key innovation of this project will be to recruit and hire

peers, or individuals with lived or adjacent experiences of homelessness, to staff the wellness center. Wellness center funds will also be utilized to compensate a cohort of individuals who reside in encampment communities who will encourage the participation among individuals, help define service needs, and support service provision at the site. Services and activities provided through this project will be responsive to the changing needs of the community. Services will be planned on a week-to-week basis, based on ongoing conversations with encampment community members. Coordination with local partners involved in current homeless outreach efforts will be central to service provision; in order to build on existing efforts and to mitigate duplicative service delivery.

Through collaboration with unhoused community members, the project will promote positive mental health outcomes for the target population through non-clinical means; such as service referrals, service linkages, and improvement of mental health wellness for participants. The plan also includes funding for an evaluation which will be conducted over the five-year timeframe to determine the effectiveness of the project.

The proposed plan was developed following robust input from individuals with lived or adjacent experiences of homelessness, community stakeholders, homeless service providers and advocates, and staff. A draft plan was initially reviewed by the Berkeley Mental Health Commission, the Berkeley MHSA Advisory Committee, and the California Mental Health Services Oversight and Accountability Commission (MHSOAC) and modified based on input received. A 30-day Public Review and Comment period was initiated from November 18 to December 17 2021, and was extended to January 26, 2022 to allow additional time for review. A Public Hearing was held on January 27 at the Mental Health Commission Meeting. Comments received during the Public Review period and/or at the Public Hearing fell into the following four areas:

- General feedback – Included comments that were both for and against the project, and general project questions.
- Utilizing Peer Providers in the project – Input received was supportive of the utilization of peers as providers, and included various questions around how peers would be trained and supported.
- Areas the project should incorporate – Included suggestions on additional areas the project should incorporate such as community First Aid classes and Harm Reduction, among others.
- Housing – Feedback was specific to housing availability, the need for additional housing, and the Section 8 Waiting List for housing.

Representatives from several community-based organizations also expressed support for the project and interest in the potential of collaborative efforts. Public comments are outlined in the Appendix A of the attached INN Plan and will be utilized to inform project implementation and/or future MHSA Plans and Updates.

Following the Public Hearing, the Mental Health Commission passed the following motion:

M/S/C (Fine, Jones) Recommend that the Berkeley City Council to approve the Mental Health Service Act Homeless Wellness Encampment project and send it to the Department of Health Care Services and the Oversight and Accountability Commission for the State of California for MHSA funding. Ayes: cheema, Escarcega, Fine, Jones, Prichett; Noes: None; Abstentions: Opton; Absent: Taplin.

If this project is approved by the City Council, it will be reviewed by the Mental Health Oversight and Accountability Commission for final State approval.

BACKGROUND

State of California MHSA funds are provided to mental health jurisdictions to transform the mental health system through five funding components. The INN component is comprised of annually recurring funds for short-term pilot projects that contribute new learning in the mental health field. The MHSA program requires jurisdictions receiving the funds to create a stakeholder-informed, locally and state approved plan. The state required steps to obtaining an approved plan include: community program planning; the development of a draft plan; the initiation of a 30 Day public Review and Comment period; a Public Hearing at a Mental Health Commission meeting; and submissions to City Council and the State Mental Health Oversight and Accountability Commission for plan approvals.

Community program planning and the development of the plan was conducted by a local consultant, Resource Development Associates (RDA), who was hired by the Mental Health Division following a competitive bidprocess. Over a five-month period, robust input was collected from individuals with lived or adjacent experiences of homelessness, community stakeholders, and staff through in-person and online surveys, one-on-one interviews, and virtual community meetings. Following the series of community engagement activities, multiple working sessions were facilitated with local homeless outreach providers and advocates, and additional internal review by BMH staff and city leadership further refined the project proposal.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

State legislation requires mental health jurisdictions to create plans for INN funds and to obtain local approval on all MHSA Plans and Plan Updates. Approval of the MHSA INN Plan will fulfill state requirements, and is necessary in order to allocate INN funds as they were intended to be utilized. As homelessness in Berkeley disproportionately affects people of color, and in particular Black individuals and families, this project will also support department goals connected to increasing health equity.

ALTERNATIVE ACTIONS CONSIDERED

As obtaining approval on INN plans by the local governing body is a state requirement, no other alternative actions were considered. The City could choose not to implement this project, which would not be recommended, as it would limit access to innovative wellness activities, services and supports for the unhoused population

CONTACT PERSON

Karen Klatt, Community Services Specialist III, HHCS, (510) 981-7644

Attachments:

1: Resolution

Exhibit A: MHSA INN Encampment-Based Mobile Wellness Center Project

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

MENTAL HEALTH SERVICES ACT (MHSA) INNOVATIONS (INN) ENCAMPMENT-BASED MOBILE WELLNESS CENTER PROJECT

WHEREAS, the City's Department of Health, Housing, and Community Services, Mental Health Division, currently receives Mental Health Services Act (MHSA) Innovations (INN) funds on an annual basis for short term projects that will increase learning in the mental health field through strategies that will either improve the access, quality, or outcomes of services, and/or promote community collaborations; and

WHEREAS, in order to utilize MHSA INN funds, the Mental Health Division must have a stakeholder informed, local and State approved plan in place; and

WHEREAS, the state required steps to obtaining an approved plan include: Community program planning; the development of a draft plan; the initiation of a 30-day public Review and Comment period; a Public Hearing at a Mental Health Commission meeting; and submissions to City Council and the State Mental Health Oversight and Accountability Commission for plan approvals; and

WHEREAS, community program planning and the development of the plan was conducted by a local consultant, Resource Development Associates (RDA), who was hired by the Mental Health Division following a competitive bid process; and

WHEREAS, over a five-month period, robust input was collected from individuals with lived or adjacent experiences of homelessness, community stakeholders, and staff through in-person and online surveys, one-on-one interviews, and virtual community meetings; and

WHEREAS, following the series of community engagement activities, multiple working sessions were facilitated with local homeless outreach providers and advocates, and additional internal review by BMH staff and city leadership further refined the project proposal; and

WHEREAS, a draft plan was developed to allocate \$2,802,400 of INN funds to be utilized over a five-year period, to implement a Mobile Wellness Center for services, activities, and supports for the unhoused population in Berkeley; and

WHEREAS, the Draft Plan was initially reviewed by the Berkeley Mental Health Commission, the MHSA Advisory Committee, and the California Mental Health Services Oversight and Accountability Commission (MHSOAC), and was modified based on input received; and

WHEREAS, A Public Review and Comment period was initiated from November 18 through January 26, followed by a Public Hearing on January 27 at the Mental Health Commission Meeting; and

April 12, 2022

WHEREAS, funding for this contract will be available each fiscal year from FY2023 – FY2027 through ERMA GL Code: 315-51-503-526-2020-000-451-636110.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to approve the MHSA INN Encampment-based Mobile Wellness Center Project Plan and any extensions, for services, activities and supports for homeless individuals in Berkeley, in a total amount not to exceed \$2,802,400 over a five-year period beginning in FY2023.

Exhibit:

A: MHSA INN Encampment-Based Mobile Wellness Center Project

City of Berkeley MHSa Innovation Project Plan

Encampment-based Mobile Wellness Center

City of Berkeley Mental Health Division

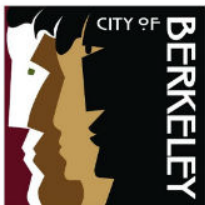




Table of Contents

Section 1: Innovation Requirement Categories 3

 General Requirement:..... 3

 Primary Purpose: 3

Section 2: Project Overview 4

 Primary Problem 4

 Proposed Project: Encampment-based Mobile Wellness Center 4

 Wellness Center Service Provision 6

 Wellness Center Service Location 7

 Wellness Center Service Team 8

 Research on Proposed Innovation Project 9

 Learning Goals 11

Section 3: Regulatory Requirements 12

 Contracting 12

 Community Program Planning 12

 MHSa General Standards 14

 Project Sustainability 15

 Communication & Dissemination Plan..... 15

 Timeline 16

Section 4: INN Project Budget & Source of Expenditures 16

 Budget Narrative 16

 Budget by Fiscal Year 18

Appendix A.....1A



City Name: City of Berkeley

Project Title: Encampment-based mobile wellness center for Berkeley's unhoused community members

Total Amount Requested: \$2,802,400

Project Duration: 5 years

Summary Statement: Pilot an encampment-based mobile wellness center that offers a customizable menu of activities and services (i.e. food/hygiene, service navigation, trauma-informed wellness, and community/enrichment) and is staffed by a team of peers that can offer culturally-specific services, including individuals from encampment communities in Berkeley.

Section 1: Innovation Requirement Categories

General Requirement:

An Innovative Project must be defined by one of the following general criteria. The proposed project:

- Introduces a new practice or approach to the overall mental health system, including, but not limited to, prevention and early intervention
- Makes a change to an existing practice in the field of mental health, including but not limited to, application to a different population
- Applies a promising community driven practice or approach that has been successful in a non-mental health context or setting to the mental health system
- Supports participation in a housing program designed to stabilize a person's living situation while also providing supportive services onsite

Primary Purpose:

An Innovative Project must have a primary purpose that is developed and evaluated in relation to the chosen general requirement. The proposed project:

- Increases access to mental health services to underserved groups
- Increases the quality of mental health services, including measured outcomes
- Promotes interagency and community collaboration related to Mental Health Services or supports or outcomes
- Increases access to mental health services, including but not limited to, services provided through permanent supportive housing



Section 2: Project Overview

Primary Problem

What primary problem or challenge are you trying to address? Please provide a brief narrative summary of the challenge or problem that you have identified and why it is important to solve for your community. Describe what led to the development of the idea for your INN project and the reasons that you have prioritized this project over alternative challenges identified in your county.

Approximately 1,100 unhoused individuals live in Berkeley, including both sheltered and unsheltered environments.¹ This represents 1% of Berkeley's total population. Not only is homelessness prevalent in Berkeley, most of the time it is also long-term: of the 1,100, 64% reported that their current episode of homelessness has lasted one year or more. Across the three most recent citywide point-in-time counts (2015-2019), unhoused Berkeley residents consistently identify supportive services, such as benefits/income assistance, rental assistance, or mental health services, as interventions that may have prevented homelessness. These findings indicate gaps in service accessibility, availability, and/or awareness when homelessness prevention is still possible. Moreover, as much as supportive services are needed upstream before homelessness occurs, they grow even more vital when an individual or family becomes unhoused. In recent years, including throughout the six-month long community input process that resulted in this project proposal, Berkeley residents consistently name homeless services as a top citywide priority.

Though both direct and supportive services for the homeless population are urgently needed and increasingly funded, take-up among unhoused community members in Berkeley remains low for certain services, particularly mental health services. Berkeley Mental Health (BMH) and the City of Berkeley have funded a wide variety of outreach teams to try and connect unhoused individuals to mental health services, and though these efforts have had some success, there remain a large set of individuals who indicate that they are uninterested in services despite appearing to have mental health conditions. Successfully supporting mental health and wellness for individuals who are not connecting to mental health services remains a gap and a challenge in the service landscape. To address this challenge, this project proposes an innovation at the nexus of **service provision** (by focusing on services that unhoused community members define as supportive of mental health, rather than explicitly and/or exclusively clinical services), **service location** (by bringing services onsite to encampments in Berkeley), and **service providers** (by employing individuals with lived or adjacent experience to homelessness, including individuals from encampment communities in Berkeley).

Proposed Project: Encampment-based Mobile Wellness Center

Describe the INN Project you are proposing. Include sufficient details that ensures the identified problem and potential solutions are clear. In this section, you may wish to identify how you plan to implement the project, the relevant participants/roles within the project, what participants will typically experience, and any other key activities associated with development and implementation.

For its Innovation project, BMH is proposing an encampment-based mobile wellness center that would provide a menu of customizable services to Berkeley's unhoused population. The proposed project was developed using input obtained from community members with lived or adjacent experiences of homelessness during the community program planning (CPP) process. Through in-person and online surveys, 1:1 interviews and virtual community meetings, BMH collected robust input during the CPP process.

¹ https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf



The proposed innovation is embedding a mobile wellness center at encampment locations, with peer-led, customizable services that are supported by members of encampment communities in Berkeley. This combination is an innovative delivery model for services that promote health and wellness, while also being designed for those experiencing homelessness in our communities.

The proposed project adapts existing homeless outreach practices by operationalizing community input in the following ways.

- **Service Provision:** Rather than operating on a blanket assumption that clinical and/or psychiatric services should be prioritized, the wellness center project focuses on services identified by unhoused community members as most supportive of mental wellness. These are not traditional clinical mental health services.
- **Service Location:** The wellness center will be a mobile service center stationed at locations where homeless individuals are staying in Berkeley. By hosting services onsite at encampments and other locations where homeless individuals are staying, outreach transforms from outside-in to inside-out, from sporadic to ongoing, and from disconnected to integrated.
- **Service Providers:** Wellness center staff, including the program manager and peer providers, will include individuals with lived or adjacent experience of homelessness and/or recovery. In addition, the wellness center program will use funds to compensate individuals from encampments to connect consumers to services, incentivize participation among existing and potential consumers, and engage in day-to-day program planning and operations.

While many homeless outreach and/or mobile engagement programs employ peers, and others co-locate services with other agency (i.e. educational) or institutional (i.e. correctional) providers, no program adapts homeless outreach services in the above ways.

As the wellness center will **not** explicitly focus on clinical and/or psychiatric services, the project does not aim to directly increase access to traditional mental health services, nor improve the quality of traditional mental health service provision. Rather, it aims to leverage collaboration with unhoused community members to promote mental health outcomes for the target population through non-clinical means, which may include increases in service referrals, service linkages, and improvement of mental health wellness for participants. Figure 1 below summarizes key components of the project proposal.

Figure 1. Innovative Components of Wellness Center Project





Wellness Center Service Provision

“It’s not a psychiatrist they need, it’s not a behavioral modification they need; what they need is the basics of life – the ability to eat, wash themselves, read a book, meditate, drink water, take a walk, be around the people who you want to be around, go to the library. If those things were guaranteed, it would support mental health and head off the cases where people develop more deeply entrenched conditions, where they start evidencing behaviors that people assume are intrinsic – not realizing [these behaviors] are from all the times when they don’t know where they will be eating, will they have to eat out of a trash can, if when they sleep will someone kick them in the head.”

- Berkeley community member experiencing homelessness

The wellness center will deliver onsite services to Berkeley community members who are unhoused. Proposed services are informed directly from community input, with an emphasis on input from community members with lived experiences of homelessness during the CPP process. While some input did call for outreach that included therapeutic services, much of the input called for supportive services more generally. Table 1 lists the wellness center’s proposed service areas:

Table 1. Proposed Service Areas & Service Participants

	Food & Hygiene Services	Benefits Enrollment & Service Navigation	Trauma-Informed Wellness Services	Enrichment & Community Services
Proposed Service Areas	<ul style="list-style-type: none"> - Mobile showers - Hand-washing - Laundry tokens and/or laundry services - Snacks, water - Toiletries & personal hygiene products 	<ul style="list-style-type: none"> - Benefits enrollment (i.e. Medi-Cal, Medicaid, veterans’ services, HUD) - ID/document recovery - Appointment reminders - Transit assistance 	<ul style="list-style-type: none"> - Medication counseling - Meditation & mindfulness - Massage therapy - Music therapy - Stress management counseling - Peer-led wellness services 	<ul style="list-style-type: none"> - Day storage - Community enrichment events - Movement & exercise classes - Guided walks and nature-based enrichment - Community library
Service Estimates	<p><i>BMH estimates that up to 250 individuals will receive food/hygiene services each year, with 5-10% connecting to outside mental health services via this service area.</i></p>	<p><i>BMH estimates that up to 150 individuals will receive benefits/navigation services each year, with 5-10% connecting to outside mental health services via this service area.</i></p>	<p><i>BMH estimates that up to 150 individuals will receive wellness services each year, with 5-10% connecting to outside mental health services via this service area.</i></p>	<p><i>BMH estimates that up to 150 individuals will receive enrichment services each year, with 5-10% connecting to outside mental health services via this service area.</i></p>

Many of the above food, hygiene, and navigation services are comparable to those commonly provided by homeless outreach treatment teams and/or mobile engagement teams. However, in the mobile wellness center environment, service provision will be directed by the changing needs of the community,



with week-to-week service provision being planned via ongoing conversations with members of encampment communities. For example, while psychiatric and/or therapeutic services are not listed above due both to low take-up of these services among members of the unhoused population in Berkeley historically and a minority of community input requesting these services, community needs may shift, and wellness center staff will adapt service provision as needed. The customizable nature of service provision will be made possible through the provider itself, which will be a local organization with deep expertise across proposed service areas.

Coordination with local partners involved in current homeless outreach efforts will be central to service provision, in order to both build on existing efforts and to mitigate duplicative service delivery. For example, the wellness center program might partner with a local food pantry to coordinate meal delivery efforts to the encampment population. Input from members of the encampment community, those with lived experience of homelessness, and the service provider will also inform service provision in a fluid and iterative way, based on identified needs. This was a central theme of the input received from community members and individuals with lived experience during the CPP process – that services should support wellness in creative ways, without assuming that psychiatric or clinical intervention is appropriate for everyone. Community members shared that service delivery should be adaptive and offer a diverse menu of services.

Target Population. BMH estimates that the wellness center will serve up to 250 unique individuals each year, or roughly 25% of Berkeley’s current unhoused population. This estimate is based on annual service data from organizations providing outreach services to the unhoused population in Berkeley. The service estimates vary among service areas, as food/supplies represent a majority of services currently provided, compared to case management or other services. For this reason, the above estimates use the best available data, but still may be an over count of food/hygiene services and an undercount of other service areas.

BMH expects that individuals served by the wellness center will in large part reflect the demographics of the unhoused population in Berkeley. As described by the most recent point-in-time count conducted in 2019, the target population is predominantly male (66%), non-Hispanic/Latinx (88%), Black/African American (57%), single (vs. families), and does not identify as LGBTQ+ (86%). Around half (48%) of the target population is local and has lived in the community for 10 years or more.

The target population also has significant medical needs: 41% reported a disabling health condition, with 28% reporting chronic health problems. Just under one-half (42%) reported a psychiatric or emotional condition, 32% reported a substance use disorder, and 31% reported PTSD. The proposed design of the wellness center is responsive to these needs in regards to both the *types* of services provided as well as *how* those services are delivered.

Wellness Center Service Location

When the plan was initially developed, the City was planning to have a sanctioned encampment, and has since determined it could not find a place for one, so the mobile wellness center will go to multiple encampment sites, or other locations where unhoused individuals are staying. This means that it can provide onsite services where needed, can move where and if the community it is serving changes locations, but will have a consistent, visible presence wherever homeless individuals are staying. The plan is for the locations of service to remain flexible, as the location of encampments and other locations where homeless individuals are staying is fluid and changes on a regular basis.

The location of the proposed wellness center is one way in which it is intended to feel a part of the community it is serving. The other way this project aims to deliver services from the inside-out rather than



the outside-in is by bringing peers and individuals with lived experience, including individuals residing in the encampment, onboard the wellness center team.

Wellness Center Service Team

A key innovation of this project is that it will recruit and hire peers, or individuals with lived or adjacent experiences of homelessness, to staff the wellness center. In addition, the wellness center will compensate individuals who reside in encampment communities in Berkeley to support wellness center services in a separate capacity.

Since a community-based organization (CBO) will be implementing this project (not BMH), the CBO will hire the positions that will staff the mobile wellness center and will recruit and provide stipends to the individuals from encampment communities in Berkeley who are brought on to support wellness center activities.



While position titles will be adapted and finalized by the CBO during program launch planning, broadly, the wellness center team will consist of a **program director, program manager, peer providers, and members of the encampment community**. For the purposes of this project plan, individuals from Berkeley encampment communities who are brought on to work with the wellness center team are referred to as **partners from encampment communities**. This role, modeled on the Community Health Worker role as defined by the California Healthcare Foundation, will have the following core competencies and key duties:²

- **Cultural Competency.** Acting as a liaison between the encampment community and the wellness center, partners from encampment communities should represent and be able to communicate the needs of the encampment community. Their input and feedback should inform ongoing processes and programming as part of the wellness center project.
- **Information & Resource-Sharing.** Care for and support consumers by doing things such as sharing information regarding resources, documenting wellness center and service-specific utilization, and supporting the care and education provided by wellness center staff.
- **Social Supports.** Provide social support by being available to listen and talk through problems that consumers are experiencing, and referring them to the appropriate wellness center staff member(s). Onsite referrals from encampment community partners are meant to facilitate introductions and trust-building with wellness center staff.
- **Self-Care Coaching.** Educate consumers about self-care and help them learn self-care skills.

Partners from encampment communities will help encourage participation at the wellness center, help define service needs, and support service provision at the site. It will be up to the CBO implementing this project to define the criteria for this role. This proposal is therefore purposefully not prescriptive in defining eligibility. BMH would like to give CBO bidders an opportunity to leverage their insight and expertise in their proposals to define criteria for recruitment, as well as the training plan for this role.

BMH will defer to bidders to define the number and duration of cohorts of encampment community partners. However, proposals must include a plan for providing stipends and guaranteeing compensation for their work at the center.

² California Healthcare Foundation. "Building peer support programs to manage chronic disease: seven models for success." Published Dec 2006. <https://www.chcf.org/wp-content/uploads/2017/12/PDF-BuildingPeerSupportPrograms.pdf>



Full-time, onsite **peer providers** will coordinate and deliver wellness center services. This is a separate role from the partners from encampment communities. The latter are members of an encampment community who will be stipended, while peer providers will be FTE staff hired by the CBO. Peer providers will be trained in trauma-informed best practices for service delivery. Peer providers will have the following key duties, modeled on best practices set by the National Health Care for the Homeless Council, or NHCHC (these key duties are drawn from community input and cross-walked to NHCHC practices):³

- **Outreach/Enrollment.** Assist with enrollment into housing, nutrition, and health insurance programs and entitlements; provide culturally competent enrollment, health education, and outreach services; conduct motivational interviewing and rapport building with potential clients using empowering language and taking the lead from the client; offer friendly and helpful advice based on problems and concerns identified by the client; offer day-to-day survival tips and kits such as first aid, clothing, water, hand sanitizer, etc.
- **Navigation.** Help clients fill out and file paperwork for Medicaid, Medicare, Veterans Services, HUD, local housing authority, prescription coverage, and any other services; follow-up and track individuals experiencing homelessness and/or recently housed; schedule and remind clients of appointments and provide transportation if necessary; facilitate client empowerment to fully engage with all members of their health care team; accompany consumers on medical visits as a source of support; help consumers access needed supports for transitions such as attaining housing.
- **Advocacy/Education.** Develop and utilize connections with community service representatives to help clients get what they need; work with partners from the encampment community to update provider teams about what issues consumers are facing; collaborate with partners from the encampment community in program planning for the wellness center.

BMH expects proposals to include a robust training plan for wellness center staff, including a component for supervision and continuous performance evaluation. Depending on the proposal and the capacity of the service provider, this may involve subcontracting with organizations to provide training services. Stakeholder input emphasized the need for training and oversight, particularly to provide clear pathways for peer-to-peer team-building and conflict resolution. BMH would like to give bidders an opportunity to leverage their expertise to propose training components and performance evaluation modalities, rather than be prescriptive in this proposal as to what that will or should look like.

Finally, a **community of practice** comprised of program staff, consumers, community advocates, and city leaders will meet quarterly to create a learning space to exchange insights and tackle challenges related to the wellness center project. This community of practice may take the form of a formal advisory group or an informal relationship-building space. Following project approval and during the initial project development phase, the provider will work with stakeholders and community members, including unhoused Berkeley residents and homeless outreach staff, to collect input on how they would feel best supported by the community of practice.

Research on Proposed Innovation Project

Describe the efforts made to investigate existing models or approaches close to what you're proposing. Have you identified gaps in the literature or existing practice that your project would seek to address? Please provide citations and links to where you have gathered this information.

³ Community Health Workers in Health Care for the Homeless: A Guide for Administrators. National Health Care for the Homeless Council, June 2011. <https://nhchc.org/>



Wellness Centers. Many homeless-serving agencies and community-based organizations in local jurisdictions have implemented wellness centers to deliver a multitude of services. Some localities, such as Victorville in San Bernardino County, are developing large wellness center campuses that will offer medical, recreational, and supportive services to individuals experiencing homelessness.⁴ Wellness center campuses are innovative, complex projects with high start-up and operational costs, with service delivery occurring in a brick-and-mortar location. Other cities, such as Los Angeles, provide multiple smaller wellness centers as service access points for the unhoused population.⁵

These examples of brick-and-mortar wellness centers largely operate during weekday business hours, and none of them are located within an encampment itself (although Los Angeles does have centers adjacent to Skid Row). BMH seeks to further innovate on the existing brick-and-mortar wellness center model by proposing a smaller-scale, mobile model that is able to go to multiple encampments.

Mobile Approaches in Healthcare for the Homeless. Generally, mobile models used in healthcare for the homeless (HCH) programs are limited to mobile health clinics, and BMH did not identify current or ongoing examples of mobile wellness centers that are co-located with existing encampments. Mobile health clinics embedded within a local or regional HCH service landscape, on the other hand, are increasingly common and well-researched, with thousands of active mobile health clinics nationwide.⁶ One such example is WeHOPE in East Palo Alto, which has a fleet of vehicles delivering mobile homeless services, including onsite hygiene services.⁷ The learning goals described in the following section are adapted in part from outcomes often seen in mobile health clinics. In this way, BMH looks to build on emergent learnings from the mobile HCH service landscape.

Peer-led Service Delivery. Integrating peer-led service delivery into mental health, substance use disorder, or homeless outreach programs is an emergent best practice across the HCH service landscape. Peer providers may already be credentialed, or the hiring organization may provide training as part of onboarding or ongoing professional development. In other cases, peers may not receive extensive formal training, or they may be volunteers. Regardless of the specifics of the position or training, a growing body of evidence suggests that the non-hierarchical, reciprocal relationship created between a peer provider and a consumer leads to better health outcomes.⁸

Wellness centers may be staffed by peers, such as the RAMS Inc. Peer Wellness Center in San Francisco.⁹ These wellness centers provide many of the same services that BMH is proposing to include in its wellness center. However, though many peer-staffed wellness centers do provide targeted services for people experiencing homelessness, BMH could not find examples of peer teams that formally include individuals from encampment communities on the team.

⁴<https://www.victorvilleca.gov/services/homeless-outreach/homeless-land-page/city-iniatives/wellness-recuperative-care-center>

⁵ <https://www.thepeopleconcern.org/homeless-services/>

⁶ Yu, Stephanie W Y et al. "The scope and impact of mobile health clinics in the United States: a literature review." International journal for equity in health vol. 16,1 178. Published Oct 2017.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5629787/>

⁷ <https://www.wehope.org/mobile>

⁸ California Healthcare Foundation. "Building peer support programs to manage chronic disease: seven models for success." Published Dec 2006. <https://www.chcf.org/wp-content/uploads/2017/12/PDF-BuildingPeerSupportPrograms.pdf>

⁹ <https://ramsinc.org/peer-based/>



Learning Goals

What is it that you want to learn or better understand over the course of the INN Project? How do your learning goals relate to the key elements/approaches that are new, changed or adapted in your project?

This project proposes innovations related to the method (peer- and community member-led) and location (encampment-based) of HCH service delivery. The following learning goals reflect what the project seeks to better understand in terms of the potential impacts of these innovations on consumer outcomes: Does providing wellness services onsite, in an encampment environment, make a difference in terms of consumers’ self-reported overall health and mental health, and their take-up of other health and mental health services? Does it matter that individuals from the encampment community are brought on-board and compensated to help deliver these services?

These questions are captured in the learning goals in Table 2 below. Target outcomes are listed for each learning goal, as well as the data that will be collected to measure progress toward these outcomes. While the specific data collection modalities may change, particularly as service providers transition from virtual back to in-person services, the survey and other tools listed are exemplars intended to reflect the key outcomes supporting each learning goal.

For each of these learning goals, the data collected by the evaluation team at pre-launch or at program launch will comprise the baseline levels for future evaluation reporting. From a program evaluation perspective, because there is not currently reliable data collection and reporting infrastructure to pull historical data from and provide to the evaluation team, the data collected by the evaluation team during its first data collection cycle will comprise the baseline for the learning goals. This will also provide an opportunity for the evaluation team to develop and calibrate mixed methods data collection tools.

Table 2. Proposed Project Learning Goals

	LG 1. Do onsite wellness center services have an impact on consumers’ overall and/or mental health?	LG 2. Do onsite wellness center services increase take-up of mental health services more broadly among consumers?	LG 3. How does having individuals from the community help provide services shape delivery, including satisfaction with services?
What do we want to learn?	#/% self-reported changes in overall health (+/-) #/% self-reported changes in mental health (+/-)	New referrals: # of new service referrals #/% linkages to services #/% service engagement Existing referrals: Δ in service engagement for wellness center consumers with prior service referrals	% satisfaction with wellness center services #/% new vs. returning consumers #/% of consumers recruited to wellness center services via partners from the encampment community Δ in service take-up between wellness center consumers & baseline service take-up



How will we learn it?	<ul style="list-style-type: none"> ✓ Pre/post surveys measuring consumers' self-reported overall health and mental health ✓ Focus groups with wellness center consumers ✓ Onsite observations at wellness center location(s) 	<ul style="list-style-type: none"> ✓ Interviews with wellness center consumers ✓ Interviews with wellness center staff ✓ Interviews with community-based service providers ✓ Program-level service referral/linkage data 	<ul style="list-style-type: none"> ✓ Focus groups with wellness center consumers ✓ Focus groups with wellness center staff ✓ Pre/post satisfaction surveys for wellness center consumers ✓ Onsite observations at wellness center location(s)
-----------------------	--	--	---

These learning goals, along with the proposed key outcomes and data collection modalities, reflect the intention of the project evaluation to include robust and meaningful stakeholder participation.

Section 3: Regulatory Requirements

Contracting

If you expect to contract out the INN project and/or project evaluation, what project resources will be applied to managing the County's relationship to the contractor(s)? How will the County ensure quality as well as regulatory compliance in these contracted relationships?

BMH will follow all City of Berkeley contracting procedures to implement a Request for Proposal (RFP) process and execute a contract with the chosen vendor. BMH staff will monitor the contractor's performance to ensure quality and regulatory compliance.

Additionally, in terms of ensuring quality in service delivery, as part of the RFP process BMH will require bidders to demonstrate a clear understanding of current homeless outreach efforts that are underway in the community, and furnish an implementation plan that describes how this project will interface with existing efforts and coordinate with other service providers in the community.

Community Program Planning

Please describe the County's Community Program Planning process for the Innovative Project, encompassing inclusion of stakeholders, representatives of unserved or under-served populations, and individuals who reflect the cultural, ethnic and racial diversity of the County's community.

BMH conducted a series of virtual community outreach events during October – February 2020-21 to meet Community Program Planning (CPP) requirements as part of its MHS Innovation project development process.

With a core objective of identifying a project to support the mental health needs of unhoused community members, BMH implemented a two-tiered CPP process: first, BMH solicited feedback from individuals with lived experience as well as from community members more broadly; then, BMH engaged providers and advocates working in mental health and homelessness to review and further iterate community input.

As part of the initial CPP process, BMH conducted the following community outreach activities:

- **1:1 phone interviews with individuals with lived experiences of homelessness**
- **Paper surveys**, administered by outreach staff, **for individuals with lived experience of homelessness** who were unable to complete an interview
- **Virtual town hall**, open to all Berkeley community members



- **Online community survey**, open to all Berkeley community members

Following this series of community engagement activities, BMH facilitated multiple working sessions with local homeless outreach providers and advocates. The qualitative data from the initial CPP activities, together with the perspectives of local stakeholders with expertise in housing and homelessness, yielded a rich set of prospective project proposals. Additional internal review by BMH staff and city leadership further refined the Innovation project proposal.

Once the initial draft plan was created, it was reviewed by the Berkeley Mental Health Commission, the MHSA Advisory Committee, and the California Mental Health Services Oversight and Accountability Commission (MHSOAC). The plan was then modified based on input received.

Figure 2 below shows the CPP process timeline for the Innovation project plan.

Figure 2. Community Program Planning Timeline



Due to the virtual nature of the Innovation CPP meetings, BMH was unable to obtain consistent demographic data for CPP process participants other than for paper survey respondents (paper surveys were administered to individuals experiencing homelessness).

Among paper survey respondents, 33% of respondents identify as Black or African American and 33% identify as White. Other race/ethnicity response categories are suppressed due to n<10. In terms of gender identity, 71% of respondents identify as men. Other gender identity categories are suppressed due to n<10. While all age categories are suppressed due to n<10, ages of survey respondents were equally distributed across age groups with the exception of lower response rates among respondents aged 18-29.

The draft plan was posted on the City of Berkeley’s MHSA webpage and a 30 Day Public Review on the plan was held from November 18 to December 17. Notifications of the 30 Day Public Review were emailed and mailed to community members, MHSA Stakeholders, City Commissioners and City of Berkeley staff. As the 30 Day Public Review period was held near the holidays, BMH decided to extend the timeframe to provide input until January 26, 2022. During this period a Press Release on the Draft Plan was initiated to provide broad awareness of the Draft Plan. A Public Hearing on the Draft Plan was held at the Mental Health Commission Meeting on January 27, 2022. Input received during either the public review period or the public hearing fell into the the following four categories:



- General feedback – Included comments that were both for and against the project, and general project questions.
- Utilizing Peer Providers in the project – Input received was supportive of the utilization of peers as providers, and included various questions around how peers would be trained and supported.
- Areas the project should incorporate – Included suggestions on additional areas the project should incorporate such as community First Aid classes and Harm Reduction, among others.
- Housing – Feedback was specific to housing availability, the need for additional housing, and the Section 8 Waiting List for housing.

Representatives from several community-based organizations also expressed support for the project and interest in the potential of collaborative efforts. Public comments are outlined in the Appendix A of this INN Plan and will be utilized to inform project implementation and/or future MHSa Plans and Updates.

Following the Public Hearing, the Mental Health Commission passed the following motion:

M/S/C (Fine, Jones) Recommend that the Berkeley City Council to approve the Mental Health Service Act Homeless Wellness Encampment project and send it to the Department of Health Care Services and the Oversight and Accountability Commission for the State of California for MHSa funding. Ayes: cheema, Escarcega, Fine, Jones, Prichett; Noes: None; Abstentions: Opton; Absent: Taplin.

MHSa General Standards

Using specific examples, briefly describe how your INN Project reflects, and is consistent with, all potentially applicable MHSa General Standards listed below. If one or more general standards could not be applied to your INN Project, please explain why.

- **Community Collaboration.** This project was informed by an extensive community collaboration process. The final project idea was generated directly as a result of the two-tiered CPP process described above.
- **Cultural Competency.** The CPP process centered the perspectives of individuals with lived experiences of homelessness. A result of this is the main framing of this project; namely, that it does not purport to offer explicitly clinical interventions at an encampment site. Community members with lived experience shared nuanced perspectives, many of which called for more accessible opportunities for wellness opportunities and social interaction more holistically. This is what the wellness center proposes – to make services immediately accessible, and to make the center a “generalist” health/wellness endeavor, with a customizable menu of service offerings. Moreover, ongoing program planning will be informed via collaboration between the provider team and unhoused community members, ensuring the services remain relevant and culturally competent.
- **Client & Family-Driven.** Both phases of the CPP process included perspectives from individuals with lived or adjacent experiences of homelessness. These perspectives drove the project planning process and defined the wellness center as a viable project option. Moving from project planning to implementation, the wellness center will remain client-driven because consumer input will inform program planning and service delivery.
- **Wellness, Recovery, and Resilience-Focused.** The proposed project is responsive to the tenets of wellness, recovery, and resiliency. In particular, the learning goals reflect a commitment to long-term monitoring and evaluation of consumer outcomes related to mental health and wellness, as well as service engagement rates (including for recovery services and behavioral health services).



City of Berkeley Mental Health Division

MHSA Innovation Project Plan

Moreover, one of the key ways in which the project aims to support consumer outcomes is by operating as a consumer-led initiative.

- **Integrated Service Experience for Clients and Families.** The encampment-based wellness center will effectively function as a possible entry-point to more specialized services, whether through onsite specialty service providers or via service referrals. This framework means that clients will have the opportunity to access a variety of services coordinated by or in tandem with the wellness center.

Project Sustainability

Briefly describe how the County will decide whether it will continue with the INN project in its entirety, or keep particular elements of the INN project without utilizing INN Funds following project completion.

Through the local evaluation process, community of practice meetings, and conversations with stakeholders and city leadership, BMH will regularly evaluate the wellness center project to ensure that the components that are successful, or the entire project, can continue. Funding for continuation could come from a variety of sources: the City of Berkeley General Fund, MHSA funds, and/or existing special taxes in Berkeley that fund homeless services.

Communication & Dissemination Plan

Describe how you plan to communicate results, newly demonstrated successful practices, and lessons learned from your INN Project. Please list up to 5 keywords or phrases for this project that someone interested in your project might use to find it in a search.

To support community-wide dissemination of project information and lessons learned, BMH will engage stakeholders via online public forums as well as virtual and in-person community meetings. These venues have successfully been used with previous MHSA Innovation projects, and feedback from stakeholders during the CPP process supporting this project largely reflected that community members appreciate diverse opportunities for input and discussion.

If a member of the community is interested in learning more about the project, they can use the following keywords in an Internet search:

- **Keywords:** City of Berkeley MHSA, Berkeley mental health projects, Berkeley wellness center, Berkeley encampment wellness center, Berkeley homelessness outreach



Timeline

Specify the expected start date and end date of your INN Project, the total timeframe (duration) of the project, and include a project timeline that specifies key activities, milestones, and deliverables—by quarter.

Program Year (FY2022-23 thru FY2026-27) Quarter	FY 22-23				FY 23-24				FY 24-25				FY 25-26				FY 26-27			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Phase 1. Project Launch																				
1.1 RFP & Contract Execution, Service Provider																				
1.2 RFP & Contract Execution, Local Evaluator																				
1.3 Wellness Center Procurement																				
1.4 Launch of Community of Practice																				
1.5 Community Outreach & Project Marketing																				
1.6 Recruitment of Partners from Encampment Community																				
Phase 2. Wellness Center Implementation																				
2.1 Community Practice Quarterly Meeting																				
2.2 Onboarding for Peer Providers																				
2.3 Onboarding for Peers from Encampment Community																				
2.4 Wellness Center Staff Training																				
Phase 3. Local INN Project Evaluation																				
3.1 Evaluation Plan Finalization																				
3.2 Data Collection and Tool Development																				
3.3 Baseline (Pre) Data Collection																				
3.4 Interim Data Collection																				
3.5 Interim Evaluation Reporting																				
3.6 Final (Post) Data Collection																				
3.7 Evaluation Report Development																				
3.8 Evaluation Report and Finalization & Dissemination																				
Phase 4. Sustainability Planning																				
4.1 Sustainability Planning Meetings																				
4.2 Continuation Funding Planning																				
4.3 Dissemination of Project Continuation Decisions																				
Phase 5. Project Close																				
5.1 INN Funding Close-out																				

Section 4: INN Project Budget & Source of Expenditures

Budget Narrative

Provide a budget narrative to explain how the total budget is appropriate for the described INN project.

The total Innovation funding request for 5 years is \$2,802,400, which will be allocated as follows:

Service Contract – Personnel plus non-eval direct costs (81%):	Procurement – Non-recurring costs (9%)	Evaluation – Direct costs (6%):	Administration – Indirect costs (4%):
<ul style="list-style-type: none"> \$259,600 in FY 22/23 \$504,200 in FY 23/24 \$504,200 in FY 24/25 \$504,200 in FY 25/26 \$504,200 in FY 26/27 	<ul style="list-style-type: none"> \$239,000 in FY 21/22 	<ul style="list-style-type: none"> \$15,000 in FY 22/23 \$35,000 in FY 23/24 \$35,000 in FY 24/25 \$35,000 in FY 25/26 \$45,000 in FY 26/27 	<ul style="list-style-type: none"> \$13,750 in FY 22/23 \$26,950 in FY 23/24 \$26,950 in FY 24/25 \$26,950 in FY 25/26 \$27,400 in FY 26/27
Total: \$2,276,400	Total: \$239,000	Total: \$165,000	Total: \$122,000



City of Berkeley Mental Health Division
MHSA Innovation Project Plan

Personnel costs will total \$1,777,500 and will include all salaries and benefits of FTE staff. Personnel cost estimates are based on current-year ranges for similar positions in the Bay Area, based on job market data. The following are the FTE positions that are included in this cost proposal (the cost proposal also includes a .10 FTE director role for administrative and supervisory support):

- 1 FTE Program Manager: \$120,000 (salary + benefits)
- 3 FTE Peer Providers: \$88,500 per year (salary + benefits)
- .10 FTE Program Director: \$9,500 per year (salary + benefits)

Direct costs (less evaluation services) will total \$498,900 and will include programming expenses such as materials and supplies, technology, utilities, mileage, stipends, client transportation, subcontractors, etc. Personnel and direct costs combined (81% of the total proposed budget, as shown in the table above) will comprise the RFP funded value for the contracted service provider. The estimated total of the evaluation services contract is listed separately above, and in the budget table below, because BMH will use a separate RFP process to contract for evaluation services. This total needs to be clearly designated apart from the service contract with the selected CBO/service provider.

Evaluation services (direct costs) will total \$165,000 over the project lifecycle. The evaluation contract will include evaluation plan development, data collection tool development, data analysis, interim evaluation reporting, annual MHSOAC reporting, and a final evaluation report. While evaluation services comprise 6% of the total project budget, less procurement-related non-recurring costs (which are not relevant to the evaluation scope), evaluation services comprise over 7% of the total INN project budget.

Non-recurring costs will total \$239,000:

- \$220,000 for procurement (i.e. physical wellness center)
 - BMH will coordinate with the contracted service provider/CBO to identify the best way forward for procurement. For example, the mobile unit may be a single RV, it may be a different type of trailer with a hygiene station and/or shower unit, it may be multiple smaller vans/mobile units, or something else.
 - Programming costs, including any materials required for wellness center activities or to “stock” the center, will be funded through “direct services – programming” (line 5). This is separate from non-recurring costs.
- \$14,000 for wellness center technology (e.g. staff workstations and/or laptops and laptop docking stations, phone and tablet chargers, mobile cooling fans, etc.)
- \$5,000 for a local, community-based marketing campaign

Indirect costs will total \$122,000:

- \$8,200 for BMH monitoring and management of the evaluation services contract (line 14).
- \$113,800 for the contracted CBO/service provider’s administration, monitoring, and management of the Innovation project (lines 2 & 5).

In the “Budget Context – Expenditures by Funding Source and Fiscal Year” table below, indirect costs are reflected in the “administration” category, as indirect costs included in this project plan are administrative overhead costs. Row A1 shows total indirect costs.

Federal Financial Participation (FFP): There is no anticipated FFP.

Other Funding: N/A



Budget by Fiscal Year

BUDGET BY FISCAL YEAR AND SPECIFIC BUDGET CATEGORY*							
EXPENDITURES							
PERSONNEL COSTS (salaries, wages, benefits)		FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	TOTAL
1.	Salaries (.1 x PD, 1 x PM, 3 x peer providers)	197,500	395,000	395,000	395,000	395,000	1,777,500
2.	Indirect Costs (admin/overhead)	10,400	20,000	20,000	20,000	20,000	90,400
3.	Total Personnel Costs	207,900	415,000	415,000	415,000	415,000	1,867,900
OPERATING COSTS		FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	TOTAL
4.	Direct Costs (programming)	62,100	109,200	109,200	109,200	109,200	498,900
5.	Indirect Costs (admin/overhead)	2,600	5,200	5,200	5,200	5,200	23,400
6.	Total Operating Costs	64,700	114,400	114,400	114,400	114,400	522,300
NON-RECURRING COSTS (equipment, technology)		FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	TOTAL
7.	Wellness center procurement	220,000	-	-	-	-	220,000
8.	Wellness center technology	14,000	-	-	-	-	14,000
9.	Marketing	5,000	-	-	-	-	5,000
10.	Total Non-recurring costs	239,000	-	-	-	-	239,000
CONSULTANT COSTS / CONTRACTS (Evaluation contract)		FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	TOTAL
11.	Direct Costs	15,000	35,000	35,000	35,000	45,000	165,000
12.	Indirect Costs (admin/overhead)	750	1,750	1,750	1,750	2,200	8,200
13.	Total Evaluation Costs	15,750	36,750	36,750	36,750	47,200	173,200
OTHER EXPENDITURES (please explain in budget narrative)		FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	TOTAL
14.							
15.							
16.	Total Other Expenditures						
BUDGET TOTALS		FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	
Personnel (line 1)		197,500	395,000	395,000	395,000	395,000	1,777,500
Direct Costs (lines 4 and 11)		77,100	144,200	144,200	144,200	154,200	663,900
Indirect Costs (lines 2, 5 and 12)		13,750	26,950	26,950	26,950	27,400	122,000
Non-recurring costs (line 10)		239,000	-	-	-	-	239,000
Other Expenditures (line 16)		-	-	-	-	-	-
TOTAL INNOVATION BUDGET		527,350	566,150	566,150	566,150	576,600	2,802,400


BUDGET CONTEXT - EXPENDITURES BY FUNDING SOURCE AND FISCAL YEAR (FY)
ADMINISTRATION:

A.	Estimated total mental health expenditures for ADMINISTRATION for the entire duration of this INN Project by FY & the following funding sources:	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	TOTAL
1.	Innovative MHA Funds	13,750	26,950	26,950	26,950	27,400	122,000
2.	Federal Financial Participation						
3.	1991 Realignment						
4.	Behavioral Health Subaccount						
5.	Other funding*						
6.	Total Proposed Administration	13,750	26,950	26,950	26,950	27,400	122,000

EVALUATION:

B.	Estimated total mental health expenditures for EVALUATION for the entire duration of this INN Project by FY & the following funding sources:	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	TOTAL
1.	Innovative MHA Funds	15,750	36,750	36,750	36,750	47,200	173,200
2.	Federal Financial Participation						
3.	1991 Realignment						
4.	Behavioral Health Subaccount						
5.	Other funding*						
6.	Total Proposed Evaluation	15,750	36,750	36,750	36,750	47,200	173,200

TOTAL:

C.	Estimated TOTAL mental health expenditures (this sum to total funding requested) for the entire duration of this INN Project by FY & the following funding sources:	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	TOTAL
1.	Innovative MHA Funds	527,350	566,150	566,150	566,150	576,600	2,802,400
2.	Federal Financial Participation						
3.	1991 Realignment						
4.	Behavioral Health Subaccount						
5.	Other funding*						
6.	Total Proposed Expenditures	527,350	566,150	566,150	566,150	576,600	2,802,400

*If "Other funding" is included, please explain.

APPENDIX A
PUBLIC COMMENTS

Input received on the proposed plan during the Public Review period and/or the Public Hearing:

General Input

- Plan is long over due.
- This sounds like a better way to provide needed services, hope it works.
- Well thought out and specific in its objective.
- Request that someone from the Commission be appointed to the RFP and Proposal review process.
- What we have here is a very bold and promising plan because un-bold, that is conventional plans have been very unsuccessful in doing much for the people we are trying to reach.
- Thank you for this, I am really excited about it.
- What do you anticipate with the increase in Omicron variants sweeping our community on how that may affect the program?
- How are you going to build trust so that unhoused neighbors will use this service?
- Substance Use Disorder is the main obstacle in getting people off the street. We should do everything we can to make meth and alcohol unavailable in our city and our streets.
- How will the Mobile Van safely serve encampments that are very close to Freeways?
- How will the Project coordinate with all the many homeless outreach services/agencies that already exist?
- What convinces you that folks who have until now rejected available services will do so if they are contacted by adjacent support staff or other residents of the homeless encampment? Is it the fact that services will be brought to the camps? If so, what are the experiences of local groups that are already doing this?
- I know many groups are delivering clothing, food and even cooked meals. How is that working? And will these be the same groups you plan to contract with? I am asking because I have some doubts about the success of the proposal. What are you planning on providing to motivate people who so far haven't been motivated to obtain mental health services? And if people aren't mentally healthy (48%), how do you expect them to continue receiving services when the grant is over?
- There is never any mention of Treatment in these proposals. Treatment is not aggressively being put in front of Mentally Ill individuals, so they can participate in their own treatment. I only hear the word "services", I never hear the word Treatment. Many people are dying on the streets who could be saved if through aggressive outreach and tough love approaches they entered into Treatment. Treatment and Substance Use Disorder services aren't even advertised where someone who is homeless could see them. Why aren't there billboards advertising where to get Treatment for Mental Health and Substance abuse on them? I see homeless mentally ill, substance addicted individuals everyday all around where I live and nothing is being done to help them. I am not seeing any success stories, and I should be seeing 100's of them. Because of the liberalism in Berkeley, people flock here and they can get anything they want on the streets. Many come here to die.

- Use the State millions we tax payers provide you intelligently. 1) Rehabilitative services for the gravely mentally ill/ drug addicted, should be a mandatory fact, with a) Residential treatment b) transitional housing with competent monitoring c) training and then d) housing. Hand holding and soft words by inexperienced MH workers, in a mobile hub, will be useless in helping the mentally challenged/drug addicted unhoused. Such an approach is an insult created by privileged professionals towards the unhoused mentally ill's severe needs, an insult as usual disguised as "compassion". DO NO HARM (Health care principle 101)! Poor or inadequate care is a health hazard and "it does harm"! Such "soft" ways are killing the unhoused in Berkeley. Such ways are also dangerous to safety, depressing and disconcerting for the rest of us, forced through our taxes to support incompetent measures over and over again. The citizens of Berkeley are exposed to dangerously disabled people roaming our streets, often harming self and others while money are spent on grossly inadequate "bandaid" measures. I am asking that you incorporate in your final project's layout the many voices of dissent such as mine, often muted in this self-proclaiming "open minded" town.

Input on utilizing Peer Providers:

- Strongly agree with having input and ongoing staff from the homeless community.
- Happy to hear that the "Peer Providers" will come from the communities they will be serving.
- Bringing on homeless people as peer counselors/advisors/information providers is a great concept. Will they have the listening skills and knowledge necessary to be effective? Or will they more likely advise others to do just as they did? And if they are basically providing information about food, shower, clothing and health resources, how does that differ from what we already do? How would it differ from just handing out leaflets? Half the homeless may reject all services, no matter who offers them.

Input on Areas the Project should Incorporate:

- Ensure services are tailored for individuals with disabilities, and there are opportunities for individuals with disabilities to provide input into the services provided.
- Yes, I think focus on joyful things! Just some ideas: Have a center where there is an opportunity to play music, dance and sing, do art, learn new things (music, dance, art) story-telling, eating good food, cooking.
- The project should offer First Aid classes to the community to assist individuals in need, like the Barefoot Doctors model.
- Safety training should be a big factor in populating the employees of the program.
- Incorporate yoga and Pranayama, Self-realization fellowship practices into the project to restore the spiritual, physical and mental balance of individuals.
- Since INN is focusing on providing mental health services to our unhoused neighbors, please put much thought into how you will keep track of people, avoid re-traumatizing folks and providing a continuum of care in what can be an extremely volatile living situation.

- Plan should also include the collection of data to identify mental illness, substance abuse and residence history.
- Please include TAYs Ages 18-30 as a separate study category. The youth that age-out of the foster care system should be an area of focus because if we can get them into a job training program at an early age perhaps we can prevent a lifetime of homelessness.
- The plan should include Harm Reduction. Don't hear much talk about the serious meth epidemic in Berkeley and how we are going to integrate any meaningful help in terms of harm reduction.
- It is particularly important for those who are running the project to engage very capable evaluators to evaluate how the project is doing. That means, most important, getting people from the outside of the project to do the evaluation. When you have mental health workers evaluating their own work, you cannot draw any conclusions from it.
- Suggest that the Wellness Center should add HMIS and the ability to conduct CMS assessments as it's very important that anyone with boots on the ground have the ability to be notified when someone is matched to a housing resource to be able to find them and get them to it.

Input on Housing:

- Money should be spent on housing and on getting individuals off the street.
- Understand the need for the unhoused to have mental health services, and yet continue to wonder whether money would be better spent on permanently housing people. Once they have shelter, then provide mental health services.
- Treat homelessness with homes. Homelessness causes and worsens mental illness. How to solve homelessness: End Section 8 waiting list. Make it immediate upon qualification. The existence of a waiting list causes homelessness. The existence of a waiting list in a place with homelessness so high is class war. Well wage your war. I think people with section 8 can use it and leave to find better housing elsewhere. And good. City density promotes Covid outbreaks. City density causes homelessness. The homicide rates are skyrocketing. We need to incentivize getting out of cities.

Representatives from several community-based organizations also expressed support for the project and interest in the potential of collaborative efforts. All input will be utilized to inform project implementation and/or future MHSA Plans and Updates.



Office of the City Manager

CONSENT CALENDAR

April 12, 2022

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: Revenue Contract: Mental Health Services Oversight and Accountability Commission for \$2,500,000 for Coordination and Provision of Mental Health Services in Berkeley Unified School District

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to apply for funding provided by the Mental Health Services Oversight and Accountability Commission (MHSOAC) through the Mental Health Student Services Act Request for Applications, accept the funding, and execute any resultant revenue agreements and amendments to coordinate and provide mental health services in the Berkeley Unified School District (BUSD) for \$2,500,000 in FY 2022 through FY 2027.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive funds up to the amount of \$2,500,00.00 from the Mental Health Services Oversight and Accountability Commission to support the coordination and provision of mental health services in Berkeley Unified School District. The funds for this contract will be deposited and expensed from the One-Time Grant: No Capital Fund, ERMA revenue GL Code 336-51-503-525- (FUND\$ Project Code 421), and will be appropriated in a future amendment to the Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The Health, Housing, and Community Services Department (HHCS) applied for the grant funds and received notification that the City had been awarded \$2,500,000.00. The funding will support coordination and provision of mental health services at the Berkeley Unified School District. The Mental Health Student Services Act grant is a Strategic Plan Priority Project, advancing our goal to champion and demonstrate social and racial equity.

BACKGROUND

The City of Berkeley partnered with Berkeley Unified School District (BUSD) to seek Mental Health Student Services Act (MHSSA) funding from the Mental Health Services Oversight and Accountability Commission (MHSOAC) to address pressing needs within the BUSD related to student mental health and wellness. Although some specific uses

of funding will be determined in the program development phase, initial planning conversations between District and school leadership and the Berkeley Mental Health Division (MHD) have resulted in the identification of three priority areas for MHSSA funding:

- 1) Dedicated staff to facilitate relationship building and service coordination across MHD and BUSD;
- 2) Services to address BUSD's most pressing mental health needs through increased availability of on-campus mental health treatment, navigation support for parents/caregivers, and training for teachers and school staff related to student mental health and wellness; and
- 3) A comprehensive assessment and strategic planning process to inform BUSD's long-term approach to student mental health.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

These funds will support the provision of critical mental health services for students in Berkeley. Providing safe and equitable access to essential health services is a key purpose of HHCS.

ALTERNATIVE ACTIONS CONSIDERED

No alternatives consistent with the City's goal of providing equitable mental health services were identified.

CONTACT PERSON

Steven Grolnic-McClurg, Manager of Mental Health Services, (510) 981-5290

Attachments:

1: Resolution

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

REVENUE CONTRACT: MENTAL HEALTH SERVICES OVERSIGHT AND ACCOUNTABILITY COMMISSION FOR COORDINATION AND PROVISION OF MENTAL HEALTH SERVICES IN BERKELEY UNIFIED SCHOOL DISTRICT

WHEREAS, the Mental Health Services Oversight and Accountability Commission issued a Request for Applications through the Mental Health Student Services Act for mental health services in California public schools; and

WHEREAS, the Health, Housing and Community Services Department applied for and was awarded funding in the amount of \$2,500,000; and

WHEREAS, accepting funding provided through the Mental Health Services Oversight and Accountability Commission will support the Mental Health Division's work to coordinate and provide mental health services for Berkeley Unified School District students.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council approves the following: The City Manager or her designee is hereby authorized to accept funding from the Mental Health Oversight and Accountability Commission and to execute any resultant revenue agreements and amendments to support the coordination and provision of mental health services in the Berkeley Unified School District in the projected amount of \$2,500,000 total in Fiscal Year 2022 through Fiscal Year 2027. The funds for this contract will be deposited and expensed from the One-Time Grant: No Capital Fund (ERMA revenue GL Code 336-51-503-525- (FUND\$ Project Code 421), and will be appropriated in a future amendment to the Annual Appropriations Ordinance. A signature copy of said documents, agreements and any amendments shall be on file in the office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Revenue Grant Agreement: Funding Support from the California Department of Public Health, Oral Health Program to conduct Public Health Promotion, Protection, and Prevention Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to California Department of Public Health, Oral Health Program, to accept the grant, execute any resultant revenue agreement and amendments, and implement the project and appropriation of funding for related expenses to conduct public health promotion, protection, and prevention services for the California Department of Public Health-Oral Health Program, in the projected amount of \$173,408 annually for Fiscal Years 2023, 2024, 2025, 2026, and 2027.

FISCAL IMPACTS OF RECOMMENDATION

The City will receive funds in the projected amount of \$173,408 annually for fiscal years 2023, 2024, 2025, 2026, and 2027, which will total \$867,040 over the five-year period. These funds will be allocated to revenue budget code 312-51-506-564-0000-000-000-432110 and will be distributed from expenditure budget code 312-51-506-564-0000-000-451*. There are no matching funds required by the funder. Funding for this grant is from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 (Proposition 56).

Spending of the Oral Health grant funds is subject to Council approval of the budget and the Annual Appropriations Ordinances. Depending on the timing of when grants are awarded and the exact amounts are determined, the grant budgets will be adjusted as part of the Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

As a local health jurisdiction, the City provides a broad range of public health programs and services to the community; with the goals of addressing health inequities, promoting healthy environments and behaviors, protecting residents from disease, and preventing illness, disability, and premature death.

The grant will fund community education and Berkeley's oral health needs. Additionally, it will fund community education and outreach to help vulnerable children and adults

learn about the importance of oral health and dental disease prevention, and link them to treatment of dental disease including dental disease caused by the use of cigarettes and other tobacco products. The focus will be on supporting underserved areas and communities of color in Berkeley.

BACKGROUND

In 2014, the California State Legislature authorized funding for CDPH to address the burden of oral disease statewide by establishing the State Oral Health Plan in collaboration with a coalition of stakeholders. The CDPH Office of Oral Health established the 2018-2028 California Oral Health Plan to guide oral health improvement efforts across the state. In FY2018, Berkeley’s Local Oral Health Program was established with a 5- year grant that will end June 30, 2022. This new grant will provide another five years of funding intended to build on the local oral health care programs established in the first round of funding.

The California Healthcare, Research and Prevention Tobacco Tax Act of 2016, Prop. 56 provides funding to the State Department of Public Health state dental program for the purpose and goal of educating about, preventing and treating dental disease, including dental disease caused by use of cigarettes and other tobacco products. The goal is to identify strategies to reduce the burden of dental disease in California.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

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

RATIONALE FOR RECOMMENDATION

These funds support vital services related to the City's mandates as a public health jurisdiction, as well as local initiatives designed to address health inequities in Berkeley.. The grant supports the Department's mission and provides the City with funding to protect and improve the health of the community.

ALTERNATIVE ACTIONS CONSIDERED

The Public Health Division assesses each funding source to ensure that it supports the City’s mission and goals. The alternative action would be to refuse the funding and eliminate Berkeley’s Local Oral Health Program. That action would be inconsistent with the City’s mission to address health inequities, and is not recommended.

CONTACT PERSON

Janice Chin, Manager, Public Health Division, HHCS, (510) 981-5121

Attachments: 1: Resolution

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

REVENUE GRANT AGREEMENT: CALIFORNIA DEPARTMENT OF PUBLIC HEALTH-ORAL HEALTH PROGRAM TO CONDUCT PUBLIC HEALTH PROMOTION, PROTECTION, AND PREVENTION SERVICES

WHEREAS, the City of Berkeley through its Department of Health, Housing & Community Services (HHCS) works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City seeks to eliminate health and educational inequities; and

WHEREAS, the projected amount of the grant is \$867,040 (\$173,408 annually for Fiscal Years 2023, 2024, 2025, 2026, and 2027); and

WHEREAS, outside funding can increase the level of vital health services available to Berkeley residents.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant application to the California Department of Public Health-Oral Health Program for funding for fiscal years 2023, 2024, 2025, 2026, and 2027 to provide education about oral health, dental disease prevention, and linkage to treatment of dental disease including dental disease caused by the use of cigarettes and other tobacco products; to accept the grant funds; execute any resultant revenue agreements and amendments in line with the grant award, which may be larger or smaller than the projected award of \$867,040; and implement the projects and appropriation of funding for related expenses, subject to securing the grant. Revenue will go into revenue budget code 312-51-506-564-0000-000-000-432110 and will be distributed from expenditure budget code 312-51-506-564-0000-000-451*. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City of Berkeley agrees to abide by the terms and conditions of the grant agreement as set forth by the California Department of Public Health.



Office of the City Manager

CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Donald E. Ellison, Interim Director of Human Resources

Subject: Ratify the execution of the pre-approved PARS Plan document, amended and restated effective January 1, 2022, and related Amendments by Interim Deputy City Manager on December 27, 2021.

RECOMMENDATION

Adopt a Resolution to acknowledge and ratify the execution of the pre-approved PARS Plan document, amended and restated effective January 1, 2022, and related Amendments by Interim Deputy City Manager on December 27, 2021.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts associated with adopting the attached resolution.

CURRENT SITUATION AND ITS EFFECTS

The prescribed IRS deadline for the City to adopt the restated PARS Plan document and Amendments is July 31, 2022. The Agency running the PARS Plan, however, set a deadline of December 31, 2021 for plan sponsors to adopt the Plan documents. Because the City Council was not scheduled to meet prior to deadline, the restated PARS Plan document and first Amendment (for SECURE and CARES Acts) were executed by the Interim Deputy City Manager with the understanding the City Council would later acknowledge and ratify such action.

BACKGROUND

The City previously determined that it was in its best interest to offer a qualified retirement system to all hourly and daily paid employees, thereby satisfying the requirements of Section 11332 of the Social Security Act. In that regard, the City adopted the Public Agency Retirement System - Alternate Retirement System ("PARS" or "Plan") as a tax qualified governmental profit sharing plan effective October 1, 1993 for the benefit of its eligible employees.

PARS is a multiemployer retirement system that is made up of various public agency employers that have elected to opt-in, including the City. It is also intended that PARS, and the trust established to hold the assets of the Plan, be tax qualified and tax-exempt under Sections 401(a) and 501(a) of the Internal Revenue Code (the “Code”), respectively, as amended from time to time. PARS is also established and operated pursuant to a pre-approved Plan document, which is periodically reviewed by the Internal Revenue Service (“IRS”).

Applicable IRS rules require all pre-approved Plan documents to be restated to incorporate changes from recent legislation applicable to qualified retirements plans (both optional and required changes). To satisfy that requirement, the PARS Plan document was amended and restated effective January 1, 2021, and then subsequently submitted to the IRS for a determination as to its qualified status.

On June 30, 2020, the IRS issued a favorable determination letter covering the PARS pre-approved Plan document. Plan sponsors that have adopted the pre-approved PARS Plan document (like the City), may also rely on the favorable IRS determination letter for their own plans without having to apply for their own separate determination letters with the IRS, provided the plan sponsors adopt the restated pre-approved Plan document within 2 years from the date of the opinion letter.

The pre-approved PARS Plan document includes two optional Amendments for consideration by plan sponsors (like the City). The first Amendment relates to required and optional changes to the Plan for recent federal legislation (known as the “SECURE Act” and “CARES Act”). These are technical amendments related to mandatory distributions under the Plan called “required minimum distributions.” These are required provisions that the City agreed to add to the Plan. The second Amendment relates to whether the City would like to add mandatory arbitration provisions to the Plan. This is an optional provision that the City declined to add to the Plan.

For pre-approved documents, such as this one, unless it’s an optional provision, there is little room to revise or amend. Doing so puts the Plan at risk of falling out of “pre-approved” status, meaning there would no reliance on the IRS’s favorable determination letter issued to the pre-approved PARS Plan document.

The prescribed IRS deadline for the City to adopt the restated PARS Plan document and Amendments is July 31, 2022. The Agency running the PARS Plan, however, set a deadline of December 31, 2021 for plan sponsors to adopt the Plan documents. Because the City Council was not scheduled to meet prior to deadline, the restated PARS Plan document and first Amendment (for SECURE and CARES Acts) were executed by the Interim Deputy City Manager with the understanding the City Council would later acknowledge and ratify such action.

In consideration of the above, we recommend the City Council acknowledge and ratify the execution of the pre-approved PARS Plan document, amended and restated effective January 1, 2022, and related Amendments by Interim Deputy City Manager on December 27, 2021.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

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

RATIONALE FOR RECOMMENDATION

In consideration of the above, we recommend the City Council adopt a resolution to acknowledging and ratifying the execution of the pre-approved PARS Plan document, amended and restated effective January 1, 2022, and related Amendments by Interim Deputy City Manager on December 27, 2021.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Donald E. Ellison, Interim Human Resources Director, 510-981-6807

Attachments

1. Resolution - Acknowledge and Ratify the Execution of the Pre-Approved PARS Plan Document, Amended and Restated Effective January 1, 2022 and Related Amendments by Interim Deputy City Manager on December 27, 2021
Exhibit A: PARS ARS Amended and Restated

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

ACKNOWLEDGE AND RATIFY THE EXECUTION OF THE PRE-APPROVED PARS PLAN DOCUMENT, AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2022 AND RELATED AMENDMENTS BY INTERIM DEPUTY CITY MANAGER ON DECEMBER 27, 2021

WHEREAS, The City previously determined that it was in its best interest to offer a qualified retirement system to all hourly and daily paid employees, thereby satisfying the requirements of Section 11332 of the Social Security Act. In that regard, the City adopted the Public Agency Retirement System - Alternate Retirement System (“PARS” or “Plan”) as a tax qualified governmental profit sharing plan effective October 1, 1993 for the benefit of its eligible employees; and

WHEREAS, On June 30, 2020, the IRS issued a favorable determination letter covering the PARS pre-approved Plan document. Plan sponsors that have adopted the pre-approved PARS Plan document (like the City), may also rely on the favorable IRS determination letter for their own plans without having to apply for their own separate determination letters with the IRS, provided the plan sponsors adopt the restated pre-approved Plan document within 2 years from the date of the opinion letter; and

WHEREAS, the prescribed IRS deadline for the City of Berkeley (the “City”) to adopt the restated pre-approved PARS Plan document and Amendments is July 31, 2022; and

WHEREAS, the pre-approved PARS Plan document includes two optional Amendments for consideration by plan sponsors (like the City); and

WHEREAS, The first Amendment relates to required and optional changes to the Plan for recent federal legislation (known as the “SECURE Act” and “CARES Act”). These are technical amendments related to mandatory distributions under the Plan called “required minimum distributions.” These are required provisions that the City agreed to add to the Plan; and

WHEREAS, The second Amendment relates to whether the City would like to add mandatory arbitration provisions to the Plan. This is an optional provision that the City declined to add to the Plan; and

BE IT FURTHER RESOLVED by the Council of the City of Berkeley acknowledges and ratifies the execution of the pre-approved PARS Plan document, amended and restated effective January 1, 2022, and related Amendments by Interim Deputy City Manager on December 27, 2021.

Exhibit A: PARS ARS Amended and Restated

CITY OF BERKELEY
PUBLIC AGENCY RETIREMENT SYSTEM
ALTERNATE RETIREMENT SYSTEM

(PARS-ARS)

AMENDED AND RESTATED
EFFECTIVE JANUARY 1, 2021

TABLE OF CONTENTS

	Page
INTRODUCTION.....	2
DEFINITIONS.....	3
ELIGIBILITY REQUIREMENTS FOR PARTICIPATION.....	6
2.1 Time of Participation.....	6
2.2 Termination of Participation.....	6
2.3 Effect of Transfer to Ineligible Employment.....	6
2.4 In Service Distributions.....	6
CONTRIBUTIONS.....	7
3.1 Amount of Employer Contributions.....	7
3.2 Amount of Employee Contributions.....	7
3.3 Administrative Expenses.....	7
3.4 Allocation of Administrative Expenses.....	7
3.5 Limits on Annual Additions.....	7
3.6 Vesting.....	8
3.7 Investment in Accordance with Applicable Law.....	8
3.8 Reversions.....	8
FUNDING AND VALUATION.....	9
4.1 Funding.....	9
4.2 Valuation.....	9
4.3 Type and Nature of Plan.....	9
VESTING.....	10
5.1 Vesting in Employer Contribution Account.....	10
5.2 Vesting in Employee Contribution Account.....	10
5.3 Full or Partial Termination.....	10
DISTRIBUTION OF BENEFITS.....	11
6.1 Incidental Death Benefits.....	11
6.2 Amount of Distribution.....	11
6.3 Lump Sum Distributions.....	11
6.4 Time of Distribution.....	12
6.5 Participant's Rights Not Subject to Execution.....	12

TABLE OF CONTENTS
(continued)

	Page
6.6 Unclaimed Benefits.....	12
6.7 Direct Rollovers	12
6.8 Military Service.....	14
DEATH BENEFITS.....	15
7.1 Designation of Beneficiary	15
7.2 Married Participant.....	15
7.3 Spouse's Signature.....	15
7.4 Default Beneficiary	15
7.5 Domestic Partners	16
ADMINISTRATION AND AMENDMENT OF PLAN.....	17
8.1 Designation of Plan Administrator.....	17
8.2 Rules and Regulations.....	17
8.3 Amendment and Termination.	17
ANNUAL ADDITION LIMITS	18
9.1 Construction.	18
9.2 Definitions.....	18
9.3 Annual Addition Limitations.	19

INTRODUCTION

The City of Berkeley (the "Employer") has adopted this tax qualified governmental profit sharing plan for the benefit of its Eligible Employees as Plan Number: 002. This document is a full and complete amendment and restatement of the City of Berkeley PARS Alternate Retirement System.

It is intended that this Plan and the Trust established to hold the assets of the Plan shall be qualified under Section 401(a) and tax-exempt under Section 501(a) of the Internal Revenue Code of 1986, together with any amendments thereto (the "Code"). It is also intended that this Plan shall meet the requirements of a governmental plan under Section 414(d) of the Code and of a pension trust. At any time prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries under this Plan, the Trust assets shall not be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries, as prescribed in Section 401(a)(2) of the Code.

ARTICLE I

DEFINITIONS

- 1.1 **"Account"** means, with respect to each Participant, the value of all accounts maintained on behalf of the Participant.
- 1.2 **"Aggregate Account"** means, with respect to each Participant, the value of all accounts maintained on behalf of the Participant, whether attributable to Employer or Employee contributions.
- 1.3 **"Amended Effective Date"** means January 1, 2021.
- 1.4 **"Beneficiary"** means the person, trust or other entity to whom a share of a deceased Participant's Aggregate Account is payable.
- 1.5 **"Code"** means the Internal Revenue Code of 1986 as amended from time to time.
- 1.6 **"Compensation"** means all compensation for that portion of the Plan Year during which the Employee was a Participant, paid in cash by the Employer to the Participant for personal services. Further, the Employer defines compensation as "W-2 Wages" defined as all remuneration to a Participant by the Employer during the Plan Year and reportable on Box 1 of Form W-2. The annual compensation of each Participant, as defined above by the Employer, taken into account in determining allocations for any Plan Year beginning after December 31, 2016 shall not exceed \$270,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. For any short Plan Year, the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the Plan Year begins multiplied by a ratio obtained by dividing the number of full months in the short Plan Year by twelve (12). The limitation on the maximum amount of Compensation that may be taken into account under the Plan shall not apply to any Participant eligible for a higher limit on annual compensation under the transition rule described in Section 1.401(a)(17)-1(d)(4)(ii) of the Treasury Regulations.
- 1.7 **"Effective Date"** means October 1, 1993.
- 1.8 **"Eligible Class of Employees"** means the eligible class of employees as provided herein and in the applicable governing board policies and regulations promulgated thereunder by the Employer.
- 1.9 **"Eligible Employee"** means all of those Employees of the Employer whose Participation in this Plan are not prohibited or restricted by the provisions of a collective bargaining agreement or another plan or retirement system maintained by the Employer. Employees who are exempt from coverage under Social Security by federal law or regulation shall not be Eligible Employees.

- 1.10 **"Employee"** means an employee of the Employer.
- 1.11 **"Employee Contribution Account"** means the account by that name established pursuant to Section 3.2 hereof.
- 1.12 **"Employer"** means the City of Berkeley that has adopted this Plan. Only an employer eligible to adopt a governmental plan pursuant to Section 414(d) of the Code may be an "Employer" under this Plan.
- 1.13 **"Employer Contribution Account"** means the account by that name established pursuant to Section 3.1 hereof.
- 1.14 **"Inactive Participant"** means a Participant who is no longer eligible to participate because he is no longer in a class of Employees eligible to participate in this Plan but is still employed by the Employer.
- 1.15 **"Ineligible Employee"** means all of those Employees of the Employer whose participation in this Plan is prohibited or restricted by the provisions of a collective bargaining agreement, another plan or retirement system maintained by the Employer, or exempt from coverage under Social Security by federal law or regulation.
- 1.16 **"Investment Manager"** means the entity appointed by the Employer as the investment manager under the Plan.
- 1.17 **"Limitation Year"** means the limitation year under Section 3.5 hereof and shall mean the Plan Year.
- 1.18 **"Normal Retirement Age"** means sixty-two (62) years of age.
- 1.19 **"Participant"** means a Participant under Article II hereof.
- 1.20 **"Participant Aggregate Accounts"** means the accounts by that name established pursuant to Article III hereof.
- 1.21 **"Participant Contributions"** means contributions made on behalf of the Participant by the Employer as Pick Up Contributions and/or Participant after tax contributions.
- 1.22 **"Participant Contribution Account"** means the value of the Participant's interest in this Plan that is attributable to Pick Up Contributions and/or Participant after tax contributions.

- 1.23 "Pick Up Contributions"** means Participant Contributions made by the Employer on behalf of the Participant pursuant to Section 414(h) of the Internal Revenue Code. Pick Up Contributions shall not under any circumstances be paid to the Participant or be directed by the Participant for any purpose except as Pick Up Contributions to this Plan. The Employer may make Pick Up Contributions through a reduction in salary, an offset against future salary increases, or a combination of the two.
- 1.24 "Plan"** means City of Berkeley PARS Alternate Retirement System.
- 1.25 "Plan Administrator"** means the individual or position designated by the Employer to act on behalf of the Employer in matters relating to this Plan. If no designation is made, the Employer shall be the Plan Administrator. If a Plan Administrator has been appointed, the word "Employer" as used in this Plan shall mean Plan Administrator unless the context indicates a different meaning is intended.
- 1.26 "Plan Year"** means the consecutive twelve-month period beginning on January 1 and ending on December 31.
- 1.27 "Public Agency"** means an Employer authorized to establish a pension trust.
- 1.28 "Regulations"** means the regulations adopted or proposed by the Department of Treasury from time to time pursuant to the Code.
- 1.29 "Retirement System"** means any plan that meets the requirements for a retirement system under Section 3121(b)(7)(F) of the Code and the final regulations thereunder.
- 1.30 "Social Security"** means the Social Security program as set forth in Title 42 of the United States Code, Section 301 et seq.
- 1.31 "Trust"** means the trust established as part of the Public Agency Retirement System Trust to hold the assets of the Plan.
- 1.32 "Trustee"** means the trustee of the Trust.
- 1.33 "Valuation Date"** means the last day of the Plan Year or such other day on which the assets of the Trust are valued and the value of each Participant's Aggregate Account is determined.
- 1.34 "Vested"** means the nonforfeitable portion of any Account maintained on behalf of a Participant.

ARTICLE II

ELIGIBILITY REQUIREMENTS FOR PARTICIPATION

2.1 Time of Participation

An Eligible Employee shall participate in this Plan on each day during which the Employee is not accruing a benefit under Social Security, or another Retirement System provided and maintained by the Employer.

2.2 Termination of Participation

A Participant shall cease to be a Participant on the date on which the Participant begins to participate in another Retirement System or the date of his or her termination of employment as determined by the Employer.

2.3 Effect of Transfer to Ineligible Employment

If a Participant is no longer an Eligible Employee and becomes an Ineligible Employee, such Employee will participate immediately upon returning to the Eligible Class of Employees. Such participation shall commence as of the first day of such eligible employment.

2.4 In Service Distributions

A Participant who is no longer eligible to participate because he is no longer in the class of Eligible Employees, but who has not terminated employment with the Employer, shall become an Inactive Participant and shall remain such for twenty-four (24) months after which his interest in the Plan will be distributed to him upon consent.

ARTICLE III
CONTRIBUTIONS

3.1 Amount of Employer Contributions

There is hereby created and established and shall be maintained by the Plan Administrator the Employer Contribution Account. For Compensation earned during each day that an Employee remains a Participant under this Plan, the Employer shall make a contribution of three and seventy-five hundredths percent (3.75%) of Compensation. Such contribution shall be made no later than the close of the Plan Year. This amount shall be credited to the Employer Contribution Account. Employer contributions will be allocated to each Participant in the ratio that such Participant's compensation bears to the compensation of all Participants.

3.2 Amount of Employee Contributions

There is hereby created and established and shall be maintained by the Plan Administrator the Employee Contribution Account. For Compensation earned during each day that an Employee remains a Participant under this Plan, the Employee shall make a contribution of three and seventy-five hundredths percent (3.75%) of Compensation. Such contribution shall be credited to the Employee Contribution Account. In accordance with Section 414(h) of the Code and Sections 1.21 and 1.23 of this Plan, the contributions required under this Section 3.2 shall be Pick Up Contributions. Pick Up Contributions shall meet the requirements of Revenue Ruling 2006-43.

3.3 Administrative Expenses

The Employer may make contributions to the Trust sufficient to defray all or part of the expenses of administering the Plan or may pay such expenses directly.

3.4 Allocation of Administrative Expenses

If the Employer chooses not to pay the expenses of administering this Plan, such expenses shall be charged ratably against the Participants' Aggregate Accounts.

3.5 Limits on Annual Additions

Annual additions credited to a Participant's Account during a Limitation Year shall not exceed the lesser of \$40,000 (adjusted as permitted by Section 415(d) of the Code and Regulations issued thereunder) or 100 percent of Section 415 Compensation (provided that such 100 percent limitation shall not apply to any contributions for medical benefits after separation from service, within the meaning of Section 401(h) or Section 419A(f)(2) of the Code). This Section 3.5 shall be construed and interpreted in accordance with the provisions of Article IX.

3.6 Vesting

Except as set forth in Section 5.1, a Participant will be fully Vested in his Aggregate Account at all times. If the Plan's vesting schedule is amended or the Plan is amended in any way that directly or indirectly affects the computation of a Participant's nonforfeitable percentage, each Participant with at least three years of service with the Employer may elect within a reasonable period of time after the adoption of the amendment or change to have his nonforfeitable percentage computed under the Plan without regard to the amendment or change.

3.7 Investment in Accordance with Applicable Law

All contributions, interest earned, and any assets of the Plan shall at all times be invested and managed in accordance with the requirements of applicable law.

3.8 Reversions

The Employer shall have the right to a reversion of assets from this Plan if (1) a contribution is conditioned upon the initial qualification of the Plan, a timely determination letter request is filed, and the Plan receives an adverse determination, or (2) the reversion is due to a good faith mistake of fact, or (3) the contribution is conditioned on its deductibility under Section 404 of the Code. Notwithstanding the foregoing, (i) any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution; (ii) in the event the deduction of a contribution made by the Employer is disallowed under Section 404 of the Code, such contribution (to the extent disallowed) must be returned to the Employer within one year of the disallowance of the deduction; and (iii) in the event that the Commissioner of Internal Revenue determines that the Plan is not initially qualified under the Internal Revenue Code, any contribution made incident to that initial qualification by the Employer must be returned to the Employer within one year after the date the initial qualification is denied, but only if the application for the qualification is made by the time prescribed by law for filing the Employer's return for the taxable year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

ARTICLE IV

FUNDING AND VALUATION

4.1 Funding

The assets of the Plan shall be held in a trust or invested in an insurance contract, which may or may not be held in a trust. For the purpose of funding this Plan, the Employer shall provide the Trustee or Investment Manager with written direction on how to invest the assets of the Plan. Notwithstanding anything to the contrary contained in the Trust Agreement, in-kind contributions shall not be permissible under the Plan. In the case of any conflict between this Plan document and any trust or custodial document under which assets of the Plan are held, this Plan document shall control.

4.2 Valuation

The value of a Participant's Employer Contribution Account and Employee Contribution Account shall be determined annually on a date hereafter referred to as a Valuation Date. As of each Valuation Date there shall be determined the amount of the investment gain or loss to be credited to the total of all assets held for Employer Contribution Accounts and Employee Contribution Accounts during the period since the preceding Valuation Date. The total adjustment shall be allocated among all of the individual Participant and Inactive Participant Accounts as of the current Valuation Date. The assets of the Trust shall be valued annually at fair market value. On the Valuation Date, the earnings and losses of the Trust will be allocated to each Participant and Inactive Participant.

4.3 Type and Nature of Plan

Neither the faith and credit nor the taxing power of the Employer, the State of California or any other political subdivision thereof other than the Employer is pledged to the distribution of benefits hereunder. Except for contributions and other amounts hereunder, no other amounts are pledged to the distribution of benefits hereunder. Distributions of benefits are neither general nor special obligations of the Employer, but are payable solely from contributions, as more fully described herein. No Employee or Beneficiary may compel the exercise of the taxing power by the Employer. Distributions of benefits are not a debt of the Employer, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory limitation or restriction. Distributions are not a legal or equitable pledge, charge, lien, or encumbrance, upon any of the Employer's property, or upon any of its income, receipts, or revenues, except amounts in the accounts which are, under the terms of this Plan, set aside for distributions of benefits. Neither the Participants of the legislative body of the Employer nor its officers, employees, agents, or volunteers are liable hereunder. Benefits under the Plan may not be assigned or alienated except to the extent allowable under Sections 401(a)(13) and 414(p) of the Code.

ARTICLE V

VESTING

5.1 Vesting in Employer Contribution Account

Each Participant shall be one hundred percent (100%) Vested in his Employer Contribution Account at all times.

5.2 Vesting in Employee Contribution Account

Each Participant shall be one hundred percent (100%) Vested in his Employee Contribution Account at all times.

5.3 Full or Partial Termination

Notwithstanding the vesting schedule in 5.1 and 5.2, upon the complete discontinuance of Employer contributions to the Plan or upon any full or partial termination of the Plan, all amounts credited to the Account of any affected Participant shall become one hundred percent (100%) Vested and shall not thereafter be subject to forfeiture for any reason.

ARTICLE VI

DISTRIBUTION OF BENEFITS

6.1 Incidental Death Benefits

(a) Distributions from the Plan shall be made in accordance with Section 401(a)(9) of the Code, including the incidental death benefits under Section 401(a)(9)(G) and the regulations thereunder. The required beginning date of benefit payments that represent the entire interest of the Participant shall be as follows:

(b) A Participant shall have the option of commencing distributions by April 1 following age 70½ or deferring payment until actual retirement. For avoidance of doubt, a Participant is not required to receive a distribution while an Employee (in 2009 or any other year).

(c) Time and Manner of Distribution.

(i) Required Beginning Date. The Participant's entire interest will be distributed to the Participant no later than the Participant's Required Beginning Date.

(ii) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed no later than December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) Forms of Distribution. The Participant's interest shall be distributed in the form of a single sum on or before the Required Beginning Date.

(iv) Required Beginning Date. The April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or, if the Participant opts to defer payment until retirement, the April 1 of the calendar year following the calendar year in which the Participant actually retires.

6.2 Amount of Distribution

A Participant who terminates employment for any reason shall be entitled to one hundred percent (100%) of the value of his Aggregate Account determined as of the most current Valuation Date.

6.3 Lump Sum Distributions

All distributions shall be made in a lump sum payment in cash constituting the entire value of the distributee's Aggregate Account.

6.4 Time of Distribution

Unless otherwise specified herein, benefits shall become distributable to a Participant (or the Participant's Beneficiary in any case of the Participant's death) upon any termination of the Participant's employment by reason of resignation, discharge, retirement, disability, or death. This Plan does not provide for mandatory distributions of any amount. Therefore, no distribution is made (regardless of the amount of the distribution) without the consent of the Participant (or the Participant's Beneficiary in any case of the Participant's death).

6.5 Participant's Rights Not Subject to Execution

The right of a Participant to a benefit under this Plan is not subject to execution or any other process whatsoever, except to the extent permitted and is unassignable.

6.6 Unclaimed Benefits

Each Participant and Beneficiary of a deceased Participant shall file with the Plan Administrator from time to time in writing, his home address and each change of home address. Any communication shall be addressed to the Participant or the Beneficiary at his last home address filed with the Plan Administrator, or if no such address was filed, then at his last home address as shown on the Employer's records, shall be binding on the Participant or Beneficiary for all purposes of the Plan. The Participant's Account balance shall be subject to the abandoned property law of the applicable jurisdiction.

6.7 Direct Rollovers

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Plan, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(b) A Beneficiary who is not the spouse of the Participant may elect a direct trustee to trustee transfer that qualifies as an eligible rollover distribution under this Section 6.7. Such transfer shall be made to an individual retirement plan described in Section 408(a) of the Code or an individual retirement account that is established for the purpose of receiving the distribution on behalf of such Beneficiary. Such individual retirement account shall be deemed an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Code. Also, in this case, the determination of any required minimum distribution under Code Section 401(a)(9) that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

(c) Definitions

(i) Eligible Rollover Distribution

An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; (iii) any hardship distribution; (iv) and any other distribution(s) that is reasonably expected to total less than \$200 during a year. For purposes of the \$200 rule, a distribution from a designated Roth account and distributions from other accounts under the Plan are treated as made under separate plans. Any portion of a distribution that consists of after-tax employee contributions which are not includable in gross income may be transferred only to (A) a traditional individual retirement account or annuity described in Section 408(a) or (b) of the Code or Roth individual retirement account or annuity described in Section 408A of the Code; or (B) to a qualified plan described in Section 401(a) of the Code or to an annuity contract described in Section 403(b) of the Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includible.

(ii) Eligible Retirement Plan

An eligible retirement plan is an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, a traditional IRA, a Roth IRA, an annuity plan described in Section 403(b) of the Code or a qualified plan described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code. If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual.

(iii) Direct Rollover

A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

6.8 Military Service

Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code. In addition, the survivors of any Participant who dies on or after January 1, 2007, while performing qualified military service, are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed and then terminated employment on account of death.

ARTICLE VII

DEATH BENEFITS

7.1 Designation of Beneficiary

Each Participant and Inactive Participant shall have the right to designate a Beneficiary to receive the death benefits that are payable from this Plan. Such designation must be evidenced by a written instrument filed with the Employer on a form prescribed by the Employer and signed by the Participant.

7.2 Married Participant

The Beneficiary for a married Participant shall at all times be the Participant's spouse and may not be changed to someone other than such spouse unless the consent of such spouse is provided upon a written form witnessed by a duly authorized Plan representative or a notary public and acceptable to the Employer. If no such designation is on file with the Employer at the time of the death of the Participant, or if for any reason at the sole discretion of the Employer such designation is defective, then the spouse of such Participant shall be conclusively deemed to be the Beneficiary designated to receive such benefit.

7.3 Spouse's Signature

The signature of the Participant's spouse shall be required on a designation of beneficiary form if the spouse is not the Beneficiary, unless the Participant declares in writing that one of the following conditions exists:

- (a) The Participant is not married;
- (b) The Participant does not know and has taken all reasonable steps to determine the whereabouts of the spouse;
- (c) The spouse is incapable of executing the acknowledgement because of an incapacitating mental or physical condition.

7.4 Default Beneficiary

In the event the Participant dies and is not survived by a spouse, the Aggregate Account shall pass by the laws of intestacy.

7.5 Domestic Partners

For purposes of this Article VII only: (1) all references to “marriage” shall also include “registered domestic partnerships,” (2) individuals in a “registered domestic partnership” shall be considered “married,” and (3) all references to a “spouse” shall also include a “registered domestic partner.” A “registered domestic partner” and a “registered domestic partnership” refer to persons and partnerships satisfying the requirements of applicable law (including any registration requirements) as of the date of death.

ARTICLE VIII

ADMINISTRATION AND AMENDMENT OF PLAN

8.1 Designation of Plan Administrator

The Employer is the Plan Administrator under this Plan unless an individual employed by, or a position within the Employer, has been appointed by the Employer as Plan Administrator. In addition to a Plan Administrator the Employer may designate a delegatee to perform those activities relating to the Plan as specified in the written appointment of such delegatee. The term "Employer" as used in this Article VIII shall mean the Plan Administrator or delegatee where responsibility for administration of the Plan has been given to such parties.

8.2 Rules and Regulations

The Employer shall supervise and control the operation of this Plan in accordance with its terms and may make rules and regulations for the administration of this Plan that are not inconsistent with the terms and provisions hereof. The Employer shall determine any questions arising in connection with the interpretation, application, or administration of the Plan (including any question of fact relating to age, employment, Compensation, or eligibility of Employees) and its decisions or actions in respect thereof shall be conclusive and binding upon any and all persons and parties. The Employer's interpretations, determinations and actions taken under the Plan shall in all cases result in like treatment for Employees who are similarly situated. In the event of any conflict between the terms of this Plan and conflicting provision contained in the Trust, the terms of this Plan will govern.

8.3 Amendment and Termination

The Employer shall have the right to amend, modify or terminate this Plan at any time. In the event of a termination or the complete discontinuance of this Plan, the entire interest of each Participant affected thereby shall immediately become 100% Vested. The Employer shall not be liable for the payment of any benefits under this Plan and all benefits hereunder shall be payable solely from the assets of the Trust. The Provider, as defined in section 4.08 of Rev. Proc. 2017-41, may amend any part of the Plan. However, for purposes of reliance on an Opinion Letter, the Provider will no longer have the authority to amend the Plan on behalf of the Employer as of the date (1) the Employer amends the Plan to incorporate a type of plan described in section 6.03 of Rev. Proc. 2017-41 that is not permitted under the Pre-approved Plan program, or (2) the Internal Revenue Service notifies the Employer, in accordance with section 8.06(3) of Rev. Proc. 2017-41, that the Plan is an individually designed plan due to the nature and extent of Employer amendments to the Plan. The Provider will inform the Employer of any amendments made to the Plan or of the discontinuance of the Plan.

ARTICLE IX

ANNUAL ADDITION LIMITS

9.1 Construction

Section 3.5 of the Plan shall be construed in accordance with this Article IX. Unless the context clearly requires otherwise, words and phrases used in this Article IX shall have the same meanings that are assigned to them under the Plan.

9.2 Definitions

As used in this Article IX, the following terms shall have the meanings specified below.

(a) **"Annual Additions"** shall mean the sum credited to a Participant's Accounts for any Plan Year of (i) Employer contributions, (ii) Employee contributions, (iii) forfeitures, (iv) amounts credited after March 31, 1984 to an individual medical account, as defined in Section 415(1)(2) of the Code which is part of a pension and annuity maintained by the Employer, (v) amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits, allocated to the separate account of a key employee, as defined in Section 419A(d)(3) of the Code, under a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by the Employer, and (vi) allocations under a simplified employee pension.

(b) **"Defined Benefit Plan"** means a plan described in Section 414(j) and 414(k)(2) of the Code.

(c) **"Defined Contribution Plan"** means a plan described in Section 414(i) and 414(k)(2) of the Code.

(d) **"Section 415 Compensation"** shall mean a Participant's wages within the meaning of Code Section 3401(a) and all other payments of compensation to the Participant by the Employer (in the course of the Employer's business) for which the Employer is required to provide the Participant a written statement under Code Sections 6041(d), 6051(a)(3) and 6052. Section 415 Compensation shall be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed. Compensation for any Limitation Year is the compensation actually paid or includible in gross income during such year. Compensation paid or made available during a Limitation Year shall include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b). After December 31, 2008, differential wage payments shall be treated as payment of wages under Code Section 3401(a) for purposes of Code Section 415(c)(3). Section 415 Compensation does not include any amounts paid following a severance from employment, except amounts paid or includible in gross income by the later of 2 1/2 months after a severance from employment or the end of the Plan Year that includes the severance from employment shall be included if, (i) absent the severance

from employment, such compensation would have been paid to the Participant while the Participant continued in employment with the Employer, and such payments represent regular compensation for services during the Participant's regular working hours (or compensation for services outside the Participant's regular working hours, such as overtime or shift differential), commissions, bonuses or similar compensation, (ii) the payment is for unused accrued bona fide sick, vacation or other leave that the Participant would have been able to use if employment had continued, or (iii) the payment is received by the Participant pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income. Any payments not described above shall not be considered Section 415 Compensation if paid after severance from employment, even if they are paid by the later of 2 1/2 months after the date of severance from employment or the end of the Limitation Year that includes the date of severance from employment.

9.3 Annual Addition Limitations

(a) Annual Additions shall not exceed the limit set forth in Section 3.5 of Article III of the Plan.

(b) The compensation limitation of Section 3.5 of the Plan shall not apply to any contribution for medical benefits (within the meaning of Code Section 419A(f)(2)) after separation from service which is treated as an Annual Addition.

(c) If any Employer contributes amounts, on behalf of Participants covered by the Plan, to other defined contribution plans, the limitation on Annual Additions provided in Article III of the Plan shall be applied to Annual Additions in the aggregate to the Plan and such other plans. reduction of Annual Additions, where required, shall be accomplished by reducing contributions under such other plans pursuant to the directions of the fiduciary for administration of such other plans or under priorities, if any, established by the terms of such other plans, and then, if necessary, by reducing contributions under the Plan.

(1) This Section 9.3(c)(1) applies if, in addition to this Plan, the Participant is covered under another qualified pre-approved defined contribution plan maintained by the Employer, a welfare benefit fund maintained by the Employer, an individual medical account maintained by the Employer, or a simplified employee pension maintained by the Employer, that provides an Annual Addition during any Limitation Year. The Annual Additions which may be credited to a Participant's account under this Plan for any such Limitation Year will not exceed the maximum permissible amount reduced by the Annual Additions credited to a Participant's account under the other qualified pre-approved defined contribution plans, welfare benefit funds, individual medical accounts, and simplified employee pensions for the same Limitation Year. If the Annual Additions with respect to the Participant under other qualified pre-approved defined contribution plans, welfare benefit funds, individual medical accounts, and simplified employee pensions maintained by the Employer are less than the maximum permissible amount and the employer contribution that would otherwise be contributed or allocated to the participant's account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and funds for the

Limitation Year will equal the maximum permissible amount. If the Annual Additions with respect to the Participant under such other qualified pre-approved defined contribution plans, welfare benefit funds, individual medical accounts, and simplified employee pensions in the aggregate are equal to or greater than the maximum permissible amount, no amount will be contributed or allocated to the Participant's account under this Plan for the Limitation Year.

(2) If the Participant is covered under another qualified defined contribution plan maintained by the Employer which is not a pre-approved plan, Annual Additions which may be credited to the Participant's account under this plan for any Limitation Year will be limited in accordance with this section as though the other plan were a pre-approved plan.

(d) If a short Limitation Year is created because of an amendment changing the Limitation Year to a different 12-consecutive month period, the maximum permissible amount will not exceed the limitation in Section 3.5 multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year, and the denominator of which is 12.

(e) In the event the limitations of Section 3.5 of the Plan or Sections 9.3(a) through (d) of this Article IX are exceeded such excess may be corrected through the Employee Plans Compliance Resolution System as permitted by applicable IRS guidance (such as under Rev. Proc. 2016-51 or its successors).

**ADOPTION OF THE
AMENDED AND RESTATED
CITY OF BERKELEY
PARS ALTERNATE RETIREMENT SYSTEM**

The Employer may rely on an opinion letter issued by the Internal Revenue Service as evidence that the Plan is qualified under Section 401 of the Internal Revenue Code except to the extent provided in Rev. Proc. 2017-41.

An Employer who has ever maintained or who later adopts any plan (including a welfare benefit fund, as defined in Section 419(e) of the Code, which provides post-retirement medical benefits allocated to separate accounts for key employees, as defined in Section 419A(d)(3) of the Code, or an individual medical account, as defined in Section 415(l)(2) of the Code) in addition to this Plan may not rely on the opinion letter issued by the Internal Revenue Service with respect to the requirements of Section 415.

The Employer may not rely on the opinion letter in certain other circumstances, which are specified in the opinion letter issued with respect to the Plan or in Rev. Proc. 2017-41.

The Amended and Restated City of Berkeley PARS Alternate Retirement System is hereby adopted.

BY: _____
Ravinder Rangi

TITLE: Employee Relations Officer

DATE: _____

Provider: Public Agency Retirement Services
P.O. Box 11119
Newport Beach, CA 92658-5019

(800) 540-6369

Opinion Letter Serial No: Q702335a

**AMENDMENT TO THE
CITY OF BERKELEY
PARS ALTERNATE RETIREMENT SYSTEM**

WHEREAS, the City of Berkeley (the "Employer") adopted the City of Berkeley PARS Alternate Retirement System (the "Plan"), amended and restated effective January 1, 2021; and

WHEREAS, the Employer desires to amend the Plan in response to the Setting Every Community up for Retirement Act (the "SECURE Act") to increase the Required Beginning Date age to 72 for participants who turn 70½ in the calendar year 2020 and after; and

WHEREAS, the Employer further desires to amend the Plan in response to the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") to waive 2020 required minimum distributions; and

WHEREAS, the Employer has the right to amend the Plan in accordance with Section 8.3 of the Plan.

NOW THEREFORE, BE IT RESOLVED, effective January 1, 2020, the Plan is hereby amended as follows:

1. Section 6.1, **Incidental Death Benefits**, is hereby amended in its entirety to read.

6.1 Incidental Death Benefits

(a) Distributions from the Plan shall be made in accordance with Section 401(a)(9) of the Code, including the incidental death benefits under Section 401(a)(9)(G) and the regulations thereunder. The required beginning date of benefit payments that represent the entire interest of the Participant shall be as follows:

(b) A Participant shall have the option of commencing distributions by (i) April 1 following (A) age 70½, if the Participant was born before July 1, 1949, or (B) age 72 if the Participant was born after June 30, 1949, or (ii) deferring payment until actual retirement. For avoidance of doubt, a Participant is not required to receive a distribution while an Employee (in 2009 or any other year).

(c) Time and Manner of Distribution.

(i) Required Beginning Date. The Participant's entire interest will be distributed to the Participant no later than the Participant's Required Beginning Date.

(ii) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed no later than December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) Forms of Distribution. The Participant's interest shall be distributed in the form of a single sum on or before the Required Beginning Date.

(iv) Required Beginning Date. The April 1 of the calendar year following the calendar year in which the Participant attains (A) age 70½, if the Participant was born before July 1, 1949, or (B) age 72 if the Participant was born after June 30, 1949, or, if the Participant opts to defer payment until retirement, the April 1 of the calendar year following the calendar year in which the Participant actually retires.

(d) Notwithstanding any contrary provision in this Section 6.1, in accordance with section 2203 of the CARES Act, any distribution that is required in 2020 by Section 6.1(c) (which implements the minimum distribution requirements of Section 401(a)(9) of the Code) will not be made. In addition, notwithstanding Section 6.7 of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, any amount that would otherwise be a minimum distribution under Code section 401(a)(9) in 2020 will be treated as an eligible rollover distribution.

2. All other terms and conditions under the Plan shall remain in full force and effect.

IN WITNESS WHEREOF, this amendment is hereby adopted effective as of the date executed below.

CITY OF BERKELEY

By: _____
Ravinder Rangi

Title: Employee Relations Officer

Dated: _____

**AMENDMENT TO THE
CITY OF BERKELEY
PARS ALTERNATE RETIREMENT SYSTEM**

WHEREAS, the City of Berkeley (the “Employer”) has adopted the City of Berkeley PARS Alternate Retirement System (the “Plan”), amended and restated effective January 1, 2021; and

WHEREAS, the Employer wishes to amend the Plan to include Participant arbitration provisions; and

WHEREAS, the Employer reserves the right to amend the Plan from time to time pursuant to Section 8.3 of the Plan.

NOW THEREFORE, BE IT RESOLVED, the Plan is hereby amended as follows:

1. Article VIII, Section 8.4, **Arbitration of Disputes**, is hereby added to the Plan, as follows:

8.4 Arbitration of Disputes

(a) Any claim, dispute or breach arising out of or in any way related to the Plan, including any claim, dispute or breach asserted by a Participant on behalf of the Plan, shall be settled by binding arbitration conducted in Berkeley (or such other major city that is nearest to the location where the Participant was last employed by the Employer before a single neutral arbitrator at JAMS pursuant to the JAMS Employment Arbitration Rules and Procedures in effect at the time of the dispute (information available at www.jamsadr.com). As a precondition to commencing any arbitration, the claims procedure set forth in Section 8.4 hereof must be fully exhausted.

(b) To the extent permitted by applicable law, the arbitration shall be determined based solely on the record established for the appeal described in Section 8.4 hereof.

(c) In any such arbitration, the arbitrator shall issue a written award/opinion. A judgment upon the award/opinion rendered by the arbitrator may be entered in any court of competent jurisdiction.

(d) From the commencement of the arbitration through the issuance of the arbitrator’s award/opinion, the Employer will pay the arbitrator’s fee and the arbitration forum’s fees.

(e) The Participant must bring any dispute in arbitration on an individual basis only, and not on a class, collective or representative basis. The Participant must, and by accruing and/or accepting benefits under the Plan does, waive the right to commence, be a party to, or be an actual or putative class member of any class, collective or representative action arising out of or relating to the Plan, including but not limited to any claims asserted by a Participant on behalf of the Plan (“Class Action Waiver”). However, if this Class Action Waiver is found to be unenforceable by a court of competent jurisdiction, then any claim asserted on a class, collective or

representative basis shall be filed and adjudicated in a court of competent jurisdiction, and not in arbitration. Except as provided in the preceding sentence, this Section 8.4 is intended to make mandatory individual arbitration apply, as described above, to the maximum extent permissible under applicable law. If any feature of this arbitration requirement is found to be impermissible under applicable law, arbitration as described above shall remain required with the minimum change necessary to allow the arbitration requirement to be permissible under applicable law.

2. All other terms and conditions under the Plan shall remain in full force and effect.

IN WITNESS WHEREOF, this amendment is hereby adopted effective as of the date executed below.

CITY OF BERKELEY

By: _____
Ravinder Rangi

Title: Employee Relations Officer

Date: _____



Office of the City Manager

CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Don Ellison, Interim Director of Human Resources
 Subject: Re-establish Senior Engineering Inspector Classification

RECOMMENDATION

Adopt a Resolution amending Resolution No. 69,996-N.S. Memorandum of Understanding: Public Employees Union – Local 1, Re-establishing the Senior Engineering Inspector classification.

FISCAL IMPACTS OF RECOMMENDATION

The Human Resources Department contracted with Bryce Consulting to develop a base salary recommendation based on market data and internal equity. Bryce Consulting is an agency that provides a variety of human resource services to non-profit and public-sector clients. After considering the internal relationships among classifications, staff is recommending a monthly salary range of the following \$8,575.29 - \$10,329.71

CURRENT SITUATION AND ITS EFFECTS

The Engineering Inspectors provide assistance with management of capital improvement projects, permitting, inspection of private and utility contract work, and management of the private sewer lateral program. The major aspect of a large number of the Engineering Inspector staff are assigned to issuing permits and inspecting construction work being performed under a permit.

There is a current need to have a Senior Engineering Inspector in the permitting group that can take on a supervisory role and assign permit issuance and inspections on a day to day basis. A Senior Engineering Inspector would be in a better position to monitor the workflow and review the more difficult permit applications such as the regulatory requirements and timelines related to small cell antenna permit applications.

Therefore, staff recommends that the City Council re-establish the Senior Engineering Inspector classification to enable the Engineering Division to function more efficiently and provide improved services to the community.

BACKGROUND

The Personnel Board met on December 29, 2021, and approved the classification and salary range for Senior Engineering Inspector.

Motion/Second: Wenk/Dixon
Ayes: Bartlow, Dixon, Lacey, Wenk
Nays: none
Abstain: none
Absent: Gilbert, Karpinski, Wilson

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

It has been the policy of the City to create the necessary classification and salary schedule to accommodate new duties and responsibilities, reflect programmatic changes, maintain competitive salaries and, when applicable, comply with regulatory requirements.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Joseph Enke, Manager of Engineering, 510-981-6411
Ronald Nevels, Supervising Civil Engineer, 510-981-6439

Attachments:

1. Resolution
2. Senior Engineering Inspector Job Description

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

CLASSIFICATION AND SALARY RANGE: SENIOR ENGINEERING INSPECTOR

WHEREAS, the Human Resources Department maintains the Classification and Compensation plan for the City of Berkeley; and

WHEREAS, the Deputy Director of Public Works and Local One recommended re-establishing the Senior Engineering Inspector position; and

WHEREAS, the Engineering Department and Human Resources Department have completed a classification and salary review; and

WHEREAS, on December 20, 2021, the Personnel Board voted to approve the classification and salary range of the Senior Engineering Inspector position.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Resolution No. 69,996-N.S., Memorandum of Understanding: Public Employees Union – Local 1, be amended to include the Senior Engineering Inspector position.



CITY OF BERKELEY
Established Date: XXXX

Class Code:
3174

Senior Engineering Inspector

Bargaining Unit: PEU Local One

SALARY RANGE

\$49.47 - \$59.59 Hourly
\$3,957.82 - \$4,767.56 Biweekly
\$8,575.29 - \$10,329.71 Monthly
\$102,903.42 - \$123,956.56 Annually

DESCRIPTION:

DEFINITION

Under general supervision of the Supervising Civil Engineer, organizes, assigns and reviews the work of staff engaged in the performance of engineering inspections of public and private construction projects and permits issued by the Engineering Division; interprets City details, and specifications to ensure compliance with approved and permitted construction work; ensures compliance with municipal code; oversees day to day inspection logs, and maintenance/restoration work in the City's right-of-way; provides input and recommendations for improving the inspection and permitting process; performs related work as assigned.

CLASS CHARACTERISTICS

This is a lead-level class with responsibility for assigning, reviewing and coordinating the work of Engineering Inspectors in addition to performing the more complex inspections on a variety of construction projects, including streets, sidewalks, sanitary sewers, storm drains, underground pipes and conduits and other public works structures. It is distinguished from the Engineering Inspector class by the responsibility to provide technical and functional supervision, the performance of the more complex inspections, compiling and maintaining inspection record data of the engineering/utility permits, and overseeing the inspection process from design to completion.

EXAMPLES OF DUTIES:

The following list of duties is intended only to describe the various types of work that may be performed and the level of technical complexity of the assignment(s) and is not intended to be an all-inclusive list of duties. The omission of a specific duty statement does not exclude it from the position if the work is consistent with the concept of the classification, or is similar or closely related to another duty statement.

1. Plans, prioritizes, leads, reviews and participate in the work of staff assigned to perform construction inspections, and issuance of permits;
2. Develops schedules and methods to accomplish assignments ensuring all work is completed in a timely and efficient manner;
3. Participates in evaluating the activities of staff, recommending improvements and modifications;
4. Assigns and reviews day to day duties and permit inspection responsibilities to subordinate staff as assigned;
5. Responds to inquiries and complaints from contractors, applicants, other City staff, and the public regarding inspection functions and construction activities;
6. Compiles and maintains detailed records and statistics of work activities such as issuance and inspection record data of engineering and utility permits and compiles information into reports in support of the Department;
7. Inspects all types of public works construction projects, such as sidewalks, driveways, sewer mains and lateral installations, curbs and gutters, retaining walls, earthwork, marina facilities, street excavation and patchwork, street paving and drainage facilities to determine compliance with contract specifications, state laws and local ordinances;
8. Maintain familiarity with federal, state, and local laws and rules that affect permitting and inspections performed by the Engineering Division;
9. Provides input and recommendations for modifications to existing and new policies, procedures, software, and technology, related to permitting and inspections performed by the Engineering Division;
10. Meets with other agencies, contractors, and City staff as required for permitting and inspections performed by the Engineering Division;
11. Provides input, recommendations, and supporting documentation related to establishment and updating of permitting fees and charges;
12. Prepares project update reports; maintains necessary field records including sketches, photographs, survey work, drafting, narrative notes, and enters information into permitting software;
13. Prepares and recommends change orders and progress payments for construction projects;
14. Meets and confers with representatives of utility companies, contractors, public agencies and the general public;
15. Makes on-site accident investigations and posts locations scheduled for repair;
16. Uses inspection equipment such as levels, tape measures, thermometers;
17. Appears as expert witness in court for accident investigations related to public works facilities;
18. Processes and issues permits;
19. Prepares as-built drawings of inspected projects and updates inspection records;
20. Operates electronic measuring, data collection and data processing equipment;
21. Reviews plans and permit application documentation to ensure compliance with standard details, stand specifications, Berkeley Municipal Code, and construction practices for typical types of Public Works permits and construction.
22. Performs related duties as assigned.

The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to this class.

KNOWLEDGE AND ABILITIES:

Note: The level and scope of the knowledges and skills listed below are related to job duties as defined under Class Characteristics.

Knowledge of:

1. Techniques of lead direction, including planning, assigning and monitoring work and assisting in evaluation of assigned crew members.
2. Surveying principles and practices, field engineering practices and basic design criteria;
3. Techniques and instruments of mechanical drawing and plan reading;
4. Standard construction practices, including methods, specifications, materials and equipment;
5. Relevant state and local laws, ordinances, regulations and codes;
6. Principles, methods, materials, and equipment required for safe work practices in construction zones;
7. Mathematics, algebra and trigonometry, including fractions, decimals and logarithms;
8. Principles and practices of construction inspection and materials testing;
9. Computer applications software used with standard desktop applications such as Microsoft Word, Microsoft Excel and related software programs and systems related to inspection work.

Ability to:

1. Providing technical and functional supervision over assigned staff; effectively train staff;
2. Reading and interpreting drawings, plans and contract specifications;
3. Keeping clear, accurate and concise records and field sketches;
4. Calculating volumes and quantities;
5. Interpreting and enforcing a variety of codes, ordinances and special requirements related to construction work;
6. Providing advice and assistance on construction inspection matters;
7. Writing clear, accurate and concise technical reports and correspondence;
8. Communicating tactfully and effectively with the public, property owners, contractors, and a variety of others encountered in the course of the work;
9. Making accurate mathematical calculations related to inspection and permitting work.

MINIMUM QUALIFICATIONS:

A TYPICAL WAY OF GAINING THE KNOWLEDGE AND SKILLS OUTLINED ABOVE IS:

Equivalent to graduation from high school, supplemented by completion of a course in construction inspection and four (4) years of experience in engineering, construction or construction inspection, including surveying and drafting, one (1) year of which were at a level comparable to the classification of Engineering Inspector. College-level coursework in construction inspection may be substituted for the experience on a year-for-year basis to a maximum of two (2) years.

OTHER REQUIREMENTS:

Must possess a valid California driver's license and have a satisfactory driving record. Possession of a valid

Construction Inspectors Certificate issued by the State Department of Consumer Affairs is desirable. Must be willing to work outdoors in a variety of climatic and topographic conditions.

CLASSIFICATION HISTORY:

Established: xx/xx
Local One PEU
Exempt



Office of the City Manager

CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation Waterfront

Subject: Contract: Sysco San Francisco for Food Services for Tuolumne and Echo Lake Resident Camps

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Sysco San Francisco for food services at the City of Berkeley Tuolumne and Echo Lake Resident Camps for a five-year period, beginning May 1, 2022 and ending May 1, 2027, in an amount not to exceed \$4,468,610, subject to the City's annual budget appropriation process.

FISCAL IMPACTS OF RECOMMENDATION

Total funding of \$4,468,610 is required over the five-year contract. \$210,615 is required for FY22, and \$4,257,995 is required for FY23-FY27. Funds in these amounts are budgeted as follows in Fiscal Year 2022:

- \$68,111.64 is required for Echo Lake Camp (budget code: 125-52-543-582-0000-000-461-644110-)
- \$142,503.52 is required for Tuolumne Camp (budget code: 125-52-543-583-0000-000-461-644110-)

An additional \$4,257,995 will be added to the budgets in each fiscal year for FY23-FY27, subject to the City's annual appropriation process. The increase in subsequent years is an estimate based on current projections for programming and attendance, which will be reevaluated at the end of the 2022 summer program.

CURRENT SITUATION AND ITS EFFECTS

The current contract with Sysco Sacramento for camp food services expires on September 30, 2022. Although the length of this contract will get us through the summer of 2022, the remaining funding is insufficient to cover both camps. Food services are crucial to the day-to-day operation of Echo Lake and Tuolumne resident camps.

In February and March of 2022, the Parks Recreation Waterfront Department conducted a competitive Request for Proposal (RFP) process that included targeted outreach to

thirteen vendors (Specification No. 22-11492-C). Staff determined that Sysco San Francisco best met the City's needs according to the criteria contained in the RFP. The award amount of approximately \$4.468M over 5.5 years is consistent with prior food costs for both camps and will be covered by registration fee revenue in the Camps Fund. Therefore, staff recommends Council approval of a contract with Sysco San Francisco.

BACKGROUND

The Parks, Recreation, and Waterfront Department has provided food services and non-consumable goods for resident campers attending Tuolumne and Echo Lake Camps for many decades, most recently through a contract with Sysco Sacramento from 2014-2021.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Sysco San Francisco requires all fresh, ready-to-eat produce items to be grown in fields that adhere to Good Agricultural Practices (GAP), a voluntary program administered by the U.S. Food and Drug Administration that aims to continually improve food safety, quality and traceability. Sysco San Francisco has committed to source 100% of their top brand wild-caught seafood species from fisheries that are Marine Stewardship Council (MSC) Certified, or involved in fishery improvement projects with the World Wildlife Fund.

RATIONALE FOR RECOMMENDATION

In March, 2022, the City conducted an RFP process and staff determined that Sysco San Francisco best met the City's needs according to the criteria contained in the RFP. Sysco Sacramento has previously provided this service to the City for more than a decade.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Denise Brown, Recreation & Youth Services Manager, Parks Recreation Waterfront,
(510) 981-6707

Attachments:

1: Resolution

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

CONTRACT: SYSCO SAN FRANCISCO FOR FOOD SERVICES FOR TUOLUMNE
AND ECHO LAKE RESIDENT CAMPS

WHEREAS, the current contract for resident camp food services expires on September 30, 2022; and

WHEREAS, food services are required for the City's residential camp programs at Tuolumne and Echo Lake Camps as an essential part of camp services; and

WHEREAS, in March 2022, the City conducted a Request for proposal process and thirteen vendors were invited to submit proposals (Specification No. 22-11492-C). Staff determined that Sysco San Francisco best met the City's needs according to the criteria contained in the RFP; and

WHEREAS, funds in the amount of \$210,615 is budgeted as follows: \$68,111.64 for Echo Lake Camp (budget code: 125-52-543-582-0000-000-461-644110) and \$142,503.52 for Tuolumne Camp (budget code:125-52-543-583-0000-000-461-644110). An additional \$4,257,995 will be added to the budgets in fiscal years FY23-FY27, subject to the City's annual appropriation process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or their designee is authorized to execute a contract and any amendments with Sysco San Francisco for food delivery to Tuolumne and Echo Lake Resident Camps for the period May 1, 2022 through May 1, 2027 in an amount not to exceed \$4,468,610, subject to the City's annual budget appropriation process. A record signature copy of contract and any amendments will be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront
 Subject: Donation: Bench and picnic equipment at Codornices Park in memory of Lucinda Sikes

RECOMMENDATION

Adopt a Resolution accepting a donation in the amount of \$16,000 donation from the local friends of Lucinda Sikes for a memorial bench and picnic equipment to be placed at Codornices Park in memory of Lucinda.

FISCAL IMPACTS OF RECOMMENDATION

Local friends of Lucinda Sikes have created a memorial fund and wish to donate to the proceeds to the City in the amount of \$16,000 to help cover the purchase and installation of a memorial bench and picnic equipment at Codornices Park. The cash donation will be deposited into Parks Fund donation revenue budget code 138-52-542-568-0000-000-000-481110 and will be appropriated in FY 2022.

CURRENT SITUATION AND ITS EFFECTS

Local friends of Lucinda Sikes wish to donate \$16,000 for two picnic tables, a barbeque, an ash disposal bin, a garbage can, and two park benches (one will be a memorial bench) at Codornices Park. This will create a new reservable family picnic site. Per the City's Expanded City Parks Donation Policy, individuals may donate to a specific parks budget accounts that the City uses to purchase essential items in the normal course of operating and maintaining the City's parks. These items include picnic tables and other parks equipment.

Per the City's Park Bench Donation Policy, individuals may donate memorial benches to the City's parks in selected locations, subject to the approval of the Director of the Parks Recreation & Waterfront Department, and pay for all associated costs, subject to Council disclosure and approval of the gift donation. The Director has determined that the proposed donation complies with the City's Expanded City Park Donation, Resolution No. 66,831-N.S. and the City's Bench Donation Policy, Resolution No. 64-148-N.S. and has approved the donation, subject to Council approval.

BACKGROUND

Benches are placed throughout the City in accordance with the City's Park Bench Donation Policy approved by Council on July 22, 2008 (Resolution No. 64,148-N.S). The City's Open Governance Ordinance (OGO) requires City Council disclosure and approval of any gift to the City in excess of \$1,000 (BMC Section 2.06.150, Ord. 7,166-N.S.)

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The City's vendor for benches, Ross Recreation, makes it a priority to purchase only sustainably-harvested wood derived from stringently-regulated timber source locations, including California, Oregon, Washington and British Columbia. This policy reduces solid waste volumes in landfills, helps conserve natural resources and limits the environmental effects resulting from the extraction of virgin materials. The benches therefore comply with the City's environmentally preferable purchasing policy, specifically section 3.47 Forest Conservation.

RATIONALE FOR RECOMMENDATION

The donation allows the City to install a memorial bench and renovate a picnic area in a public park for the benefit of the general public.

CONTACT PERSON

Scott Ferris, Director, Parks, Recreation & Waterfront, 981-6700.
Bruce Pratt, Parks Superintendent, 981-6635.

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

DONATION: MEMORIAL BENCH AND PICNIC EQUIPMENT AT CODORNICES
PARK IN MEMORY OF LUCINDA SIKES

WHEREAS, on July 22, 2008, Council adopted the Park Bench Donation Policy (Resolution No. 64-148 N.S.); and

WHEREAS, on October 28, 201, Council adopted the Expanded City Parks Donation Policy (Resolution No 66,831 N.S.); and

WHEREAS, the City's Open Governance Ordinance (OGO) requires City Council disclosure and approval of any gift to the City in excess of \$1,000 (BMC Section 2.06.150, Ord. 7,166-N.S.); and

WHEREAS, local friends of Lucinda Sikes wishes to donate \$16,000 for a memorial bench and picnic equipment at Codornices Park; and

WHEREAS, the cash donation will be deposited into Parks Fund donation revenue budget code 138-52-542-568-0000-000-000-481110 and will be appropriated in FY 2022.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a donation of \$16,000 from the local friends of Lucinda Sikes for a memorial bench and picnic equipment at Codornices Park picnic area in memory of Lucinda Sikes is hereby accepted.



Office of the City Manager

CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Director, Planning and Development Department
 Subject: Revenue Grant: FEMA Hazard Mitigation Grant Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to submit a letter of commitment of matching funds in the amount of \$1.25 million, comprising at least \$910,000 from property owner funds, with the remainder through in-kind City staff time, for a Hazard Mitigation Grant application in the amount of \$3.75 million for the Retrofit Grants Program to the Federal Emergency Management Agency (FEMA), and subject to its award, to accept the grant and execute any resultant revenue agreements and amendments including any additional funding allocations from the Hazard Mitigation Grant Program and designating the applicant's authorized agent.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley has been deemed eligible to apply for a grant of up to \$3.75 million as part of FEMA's Hazardous Mitigation Grant Program for *City of Berkeley Retrofit Grants for Seismically Vulnerable Buildings - Round 3*. FEMA requires applicants to provide a letter committing to expend matching funds equating to 25% of the award amount, over the three-year grant duration, for what will become a total project amount of \$5 million. The City match portion of \$1.25 million would include at least \$910,000 from the property owners receiving grants, who are required to fund a portion of their retrofit costs, which is considered local match by FEMA. The only City funds used to fulfil the match obligation will be in-kind expenditures for the staffing and administrative costs of plan check, inspections and other aspects of the review and approval of the retrofit projects. These would total no more than \$340,000, from permit fees collected in the Permit Service Center Fund 833.

The project would provide \$2,730,000 in grants to property owners to retrofit seismically vulnerable buildings, including soft story and other weak residential buildings, unreinforced masonry, tilt-up and non-ductile concrete buildings.

A portion of the project funds will offset City of Berkeley personnel costs for a Community Services Specialist and the Resilient Buildings Program Manager who will manage the project.

CURRENT SITUATION AND ITS EFFECTS

The California Office of Emergency Services anticipates disbursing approximately \$428 million of Hazard Mitigation Grant Program (HMGP) funding in California, aimed at reducing or eliminating risks of future disasters. Berkeley submitted a Notice of Interest for a project to provide retrofit grants for seismically vulnerable buildings and was invited to develop a full application for HMGP funding. The proposed project must be in conformance with Berkeley's FEMA-approved Local Hazard Mitigation Plan. This project would fulfill Berkeley's approach, as described in that plan, to encourage local residents and businesses to upgrade the hazard resistance of their own properties. The project would also advance the priority of reducing hazard vulnerabilities in Berkeley buildings, would help retain existing affordable housing by making it more resistant to earthquake damage, and help to advance Berkeley's Strategic Plan goal of creating a resilient, safe, connected, and prepared city.

A new \$3.75 million FEMA grant would allow the Retrofit Grants Program to support additional seismic retrofits in Berkeley and allow greater flexibility in grant dispersal. Grant sizes will be based on the project size and complexity, building type, and benefit to the community. Design grants will not exceed 75% of design costs, and will be disbursed after the owner has completed design, applied for a building permit, and obtained City-approved plans for an eligible scope of work. Construction grants will typically not exceed 40% of actual construction costs, though grants up to 75% of the total retrofit costs may be offered for high priority projects. Increased grant amounts would reflect the increased complexity and size of retrofit projects that are expected to participate in future rounds of the program, as well as the likelihood that incentivizing voluntary seismic retrofits of larger projects will require larger grant sizes. In all cases, property owners will be required to pay a portion of the project costs, which will be used toward FEMA's local match requirement.

This project will be managed by staff in the Building and Safety Division of the Planning & Development Department. A Community Services Specialist will conduct outreach to property owners and assist participants with applying for grants and meeting program requirements. Staff throughout the Building and Safety Division will assist with property retrofits, including plan review, permit issuance, inspection for code compliance, monitoring progress and compliance with state and federal requirements, and problem solving for difficult projects.

BACKGROUND

In early 2017, hazard mitigation grant funding enabled the City of Berkeley to launch the Retrofit Grants Program, a groundbreaking program that encourages individual property

owners to strengthen their buildings, increase public safety and mitigate the risk of future damage caused by earthquakes. Grant funding was used to incentivize both mandatory and voluntary retrofits of seismically vulnerable buildings through disbursement of design and construction grants to qualifying property owners.

The initial Retrofit Grants Program led to the strengthening of 61 buildings within the City of Berkeley and disbursement of \$1,561,843 to individual property owners. A total of 45 design grants and 52 construction grants were approved and distributed to eligible participants. The City sought and was awarded additional hazard mitigation grant funding in 2020, and a second Retrofit Grants Program was launched in September 2020. This second program is underway and is scheduled to conclude in January 2023. Through this program, the City seeks to disburse \$3 million to Berkeley property owners and strengthen an additional 50-60 seismically vulnerable buildings.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Retrofitted buildings will be less likely to suffer damage in the event of a major earthquake, and as a result will be less likely than non-retrofitted structures to create additional environmental impacts from demolition and rebuilding efforts.

RATIONALE FOR RECOMMENDATION

If the City receives funding under FEMA's Hazardous Mitigation Grant Program, more seismically vulnerable structures in Berkeley are likely to be retrofitted, affordable housing within the City will be retained, safety for tenants and other community members will be increased, and Berkeley will be more resilient in the event of a major seismic event.

ALTERNATIVE ACTIONS CONSIDERED

Staff has considered larger grant award amounts to upgrade individual properties.

CONTACT PERSONS

Galadriel Burr, Community Services Specialist II, Planning and Development Department, 510-981-7475

Jenny McNulty, Resilient Buildings Program Manager, Planning and Development Department, 510-981-7451

Attachments:

1: Resolution

Exhibit A: Cal OES 130 – Designation of Applicant's Agent Resolution

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

AUTHORIZING THE CITY MANAGER TO COMMIT MATCHING FUNDS FOR A HAZARD MITIGATION GRANT APPLICATION FOR THE RETROFIT GRANTS PROGRAM TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND SUBJECT TO ITS AWARD, TO ACCEPT THE GRANT AND EXECUTE ANY RESULTANT REVENUE AGREEMENTS AND AMENDMENTS, INCLUDING ANY ADDITIONAL FUNDING ALLOCATIONS FROM THE HAZARD MITIGATION GRANT PROGRAM.

WHEREAS, as a result of the declaration of a major federal disaster for DR-4482, the State of California is eligible for Hazard Mitigation Grant Program (HMGP) funding aimed at reducing or eliminating future damages; and

WHEREAS, federal funding is provided under the Robert T. Stafford Emergency Assistance and Disaster Relief Act (Stafford Act) through FEMA and the California Governor's Office of Emergency Services (Cal OES); Cal OES is responsible for identifying program priorities, reviewing applications and forwarding recommendations for funding to FEMA; FEMA has final approval for activity eligibility and funding; and

WHEREAS, the federal regulations governing the HMGP are found in Title 44 of the Code of Federal Regulations (44 CFR) Part 206, and the Uniform Administrative Requirements for Federal Awards are found in 2 CFR Part 200; and

WHEREAS, a Notice of Interest was approved for Retrofit Grants for Seismically Vulnerable Buildings and the City of Berkeley is submitting a full application for HMGP funding on or before April 8, 2022; and

WHEREAS, a letter committing at least 25% matching funds, is required as part of the grant application; the matching funds must be from a non-federal source; and

WHEREAS, the match will consist of \$1.25 million over the three-year grant period; \$910,000 would be provided by eligible property owners who participate in the grant program in the form of construction costs; up to \$340,000 would be provided by staff time charged to the Permit Service Center Fund 621, funded from plan review and permit fees during Fiscal Years 2023, 2024, 2025 and 2026, that will be used to support project management and other personnel expenses associated with projects receiving grant funds; and

WHEREAS, the Permit Service Center Fund has an adequate fund balance to provide matching funds; and

WHEREAS, the \$3.75 million grant will be used to provide up to \$2,730,000 in grants to owners of hazardous buildings to reimburse them for a portion of retrofit costs and \$1,020,000 to support the Planning Department's costs to operate the program.

WHEREAS, on December 13, 2016, the Berkeley City Council authorized the City Manager to accept a previous \$3 million HMGP to provide Retrofit Grants for seismically vulnerable buildings; and

WHEREAS, on June 12, 2018, the Berkeley City Council authorized the City Manager to accept a previous \$4.5 million HMGP to provide additional Retrofit Grants for seismically vulnerable buildings, and this grant would allow the City to increase the grant funding available to support seismic retrofits by Berkeley property owners.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to submit a letter of commitment to provide \$1.25 million in local matching funds for the City of Berkeley's application for a \$3.75 million Hazard Mitigation grant from FEMA, and to accept the grant and execute any resultant revenue agreements and amendments including any additional funding allocations from the Hazard Mitigation Program.

BE IT FURTHER RESOLVED that the City Manager or Deputy City Managers are authorized to provide Cal OES Form 130 (Exhibit A) to the California Governor's Office of Emergency Services for all matters pertaining to disaster assistance required under DR-4482 assurances and agreements.

Exhibit A: Cal OES 130 – Designation of Applicant's Agent Resolution

**DESIGNATION OF SUBRECIPIENT'S AGENT RESOLUTION
Hazard Mitigation Grant Program and Pre-Disaster Mitigation Program**

BE IT RESOLVED BY THE _____ OF THE _____
(Governing Body) (Name of Applicant)

THAT _____, OR
(Title of Authorized Agent)

_____, OR
(Title of Authorized Agent)

(Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the _____, a public entity
(Name of Subrecipient)

established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Service. for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the _____, a public entity established under the laws of the State of California,
(Name of Subrecipient)

hereby authorizes its agent(s) to provide to the California Governor's Office of Emergency Service for all matters pertaining to such state disaster assistance the assurances and agreements required.

Please check the appropriate box below:

This is a universal resolution and is effective for all open and futures Disasters/Grants up to three (3) years following the date of approval below.

This is a Disaster/Grant specific resolution and is effective for only Disaster/Grant name/number(s) _____

Passed and approved this _____ day of _____, 20____

(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

CERTIFICATION

I, _____, duly appointed and _____ of
(Name) (Title)

_____, do hereby certify that the above is a true and correct copy of a
(Name of Applicant)

Resolution passed and approved by the _____ of the _____
(Governing Body) (Name of Applicant)

on the _____ day of _____, 20____.

(Signature)

(Title)

Cal OES Form 130
Instructions

A new Designation of Applicant’s Agent Resolution is required if the previously submitted document is older than three (3) years from the last date of Board/Council approval.

When completing the Cal OES Form 130, Subrecipients should fill in the blanks on page 1. The blanks are to be filled in as follows:

Resolution Section:

Governing Body: This is the individual or group responsible for appointing and approving the Authorized Agents. Examples include: Board of Directors, City Council, Board of Supervisors, etc.

Name of Subrecipient: This is the official name of the non-profit, agency, city, county or special district that has applied for the grant. Examples include: City of Sacramento; Sacramento County; or Los Angeles Unified School District.

Authorized Agent: These are the individuals that are authorized by the Governing Body to engage with the Federal Emergency Management Agency and the California Governor’s Office of Emergency Service regarding grants applied for by the subrecipient. There are two ways of completing this section:

1. **Titles Only:** If the Governing Body so chooses, the titles of the Authorized Agents should be entered here, not their names. This allows the document to remain valid if an Authorized Agent leaves the position and is replaced by another individual. If “Titles Only” is the chosen method, this document must be accompanied by a cover letter naming the Authorized Agents by name and title. This cover letter can be completed by any authorized person within the agency (e.g.; City Clerk, the Authorized Agent, Secretary to the Director) and does not require the Governing Body’s signature.
2. **Names and Titles:** If the Governing Body so chooses, the names and titles of the Authorized Agents should be listed. A new Cal OES Form 130 will be required if any of the Authorized Agents are replaced, leave the position listed on the document or their title changes.

Governing Body Representative: These are the names and titles of the approving board members. Examples include: Chairman of the Board, Superintendent, etc. The names and titles cannot be one of the designated Authorized Agents.

Certification Section:

Name and Title: This is the individual that was in attendance and recorded the Resolution creation and approval. Examples include: City Clerk, Secretary to the Board of Directors, County Clerk, etc. This person cannot be one of the designated Authorized Agents to eliminate “Self Certification.”



Berkeley Police Department

CONSENT CALENDAR
APRIL 12, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jennifer Louis, Interim Chief of Police
 Subject: Revenue Grant: Fiscal Year 2022-2025 Department of Justice Tobacco Grant

RECOMMENDATION

Adopt a Resolution authorizing the City Manager, and/or Chief of Police, to execute a grant contract and any subsequent amendments with the State of California Department of Justice (DOJ) in the amount of \$191,053 for three fiscal years, 2021-22 through 2024-25.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley Police Department (BPD) will be the direct recipient of the grant in the amount of \$191,053 for the fiscal years from 2021-22 through 2024-25. The grant provides \$63,684 per year for three years to support Berkeley Police Department operations and efforts to reduce underage access to tobacco. Grant revenues will be deposited into the Police Department's One-Time Grant Fund. There is no required local match of funds to obtain the grant. Appropriation of the expenditures is being included in the Second Amendment to the Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

In a recent focus group, middle and high school students in Berkeley told the City that they and their peers need to hear more about the dangers of flavored tobacco and vape products, and that persistent advertising and access to these products can affect their decisions. City staff heard from young people that they are affected by the prevalence and placement of tobacco products in stores. Youth said "you don't have to look for it, it finds you" and "it's in your eyesight, so even if you don't want it, it's in your mind already." They feel inundated by tobacco advertising throughout the Bay Area. The City presently has over 90 licensed tobacco retailers. The City of Berkeley is home to the University of California, with an estimated 42,000 students. With this population comes a plethora of students who are under 21. There are multiple tobacco-licensed establishments concentrated near the UCB campus that create an environment with free and ready access for underage tobacco use. There has not been minimum-age of purchase tobacco enforcement in the City in over 20 years. This grant would aid in establishing a baseline from which data and future planning, in collaboration with our

Health, Housing and Community Services Department (HHCS), could aid in lowering the incidence of underage tobacco use.

BACKGROUND

The Office of the Attorney General established the California DOJ Tobacco Grant Program in 2017 with the goal of awarding grants to local enforcement agencies in California. As of this report the Tobacco Grant Program has furnished upwards of \$124 million dollars in funding to approximately 260 grantees. The City of Berkeley has been at the forefront of municipal legislation geared towards reducing the availability of and access to tobacco products for minors. As of December 2019 the Federal government raised the age restriction for all tobacco, vaping and smoking products from 18 to 21 years of age.

BPD would use this funding to educate youth and businesses about the well documented negative health effects of tobacco use, and enforce under-age tobacco laws against businesses in an effort to reduce and/or prevent underage tobacco related purchases within the City of Berkeley. The education and information about applicable laws and negative health effects, not citation of underage persons, is one of the goals of this grant. For particular businesses that do not comply with state and local regulations, BPD would collaborate with HHCS and the Alameda County District Attorney's Office to bring the business into compliance.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental impacts associated with this report.

RATIONALE FOR RECOMMENDATION

The BPD has been awarded a DOJ Tobacco Grant in the amount of \$191,053 funding the critical need to address underage access to tobacco related products. Without the funding, the BPD would not have the resources to adequately reduce underage access to tobacco products which can be detrimental to the short and long-term health of our minor children and young adults.

ALTERNATIVE ACTIONS CONSIDERED

If the award is not accepted, the City would not be able to provide these vital services to our community.

CONTACT PERSON

Jennifer Louis, Interim Chief of Police, 981-5700

Attachments:

1: Resolution

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

REVENUE GRANT: STATE OF CALIFORNIA DEPARTMENT OF JUSTICE TOBACCO
GRANT FOR FISCAL YEAR 2022-2025

WHEREAS, the Police Department is committed to providing a safe and secure environment through vigorous law enforcement within the City of Berkeley; and

WHEREAS, underage access to tobacco products is currently a problem within the City of Berkeley; and

WHEREAS, there has been longstanding evidence of the negative health effects to all communities who use tobacco products to persons under the age of 21 throughout the City; and

WHEREAS, underage minors and the young adult community continues to acquire tobacco products through fake identification, merchants who fail to check identification or asking someone to purchase products for them; and

WHEREAS, several tobacco products retailers can be magnets for criminal activity; and

WHEREAS, the police do not have sufficient resources within the existing budget to expand their work on these problems; and

WHEREAS, the Berkeley Police Department desires to undertake a certain project to limit access to tobacco products by minors funded in part from state funds from the California Department of Justice (hereafter referred to as DOJ); and

WHEREAS, the funds have been appropriated into the DOJ Tobacco Grant Program Fund with the agreement that grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee, is hereby authorized to execute a contract and any amendments or extensions with the State of California in order to accept funds in the amount of \$191,053 from the Department of Justice for the enforcement of tobacco related laws for three fiscal years, FY2021-22, FY2022-23, FY 2023-24 and FY 2024-25.

BE IT FURTHER RESOLVED that any liability arising out of the performance of this contract, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency. The State of California and Department of Justice disclaim responsibility for any such liability.



Office of the City Manager

CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Department of Public Works
 Subject: Contract: Bay Cities Paving & Grading, Inc. for Street Rehabilitation FY 2022 Project

RECOMMENDATION

Adopt a Resolution: 1) approving plans and specifications for the Street Rehabilitation FY 2022 Project, Specification No. 22-11470-C; 2) approving the plans for the Intersection Reconfiguration at Dwight Way and California Street Project, Specification No. 22-11485-C; 3) rejecting the lowest bid from Azul Works, Inc. as non-responsive; 4) accepting the bid of the lowest responsive and responsible bidder, Bay Cities Paving & Grading, Inc.; and 5) authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project, in accordance with the approved plans and specifications in an amount not to exceed \$6,084,809.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available from the Street Capital Improvement Program budget, Transportation Capital Improvement Program budget and an allocation by City Council from the General Fund. No other funding is required, and no other projects will be delayed due to this expenditure.

Low bid by Bay Cities Paving & Grading, Inc.	
Including Allston Paver Alternate Bid Item	\$5,291,138
15% Contingency	\$793,671
Total construction cost	\$6,084,809

FY 2022 Street Capital Improvement Program Funds

State Transportation Tax (127-54-623-673-0000-000-431-665110).....	\$345,266
Measure F Vehicle Registration Fee (133-54-623-673-0000-000-431-665110)	\$155,000
Measure BB Sales Tax (134-54-623-673-0000-000-431-665110)	\$2,360,045
Capital Improvement Fund (501-54-623-673-0000-000-431-665110)...	\$1,013,596
Road Maintenance & Rehabilitation Account (SB1) (127-54-623-673-0000-000-431-665110)	\$1,700,000
Storm Water Fund (616-54-623-675-0000-000-473-665120)	\$100,000
	\$5,673,907

FY 2022 & FY 2023 Transportation Capital Improvement Program Funds

General Fund

(011-54-622-668-0000-000-431-665110-PWTRTC1902).....	\$111,072
Measure BB Sales Tax	
(134-54-622-668-0000-000-431-665110-PWTRTC1902).....	\$214,767
State Affordable Housing & Sustainable Communities Grant	
(306-54-622-668-0000-000-431-665110)	\$54,059
Measure BB Sales Tax (134-54-622-668-0000-000-431-665110)	\$31,004
	\$410,902
Total construction cost	\$6,084,809

CURRENT SITUATION AND ITS EFFECTS

The Street Rehabilitation FY 2022 Project (Specification No. 22-11470-C) was released for bids on November 30, 2021, and bids were opened on January 6, 2022. The scope of work associated with the Intersection Reconfiguration at Dwight Way and California Street Project, Specification No. 22-11485-C, were incorporated into the Street Rehabilitation FY 2022 Project (see Attachment 3, Abstract of Bids). Three non-local bids were received, from a low of \$4,705,793 to a high of \$6,422,710. The engineer’s estimate for the project was \$5.1 million.

On January 11, 2022, the City received a bid protest from the second-lowest bidder, Bay Cities Paving and Grading, Inc. The general basis for the protest was that the Azul Works, Inc. bid was non-responsive because the bid did not comply with the following requirements in the Specifications: 1) Failure to Provide Signature Authority, Section 201.5, Rejection of Proposals Containing Alterations or Irregularities, “When proposals are signed by an agent, other than officer or manager of a corporation or member of a partnership, a power of attorney or written authorization must be on file with the City prior to opening bids or shall be submitted with the proposal; otherwise the proposal will be rejected as irregular and unauthorized.”; and 2) Lack of Experience, Section 201.9, Competency of Bidders, “The Engineer may require the Bidder to present satisfactory evidence that he has sufficient experience and that he is fully prepared with the necessary capital, materials, and skilled workmen to carry out the contract.”

A copy of the bid protest was sent to Azul Works, Inc. to provide them an opportunity to respond to the protest issues. City staff and the City Attorney’s office carefully reviewed and investigated the bids, protest, and responses. Subsequently, City staff concluded that Azul Works, Inc.’s bid should be deemed non-responsive.

As a result, Bay Cities Paving & Grading, Inc. became the lowest responsive and responsible bidder. References for Bay Cities Paving & Grading, Inc. were provided and checked out satisfactorily. Staff recommends that a contract for this project be awarded to Bay Cities Paving & Grading, Inc.

The Street Rehabilitation FY 2022 Project is a Strategic Plan Priority Project, advancing our goal to provide state-of-the art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

Streets throughout Berkeley are scheduled for rehabilitation as part of the City's Five-Year Street Rehabilitation Plan. Berkeley maintains a rolling 5-Year Street Rehabilitation Plan for resurfacing and repaving City streets. The plan was developed utilizing a sophisticated Pavement Management System in coordination with the Metropolitan Transportation Commission. The plan was most recently updated for Fiscal Years 2021 through 2023 by Resolution 69,712-N.S. adopted by Council on January 26, 2021.

This contract is for rehabilitation and preventative maintenance of approximately 2.6 miles of City streets. The scope of work consists of rehabilitation and surface seal of selected streets as shown in Attachment 2: Location Map & List of Streets and an alternate bid item to perform maintenance for the permeable pavers on Allston Way between Martin Luther King Jr. Way and Milvia Street. In addition to street pavement, the project incorporates many other improvements to selected streets in compliance with the Berkeley Complete Streets Policy (Resolution No. 65,978-N.S.), the Americans with Disabilities Act, and stormwater best management practices. Among the Complete Streets improvements included are Bicycle Plan and Pedestrian Master Plan recommendations to install quick-build traffic circles at Browning/Channing and Heinz/9th, a traffic circle at Fulton/Parker, a traffic diverter at Fulton/Derby, a pedestrian island at Colusa/Vincente/Portland and to paint high visibility crosswalks at multiple locations. Additional infrastructure repairs, including curb ramps, curbs, drainage inlets and pipes, gutters and speed tables, are also included in this project. The non-repaving related costs represent approximately 24% of the construction costs. Also included is the construction of Phase 3 of the Intersection Reconfiguration at Dwight Way and California Street.

The project plans and specifications have gone through planning, coordination with outside utility companies, preliminary cost estimates, field investigations, surveys, and extensive design prior to being released for bid.

The plans and specifications are on file in the Public Works Department. In accordance with the California Environmental Quality Act (CEQA) requirements, this project has been determined to be categorically exempt because it consists of the maintenance of existing streets and does not expand their use beyond existing conditions.

The Living Wage Ordinance does not apply to this project since Public Works construction contracts are, subject to state prevailing wage law, pursuant to City policy. Bay Cities Paving & Grading, Inc. has submitted a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement applies to this project because the estimated value exceeds \$500,000. As a result, the contractor and all subcontractors will be required to sign an agreement certifying compliance with the CWA.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The project includes rubberized hot mix asphalt treatments which will divert waste tires from local landfills.

RATIONALE FOR RECOMMENDATION

This street repair project is part of the City's ongoing annual program to rehabilitate deteriorated streets throughout the City. The work requires contracted services, as the City does not possess the in-house labor or equipment resources necessary to complete the project.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered for this pavement rehabilitation project. The City could choose not to proceed with this project. However, the street pavement would continue to deteriorate, drainage improvements would not be made, and complete street bicycle and pedestrian elements would not be installed, affecting use by the community and others.

CONTACT PERSON

Joe Enke, Manager of Engineering, Public Works (510) 981-6411

Attachments:

- 1: Resolution
- 2: Location Map & List of Streets for Project
- 3: Abstract of Bids

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

CONTRACT: BAY CITIES PAVING & GRADING, INC. FOR STREET
REHABILITATION FY 2022 PROJECT

WHEREAS, the Street Rehabilitation FY 2022 Project is part of the City's ongoing Street Capital Improvement Program to rehabilitate deteriorated streets located throughout the City; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this Street Rehabilitation FY 2022 Project or Allston Way permeable paver maintenance; and

WHEREAS, an invitation for bids was duly advertised, bids were opened on January 6, 2021; and

WHEREAS, upon receipt of a bid protest, review of the submitted bids, and careful consideration, the bid from the apparent low bidder, Azul Works, Inc., was deemed non-responsive; and

WHEREAS, Bay Cities Paving & Grading, Inc. was determined to be the lowest responsive and responsible bidder; and

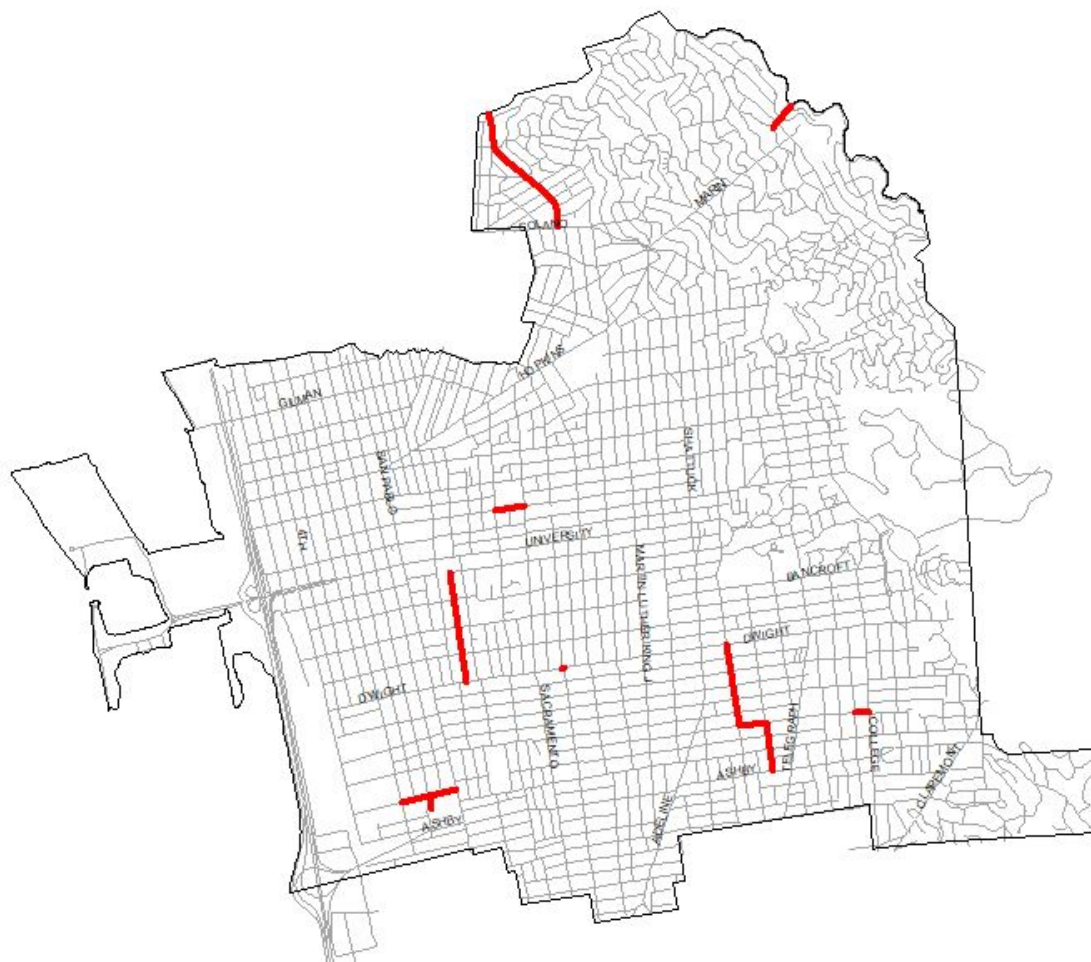
WHEREAS, funding is available in the current year budget in the Street Capital Improvement Program State Transportation Tax (Fund 127), Measure B Sales Tax (Fund 130), Measure F Vehicle Registration Fee (Fund 133), Measure BB Sales Tax (Fund 134), Capital Improvement Fund (Fund 501), Storm Water (Fund 616), and State Affordable Housing and Sustainable Communities Grant (306).

THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 22-11470-C for the Street Rehabilitation FY 2022 Project and the Plans (Specification No. 22-11485-C) for the Intersection Reconfiguration at Dwight Way and California Street are approved.

BE IT FURTHER RESOLVED that the bid from Azul Works, Inc. is deemed non-responsive and rejected; and that the construction contract is awarded to Bay Cities Paving & Grading, Inc. as the lowest responsive and responsible bidder.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions or change orders, until completion of the project in accordance with the approved plans and specifications with Bay Cities Paving & Grading, Inc. for the Street Rehabilitation FY 2022 Project, in an amount not to exceed \$6,084,809, which includes a 15% contingency for unforeseen circumstances. A record signature copy of said agreement and any amendments to be on file in the Office of the City Clerk.

Street Rehabilitation FY 2022



Street	From	To
Browning	Addison	Dwight
Colusa	North City Limit	Solano
Delaware	Acton	Sacramento
Ellsworth	Stuart	Ashby
Fulton	Dwight	Stuart
Heinz	7th	San Pablo
9 th	Heinz	End

Stuart	Fulton	Ellsworth	
Stuart	Benvenue	College	
Sunset	Grizzly Peak	Wildcat Canyon	
Dwight	California	Intersection	
Allston Pavers	MLK	Milvia	



City of Berkeley
Abstract of Bid Worksheet

Finance Department
General Services Division

FOR: Street Rehabilitation FY 2022

Spec. Number
22-11470-C

Bid Date: 1/6/2022

required w/ bid

	Bidders	Base Bid (Package A)	Package B	Total	Bid Bond	Addendum (1)	Experience - Fin. Qual.	Taxpayer ID	Opp.States	Nuclear Free	EBO	Sanctuary City
1	Azul Works, Inc.	\$ 4,432,223.20	\$ 273,569.80	\$ 4,705,793.00	X	X	X	X	X	X	X	X
2	Gallagher & Burk, Inc.	\$ 5,806,821.00	\$ 340,889.00	\$ 6,147,710.00	X	X	X	X	X	X	X	X
3	Bay Cities Paving & Grading, Inc.	\$ 4,937,800.00	\$ 283,337.50	\$ 5,221,137.50	X	X	X	X	X	X	X	X
		BID Alternate - Allston Pavers		\$ Total + Bid Alternate -								
	Azul Works, Inc.	\$240,000.00		\$ 4,945,793.00 -								
	Gallagher & Burk, Inc.	\$275,000.00		\$ 6,422,710.00 -								
	Bay Cities Paving & Grading, Inc.	\$70,000.00		\$ 5,291,137.50 -								
				\$ -								
				\$ -								
				\$ -								

Bid Recorder: Josh Roben *[Signature]*

Bid Opener: Darryl Sweet *[Signature]*

Project Manager: Wendy Wong



Office of the City Manager

CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Garland, Director, Public Works

Subject: Master License Agreement Template for the Non-Exclusive Installation of Small Cell Telecommunications Facilities on City Owned and Maintained Streetlight Poles in the Public Right-of-Way

RECOMMENDATION

Adopt a Resolution directing staff to 1) prepare a draft Master License Agreement template for the non-exclusive installation of small cell telecommunication facilities on City-owned and maintained streetlight poles in the public right-of-way, and 2) return to City Council for review and consideration of template approval.

FISCAL IMPACTS OF RECOMMENDATION

There will be no fiscal impact to the General Fund since the attached resolution does not approve or adopt a master license agreement (MLA) template at this time. However, as part of the proposed MLA template, the City will be able to charge telecommunication companies for review fees and annual rent to cover reasonable costs related to small cell installations on City owned streetlight poles.

CURRENT SITUATION AND ITS EFFECTS

The California Public Utilities Commission (CPUC) has historically determined that wireless providers are a utility and, therefore, have all the rights of use of the public right-of-way (PROW) as any other telecommunications utility under the Public Utilities Code section 7901. The PROW contains existing overhead infrastructure, such as utility poles, traffic signal poles, and streetlight poles that can support wireless telecommunication facilities. As an example, small cell facilities can be and are being installed on wood poles owned by PG&E, and the City has exercised its limited discretion over such installations by adopting the City's Aesthetic Guidelines¹.

¹ Aesthetic Guidelines

[https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Sidewalks,_Streets_-_Utility/PROW%20Aesthetic%20Guidelines%20\(FINAL\)\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Sidewalks,_Streets_-_Utility/PROW%20Aesthetic%20Guidelines%20(FINAL)(1).pdf)

Wireless equipment is attached to wooden utility poles in the PROW as part of an agreement between the telecommunication company and the utility that owns the pole. The usual instances where wireless telecommunication companies would request to attach their equipment to City-owned streetlights are in underground utility districts where the wooden utility poles have been removed or are not present. Rather than install a new pole specifically for mounting the small cell equipment, the wireless carrier would prefer to make use of existing streetlight poles. The Aesthetic Guidelines also require use of existing poles to the extent technically feasible.

Staff has been contacted by wireless telecommunication companies requesting that they be permitted to attach small cell equipment to City-owned streetlight poles. It is reasonable to expect that a wireless carrier will apply for multiple locations throughout the City. Given the short deadlines, known commonly as “shot clocks,” by which Federal law requires the City to act on each permit application for wireless facilities, it is not feasible to take a separate license agreement to the City Council for approval of each installation and remain in compliance with the law. The time period for the shot clock is 60 days for small cell installations on existing structures and 90 days on new or replacement structures.

By entering into an MLA, the basic terms and procedure for installation of small cell wireless facilities on City owned streetlight poles would be pre-established by City Council. This action removes the need for City Council authorization of each individual installation, and allows the review and authorization of individual pole requests and the permit approval process to meet the shot clock deadlines. Upon City Council’s approval of tonight’s item, staff will prepare a draft MLA template and return to the City Council to request approval of the draft template for use with future applications.

Entering into an MLA is a Strategic Plan Priority Project, by advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

Small cell wireless facilities (“Small Wireless Facilities”) are relatively low-power, short-range wireless communication systems that cover a more limited geographic range than traditional “macro” wireless facilities. Small Wireless Facilities are designed to accommodate emerging technologies, which transmit higher volumes of data at higher speed than existing networks. These facilities supplement (rather than replace) larger facilities. The word “small” in “small cell” refers to its service area and, because of the short range of these facilities, projected network buildouts require installation of Small Wireless Facilities at more locations and closer in proximity to each other than is the case with traditional wireless facilities.

On September 26, 2018, the FCC adopted its Declaratory Ruling and Third Report and Order (“Small Cell Order”)^{2,3} relating to small cell wireless technology, and the placement of small wireless facilities in the PROW. The rules adopted in the Report and Order interpret the federal Telecommunications Act of 1996⁴.

Existing federal and state law grant wireless providers certain rights to deploy small wireless communication facilities within the City’s PROW and the Small Cell Order places certain limitations on local jurisdictions’ ability to deny, condition, or restrict small wireless installations. Among other things, the Small Cell Order: (1) adopted short “shot clocks” or timelines for action on these applications (60 days for collocation on existing structures or 90 days for new or replacement structures); (2) determined that fees for application review and for use of City facilities must be reasonable and cost-based; (3) established “safe harbor” fee amounts for non-recurring and recurring (rent) fees that are presumed to be reasonable. The non-recurring safe harbor amounts are \$500 for reviewing an application covering up to five small cells on existing poles; \$100 for each additional attachment; and \$1,000 for review of an application for a new or replacement pole containing small cell equipment. The recurring safe harbor amount is an annual fee of \$270 per unit placed on any City-owned pole. Implementing restrictions that would effectively prohibit the installation of small cell facilities in the PROW could result in a lawsuit against the City.

In response to the adoption of the Small Cell Order, on July 7, 2020, the City Council adopted Ordinance 7,726-N.S. amending the language of the City’s Wireless Telecommunications Ordinance and provisions applicable to telecommunications permits in the PROW (BMC Chapter 16.10 and the Aesthetic Guidelines for PROW Permits).

Amendments to the Aesthetic Guidelines for PROW Permits implemented the City’s authority to regulate the location and aesthetics of the wireless facilities installed in the PROW. The Guidelines set forth application requirements, a process for reviewing permit applications, and standards for the placement and design of wireless facilities for PROW permits. These guidelines are currently being applied to installation of telecommunication equipment on utility company-owned poles and will also apply to installations on City-owned streetlight poles as contemplated with the proposed MLA.

Finally, as of January 1, 2022, a new state law (AB 537) went into effect. This law expanded the reach of the “deemed granted” remedy in Government Code 65964.1 to now include applications for small cells facilities, heightening the risks for any non-compliance with the FCC shot clocks.

² FCC Small Cell Order <https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>

³ FCC Fact Sheet <https://docs.fcc.gov/public/attachments/DOC-353962A1.pdf>

⁴ Telecommunications Act of 1996 <https://transition.fcc.gov/Reports/tcom1996.pdf>

Directing Staff to Prepare a Master License Agreement
Template for the Non-Exclusive Installation of Small Cell
Telecommunications Facilities on City Owned and Maintained
Streetlight Poles in the Public Right-of-Way

CONSENT CALENDAR
April 12, 2022

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Per the Telecommunications Act of 1996, “No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.” Furthermore, the attached resolution is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The resolution does not authorize any specific development or installation on any specific piece of property within the City’s boundaries and does not approve or adopt an MLA template at this time.

RATIONALE FOR RECOMMENDATION

Entering into an MLA with the telecommunication companies will have the benefit of allowing the City to have more control over the installation of small cells on City-owned streetlights through mutual agreement, allow for review fees and annual rent to cover reasonably incurred costs, allow the City to meet federally mandated deadlines for action, reduce the potential proliferation of new poles, and reduce the potential for a lawsuit.

ALTERNATIVE ACTIONS CONSIDERED

Agreements can be negotiated with the utility companies for individual small cell installations on a case by case basis. However, due to the amount of applications that could potentially be submitted, there would be a risk that the parties involved could not come to terms in the FCC-required, shot-clock time for local approval, risking applications being deemed approved under state law.

Another alternative could include permitting the use of the poles without an agreement and solely relying on the BMC and the Aesthetic Guidelines. However, this would relinquish controls that the City could have over the installation, maintenance, and future removal of the equipment on the streetlight poles, and forego the collection of rent and other fees unrelated to permit reviews.

CONTACT PERSON

Andrew Brozyna, Deputy Director of Public Works, (510) 981-6396
Joe Enke, Manager of Engineering, Public Works, (510) 981-6411
Ronald Nevels, Supervising Civil Engineer, Public Works, 510-981-6439

Attachments: Resolution

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

MASTER LICENSE AGREEMENT TEMPLATE FOR THE NON-EXCLUSIVE INSTALLATION OF SMALL CELL TELECOMMUNICATIONS FACILITIES ON CITY OWNED AND MAINTAINED STREETLIGHT POLES IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, existing federal and state law grant wireless providers certain rights to deploy small wireless communication facilities within the City's right-of-way (PROW) and the Small Cell Order places limitations on local jurisdictions' ability to deny, condition, or restrict small wireless installations; and

WHEREAS, on July 7, 2020, the City Council adopted Ordinance 7,726-N.S. amending the language of the City's Wireless Telecommunications Ordinance and provisions applicable to telecommunications permits in the public PROW (BMC Chapter 16.10 and the Aesthetic Guidelines for PROW Permits); and

WHEREAS, the Aesthetic Guidelines for PROW Permits exercise the City's limited control over the location and aesthetics of the wireless facilities installed in the PROW, consistent with applicable state and federal law. These guidelines have been applied to installation of telecommunication equipment on utility company owned poles and can also be used for installations on City owned streetlight poles; and

WHEREAS, Staff has been contacted by wireless telecommunication companies requesting that they be permitted to attach small cell equipment to City owned streetlight poles in the PROW; and

WHEREAS, Staff proposes to draft a Master License Agreement (MLA) template that will benefit the City by giving it more control over the installation of small cells on City owned streetlights through mutual agreement; allow for review fees and annual rent to cover reasonably incurred costs; allow the City to meet federally mandated deadlines; reduce the potential proliferation of new poles and reduce the potential for lawsuit; and

WHEREAS, at the direction of the City Council, Staff shall return to the City Council to request approval of the proposed MLA template and delegation of authority.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Staff is hereby directed to draft a Master License Agreement template for mounting of wireless telecommunication equipment on City owned streetlight poles in the PROW.

BE IT FURTHER RESOLVED that Staff shall return to the City Council at a future date to request approval of the agreement template and delegation of authority.



Office of the Mayor

CONSENT CALENDAR

April 12, 2022

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín and Councilmember Sophie Hahn

Subject: Budget Referral: \$60,000 to the FY 2023-2024 Budget Process for Supply Bank School Supply Distribution

RECOMMENDATION

Refer to the FY 2023-2024 budget process \$60,000 for Supply Bank (\$30k for each fiscal year) to support their services in providing essential school supplies to Berkeley families.

BACKGROUND

Supply Bank, formerly known as K to College, plays an important role in the community by purchasing and distributing school supplies to low-income students. Founded by a group of UC Berkeley students, a pilot program launched in Berkeley in 2009. Over the past 13 years, Supply Bank has grown to support kids in need in more than 300 school districts in California.

The mission of Supply Bank is to provide homeless and other underserved children with the tangible resources they need to achieve. Supply Bank operates the School Supply and Dental Kit Initiatives, intended for low-income students to help ensure that they are able to start the school year off on equal footing as their counterparts and provides the basic oral healthcare necessities: a toothbrush, toothpaste, and floss to ensure that oral health issues do not stand in the way of student's academic success.

In partnership with the Berkeley Unified School District, the City of Berkeley, and the Berkeley Parks, Recreation & Waterfront Department, SupplyBank.Org has provided 4,000 comprehensive, grade-appropriate school supply kits and dental kits with an instore value of more than \$175,000 for low-income (free/reduced price meal eligible) K-12 Berkeley students over the past 3 years.

The City Council has consistently approved the budget request to Supply Bank. To help support the program and ensure it will be operational in the long term, this budget referral will cover the next two fiscal years, with \$30,000 being allocated in both FY 2023 and FY 2024, for a total of \$60,000.

FINANCIAL IMPLICATIONS

\$60,000

ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the recommendations in this report.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100



Office of the Mayor

CONSENT CALENDAR

April 12, 2022

To: Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Susan Wengraf, and Councilmember Ben Bartlett

Subject: Assembly Bill 1944: Support and Seek Amendments

RECOMMENDATION

Adopt a Resolution approving a support and seek amendments position on Assembly Bill (AB) 1944 (Lee), which amends the Brown Act to permanently enable meetings of legislative bodies to be conducted through videoconference or teleconference with flexibility on noticing requirements. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Alex Lee.

BACKGROUND

Under Executive Order N-29-20, signed by Governor Newsom on March 17, 2020, legislative bodies in California were able to hold public meetings via teleconferencing while removing provisions of the Ralph M. Brown Act that required that the agency post each individual address where agency members were teleconferencing from and enable the public to access those locations to observe and participate in the proceedings. Such flexibility is needed to enable social distancing and prevent the spread of COVID-19 and are still needed. Additionally, the need to shift to fully virtual meetings in response to the pandemic has demonstrated the ability of legislative bodies to have open and transparent meetings without the need to make a private address publicly accessible – many which are not able to accommodate people. Virtual meetings have resulted in greater attendance of elected officials and the public and more robust public participation all while protecting public health and safety.

Executive Order N-29-20 expired on September 30, 2021 and was replaced by AB 361 (Rivas). The bill amended the Brown Act to continue the flexibility afforded by EO N-29-20 during a state declared emergency. The bill also required that every 30 days the legislative body must vote to reauthorize based on findings around public health need. The authority granted under AB 361 for local government agencies expires on January 1, 2024. Therefore, there is a need for a permanent law to enable teleconference participation in government meetings.

The Berkeley City Council is currently piloting hybrid (in-person/virtual) meetings and will move to meeting in a full hybrid format soon. But to allow this flexibility permanently, further changes to state law are needed. AB 1944, introduced by Assembly member

Alex Lee, would make further amendments to the Brown Act to allow teleconferencing while suspending the noticing requirements for individual locations. Specifically, it will allow teleconferencing as an option for public participation in public meetings. The bill also allows for a member of the legislative body to teleconference from a private location without needing to notice the address or make it publicly available.

There are a couple of amendments that will help maximize the benefits of the bill. Under the current draft, legislative bodies would have to renew these changes every 30 days. This would require the Council (or any public agency) to call a special meeting, including during a recess period, just to be able to continue conducting meetings virtually under the streamlined authority in the Brown Act. One of the proposed amendments would be to strike the requirement that a vote must take place every 30 days to allow teleconferencing to continue under AB 1944. This would prevent the need to call special meetings to make findings every 30 days and ensure that there is no interruption in being able to hold virtual or hybrid meetings.

One other amendment proposes to change the bill to an “urgency” statute, which would take effect immediately upon passage, prior to the bill’s current effective date of January 1, 2023. While this would require a two-thirds vote to pass, it is important that local governments can take advantage of the authority provided under AB 1944 immediately upon passage.

Overall, enabling teleconferencing capabilities for both the members of the legislative body and members of the public is beneficial in expanding accessibility and transparency.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the recommendations in this report.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

- 1: Resolution
- 2: Text of AB 1944

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

ASSEMBLY BILL 1944: SUPPORT AND SEEK AMENDMENTS

WHEREAS, the ability to attend and participate in public meetings is a vital part of our democratic process; and

WHEREAS, under the Ralph M. Brown Act, teleconferencing options are very limited, with only members of the legislative body able to participate remotely, along with the requirement that their location, often a private address, be publicly noticed and made publicly accessible; and

WHEREAS, during the start of the COVID-19 pandemic, Governor Newsom signed Executive Order N-29-20, which allowed legislative bodies to hold public meetings through teleconference and videoconference while suspending the requirement to post the teleconference locations of members of the legislative body; and

WHEREAS, the Executive Order expired in September 2021, but was replaced by AB 361 which allows a legislative body during the state of emergency to continue to meet via teleconferencing, if they vote to approve this policy every 30 days; and

WHEREAS, Assembly Bill (AB) 1944, introduced by Assemblymember Alex Lee, would make further amendments to the Brown Act making it easier for elected officials and the public to participate in meetings by allowing members of a legislative body to teleconference without needing to reveal a private address and make it accessible to the public, and require the livestreaming of such meetings and give the public the ability to participate by calling into the meeting; and

WHEREAS, enabling teleconferencing capabilities for both the members of the legislative body and members of the public is beneficial in expanding accessibility, and should be allowed under normal conditions, instead of only during a state of emergency.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby adopts a support and seek amendments position on Assembly Bill (AB) 1944, and proposes the following amendments to the bill author, Assemblymember Alex Lee:

- 1) Strike the requirement that a vote must take place every 30 days to allow teleconferencing to continue; and
- 2) Change the nature of the bill to an “urgency” measure so that the provisions of the bill take place immediately without the need for a state of emergency to be in effect, instead of waiting until January 1, 2024.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Alex Lee.

ASSEMBLY BILL

No. 1944

Introduced by Assembly Members Lee and Cristina Garcia

February 10, 2022

An act to amend Section 54953 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1944, as introduced, Lee. Local government: open and public meetings.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a

AB 1944

— 2 —

declared state of emergency is in effect, or in other situations related to public health.

This bill would specify that if a member of a legislative body elects to teleconference from a location that is not public, the address does not need to be identified in the notice and agenda or be accessible to the public when the legislative body has elected to allow members to participate via teleconferencing.

This bill would require all open and public meetings of a legislative body that elects to use teleconferencing to provide a video stream accessible to members of the public and an option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 54953 of the Government Code, as
- 2 amended by Section 3 of Chapter 165 of the Statutes of 2021, is
- 3 amended to read:
- 4 54953. (a) All meetings of the legislative body of a local
- 5 agency shall be open and public, and all persons shall be permitted
- 6 to attend any meeting of the legislative body of a local agency,
- 7 except as otherwise provided in this chapter.
- 8 (b) (1) Notwithstanding any other provision of law, the
- 9 legislative body of a local agency may use teleconferencing for
- 10 the benefit of the public and the legislative body of a local agency

1 in connection with any meeting or proceeding authorized by law.
2 The teleconferenced meeting or proceeding shall comply with all
3 otherwise applicable requirements of this chapter and all otherwise
4 applicable provisions of law relating to a specific type of meeting
5 or proceeding.

6 (2) Teleconferencing, as authorized by this section, may be used
7 for all purposes in connection with any meeting within the subject
8 matter jurisdiction of the legislative body. All votes taken during
9 a teleconferenced meeting shall be by rollcall.

10 (3) If the legislative body of a local agency elects to use
11 teleconferencing, it shall post agendas at all teleconference
12 locations and conduct teleconference meetings in a manner that
13 protects the statutory and constitutional rights of the parties or the
14 public appearing before the legislative body of a local agency.
15 Each teleconference location shall be identified in the notice and
16 agenda of the meeting or proceeding, and each teleconference
17 location shall be accessible to the ~~public~~. *public, except as provided*
18 *in subparagraph (A)*. During the teleconference, at least a quorum
19 of the members of the legislative body shall participate from
20 locations within the boundaries of the territory over which the
21 local agency exercises jurisdiction, except as provided in
22 subdivisions (d) and (e). The agenda shall provide an opportunity
23 for members of the public to address the legislative body directly
24 pursuant to Section 54954.3 at each teleconference ~~location~~.
25 *location, except as provided in subparagraph (A)*.

26 (A) *If a member of a legislative body elects to teleconference*
27 *from a location that is not public, the address does not need to be*
28 *identified in the notice and agenda or be accessible to the public*
29 *when the legislative body has elected to allow members to*
30 *participate via teleconferencing.*

31 (B) *If a legislative body elects to use teleconferencing, they shall*
32 *provide both of the following:*

33 (i) *A video stream accessible to members of the public.*

34 (ii) *An option for members of the public to address the body*
35 *remotely during the public comment period through an audio-visual*
36 *or call-in option.*

37 (4) For the purposes of this section, “teleconference” means a
38 meeting of a legislative body, the members of which are in different
39 locations, connected by electronic means, through either audio or

1 video, or both. Nothing in this section shall prohibit a local agency
2 from providing the public with additional teleconference locations.

3 (5) *For the purposes of this section, “video streaming” means*
4 *media in which the data from a live filming or a video file is*
5 *continuously delivered via the internet to a remote user, allowing*
6 *a video to be viewed online by the public without being downloaded*
7 *on a host computer or device.*

8 (c) (1) No legislative body shall take action by secret ballot,
9 whether preliminary or final.

10 (2) The legislative body of a local agency shall publicly report
11 any action taken and the vote or abstention on that action of each
12 member present for the action.

13 (3) Prior to taking final action, the legislative body shall orally
14 report a summary of a recommendation for a final action on the
15 salaries, salary schedules, or compensation paid in the form of
16 fringe benefits of a local agency executive, as defined in
17 subdivision (d) of Section 3511.1, during the open meeting in
18 which the final action is to be taken. This paragraph shall not affect
19 the public’s right under the California Public Records Act (Chapter
20 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
21 inspect or copy records created or received in the process of
22 developing the recommendation.

23 (d) (1) Notwithstanding the provisions relating to a quorum in
24 paragraph (3) of subdivision (b), if a health authority conducts a
25 teleconference meeting, members who are outside the jurisdiction
26 of the authority may be counted toward the establishment of a
27 quorum when participating in the teleconference if at least 50
28 percent of the number of members that would establish a quorum
29 are present within the boundaries of the territory over which the
30 authority exercises jurisdiction, and the health authority provides
31 a teleconference number, and associated access codes, if any, that
32 allows any person to call in to participate in the meeting and the
33 number and access codes are identified in the notice and agenda
34 of the meeting.

35 (2) Nothing in this subdivision shall be construed as
36 discouraging health authority members from regularly meeting at
37 a common physical site within the jurisdiction of the authority or
38 from using teleconference locations within or near the jurisdiction
39 of the authority. A teleconference meeting for which a quorum is

1 established pursuant to this subdivision shall be subject to all other
2 requirements of this section.

3 (3) For purposes of this subdivision, a health authority means
4 any entity created pursuant to Sections 14018.7, 14087.31,
5 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
6 and Institutions Code, any joint powers authority created pursuant
7 to Article 1 (commencing with Section 6500) of Chapter 5 of
8 Division 7 for the purpose of contracting pursuant to Section
9 14087.3 of the Welfare and Institutions Code, and any advisory
10 committee to a county-sponsored health plan licensed pursuant to
11 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
12 Health and Safety Code if the advisory committee has 12 or more
13 members.

14 (e) (1) A local agency may use teleconferencing without
15 complying with the requirements of paragraph (3) of subdivision
16 (b) if the legislative body complies with the requirements of
17 paragraph (2) of this subdivision in any of the following
18 circumstances:

19 (A) The legislative body holds a meeting during a proclaimed
20 state of emergency, and state or local officials have imposed or
21 recommended measures to promote social distancing.

22 (B) The legislative body holds a meeting during a proclaimed
23 state of emergency for the purpose of determining, by majority
24 vote, whether as a result of the emergency, meeting in person
25 would present imminent risks to the health or safety of attendees.

26 (C) The legislative body holds a meeting during a proclaimed
27 state of emergency and has determined, by majority vote, pursuant
28 to subparagraph (B), that, as a result of the emergency, meeting
29 in person would present imminent risks to the health or safety of
30 attendees.

31 (2) A legislative body that holds a meeting pursuant to this
32 subdivision shall do all of the following:

33 (A) The legislative body shall give notice of the meeting and
34 post agendas as otherwise required by this chapter.

35 (B) The legislative body shall allow members of the public to
36 access the meeting and the agenda shall provide an opportunity
37 for members of the public to address the legislative body directly
38 pursuant to Section 54954.3. In each instance in which notice of
39 the time of the teleconferenced meeting is otherwise given or the
40 agenda for the meeting is otherwise posted, the legislative body

1 shall also give notice of the means by which members of the public
2 may access the meeting and offer public comment. The agenda
3 shall identify and include an opportunity for all persons to attend
4 via a call-in option or an internet-based service option. This
5 subparagraph shall not be construed to require the legislative body
6 to provide a physical location from which the public may attend
7 or comment.

8 (C) The legislative body shall conduct teleconference meetings
9 in a manner that protects the statutory and constitutional rights of
10 the parties and the public appearing before the legislative body of
11 a local agency.

12 (D) In the event of a disruption which prevents the public agency
13 from broadcasting the meeting to members of the public using the
14 call-in option or internet-based service option, or in the event of
15 a disruption within the local agency's control which prevents
16 members of the public from offering public comments using the
17 call-in option or internet-based service option, the body shall take
18 no further action on items appearing on the meeting agenda until
19 public access to the meeting via the call-in option or internet-based
20 service option is restored. Actions taken on agenda items during
21 a disruption which prevents the public agency from broadcasting
22 the meeting may be challenged pursuant to Section 54960.1.

23 (E) The legislative body shall not require public comments to
24 be submitted in advance of the meeting and must provide an
25 opportunity for the public to address the legislative body and offer
26 comment in real time. This subparagraph shall not be construed
27 to require the legislative body to provide a physical location from
28 which the public may attend or comment.

29 (F) Notwithstanding Section 54953.3, an individual desiring to
30 provide public comment through the use of an internet website, or
31 other online platform, not under the control of the local legislative
32 body, that requires registration to log in to a teleconference may
33 be required to register as required by the third-party internet
34 website or online platform to participate.

35 (G) (i) A legislative body that provides a timed public comment
36 period for each agenda item shall not close the public comment
37 period for the agenda item, or the opportunity to register, pursuant
38 to subparagraph (F), to provide public comment until that timed
39 public comment period has elapsed.

1 (ii) A legislative body that does not provide a timed public
2 comment period, but takes public comment separately on each
3 agenda item, shall allow a reasonable amount of time per agenda
4 item to allow public members the opportunity to provide public
5 comment, including time for members of the public to register
6 pursuant to subparagraph (F), or otherwise be recognized for the
7 purpose of providing public comment.

8 (iii) A legislative body that provides a timed general public
9 comment period that does not correspond to a specific agenda item
10 shall not close the public comment period or the opportunity to
11 register, pursuant to subparagraph (F), until the timed general
12 public comment period has elapsed.

13 (3) If a state of emergency remains active, or state or local
14 officials have imposed or recommended measures to promote
15 social distancing, in order to continue to teleconference without
16 compliance with paragraph (3) of subdivision (b), the legislative
17 body shall, not later than 30 days after teleconferencing for the
18 first time pursuant to subparagraph (A), (B), or (C) of paragraph
19 (1), and every 30 days thereafter, make the following findings by
20 majority vote:

21 (A) The legislative body has reconsidered the circumstances of
22 the state of emergency.

23 (B) Any of the following circumstances exist:

24 (i) The state of emergency continues to directly impact the
25 ability of the members to meet safely in person.

26 (ii) State or local officials continue to impose or recommend
27 measures to promote social distancing.

28 (4) For the purposes of this subdivision, “state of emergency”
29 means a state of emergency proclaimed pursuant to Section 8625
30 of the California Emergency Services Act (Article 1 (commencing
31 with Section 8550) of Chapter 7 of Division 1 of Title 2).

32 (f) This section shall remain in effect only until January 1, 2024,
33 and as of that date is repealed.

34 SEC. 2. Section 54953 of the Government Code, as added by
35 Section 4 of Chapter 165 of the Statutes of 2021, is amended to
36 read:

37 54953. (a) All meetings of the legislative body of a local
38 agency shall be open and public, and all persons shall be permitted
39 to attend any meeting of the legislative body of a local agency,
40 except as otherwise provided in this chapter.

1 (b) (1) Notwithstanding any other provision of law, the
 2 legislative body of a local agency may use teleconferencing for
 3 the benefit of the public and the legislative body of a local agency
 4 in connection with any meeting or proceeding authorized by law.
 5 The teleconferenced meeting or proceeding shall comply with all
 6 requirements of this chapter and all otherwise applicable provisions
 7 of law relating to a specific type of meeting or proceeding.

8 (2) Teleconferencing, as authorized by this section, may be used
 9 for all purposes in connection with any meeting within the subject
 10 matter jurisdiction of the legislative body. All votes taken during
 11 a teleconferenced meeting shall be by rollcall.

12 (3) If the legislative body of a local agency elects to use
 13 teleconferencing, it shall post agendas at all teleconference
 14 locations and conduct teleconference meetings in a manner that
 15 protects the statutory and constitutional rights of the parties or the
 16 public appearing before the legislative body of a local agency.
 17 Each teleconference location shall be identified in the notice and
 18 agenda of the meeting or proceeding, and each teleconference
 19 location shall be accessible to the ~~public~~ *public, except as provided*
 20 *in subparagraph (A)*. During the teleconference, at least a quorum
 21 of the members of the legislative body shall participate from
 22 locations within the boundaries of the territory over which the
 23 local agency exercises jurisdiction, except as provided in
 24 subdivision (d). The agenda shall provide an opportunity for
 25 members of the public to address the legislative body directly
 26 pursuant to Section 54954.3 at each teleconference ~~location~~.
 27 *location, except as provided in subparagraph (A)*.

28 (A) *If a member of a legislative body elects to teleconference*
 29 *from a location that is not public, the address does not need to be*
 30 *identified in the notice and agenda, or be accessible to the public*
 31 *when the legislative body has elected to allow members to*
 32 *participate via teleconferencing.*

33 (B) *If a legislative body elects to use teleconferencing, they shall*
 34 *provide both of the following:*

- 35 (i) *A video stream accessible to members of the public.*
- 36 (ii) *An option for members of the public to address the body*
 37 *remotely during the public comment period through an audio-visual*
 38 *or call-in option.*

39 (4) For the purposes of this section, “teleconference” means a
 40 meeting of a legislative body, the members of which are in different

1 locations, connected by electronic means, through either audio or
2 video, or both. Nothing in this section shall prohibit a local agency
3 from providing the public with additional teleconference locations

4 (5) *For the purposes of this section, “video streaming” means*
5 *media in which the data from a live filming or a video file is*
6 *continuously delivered via the internet to a remote user, allowing*
7 *a video to be viewed online by the public without being downloaded*
8 *on a host computer or device.*

9 (c) (1) No legislative body shall take action by secret ballot,
10 whether preliminary or final.

11 (2) The legislative body of a local agency shall publicly report
12 any action taken and the vote or abstention on that action of each
13 member present for the action.

14 (3) Prior to taking final action, the legislative body shall orally
15 report a summary of a recommendation for a final action on the
16 salaries, salary schedules, or compensation paid in the form of
17 fringe benefits of a local agency executive, as defined in
18 subdivision (d) of Section 3511.1, during the open meeting in
19 which the final action is to be taken. This paragraph shall not affect
20 the public’s right under the California Public Records Act (Chapter
21 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
22 inspect or copy records created or received in the process of
23 developing the recommendation.

24 (d) (1) Notwithstanding the provisions relating to a quorum in
25 paragraph (3) of subdivision (b), if a health authority conducts a
26 teleconference meeting, members who are outside the jurisdiction
27 of the authority may be counted toward the establishment of a
28 quorum when participating in the teleconference if at least 50
29 percent of the number of members that would establish a quorum
30 are present within the boundaries of the territory over which the
31 authority exercises jurisdiction, and the health authority provides
32 a teleconference number, and associated access codes, if any, that
33 allows any person to call in to participate in the meeting and the
34 number and access codes are identified in the notice and agenda
35 of the meeting.

36 (2) Nothing in this subdivision shall be construed as
37 discouraging health authority members from regularly meeting at
38 a common physical site within the jurisdiction of the authority or
39 from using teleconference locations within or near the jurisdiction
40 of the authority. A teleconference meeting for which a quorum is

1 established pursuant to this subdivision shall be subject to all other
2 requirements of this section.

3 (3) For purposes of this subdivision, a health authority means
4 any entity created pursuant to Sections 14018.7, 14087.31,
5 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
6 and Institutions Code, any joint powers authority created pursuant
7 to Article 1 (commencing with Section 6500) of Chapter 5 of
8 Division 7 for the purpose of contracting pursuant to Section
9 14087.3 of the Welfare and Institutions Code, and any advisory
10 committee to a county-sponsored health plan licensed pursuant to
11 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
12 Health and Safety Code if the advisory committee has 12 or more
13 members.

14 (e) This section shall become operative January 1, 2024.

15 SEC. 3. The Legislature finds and declares that Sections 1 and
16 2 of this act, which amends Section 54953 of the Government
17 Code, further, within the meaning of paragraph (7) of subdivision
18 (b) of Section 3 of Article I of the California Constitution, the
19 purposes of that constitutional section as it relates to the right of
20 public access to the meetings of local public bodies or the writings
21 of local public officials and local agencies. Pursuant to paragraph
22 (7) of subdivision (b) of Section 3 of Article I of the California
23 Constitution, the Legislature makes the following findings:

24 This act is necessary to ensure minimum standards for public
25 participation allowing for greater public participation in
26 teleconference meetings.

27 SEC. 4. (a) The Legislature finds and declares that during the
28 COVID-19 public health emergency, certain requirements of the
29 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)
30 of Part 1 of Division 2 of Title 5 of the Government Code) and the
31 Bagley-Keene Open Meeting Act (Article 9 (commencing with
32 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
33 the Government Code) were suspended by Executive Order No.
34 N-29-20. Audio and video teleconference were widely used to
35 conduct public meetings in lieu of physical location meetings, and
36 public meetings conducted by teleconference during the COVID-19
37 public health emergency have been productive, have increased
38 public participation by all members of the public regardless of
39 their location in the state and ability to travel to physical meeting
40 locations, have protected the health and safety of civil servants

1 and the public, and have reduced travel costs incurred by members
2 of state bodies and reduced work hours spent traveling to and from
3 meetings.

4 (b) The Legislature finds and declares that Sections 1 and 2 of
5 this act, which amend Section 54953 of the Government Code,
6 imposes a potential limitation on the public's right of access to the
7 meetings of public bodies or the writings of public officials and
8 agencies within the meaning of Section 3 of Article I of the
9 California Constitution. Pursuant to that constitutional provision,
10 the Legislature makes the following findings to demonstrate the
11 interest protected by this potential limitation and the need for
12 protecting that interest:

13 By removing the requirement for each teleconference location
14 to be identified in the notice and agenda, including the member's
15 private home address, this act protects the personal, private
16 information of public officials and their families while preserving
17 the public's right to access information concerning the conduct of
18 the people's business.

O



Office of the Mayor

CONSENT CALENDAR

April 12, 2022

To: Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Kate Harrison,
Councilmember Susan Wengraf, and Councilmember Ben Bartlett

Subject: Support of AB 1947 – Addressing Hate Crimes

RECOMMENDATION

Adopt a Resolution in support of Assembly Bill (AB) 1947 (Ting), which will require law enforcement agencies to adopt policies around how to identify, respond to, and report hate crimes. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Phil Ting.

BACKGROUND

According to statistics from the FBI, the year 2020 saw 7,759 hate crimes committed across the entire country. This data was collected by the FBI from over 15,000 law enforcement agencies. However, this is a voluntary process, so it does not portray a complete picture. In fact, according to the US Department of Justice, between 2005-2019, there were an average of 246,900 hate crimes per year. The most common types of hate crimes are based on race, ethnicity, or nationality, followed by sexual orientation and then religion. In recent years, hate crime trends have gone up, especially among the Asian American community during the COVID-19 pandemic. Yet clearly there is a disparity between such crimes being committed and being reported. As a result, less resources are made available to address hate crimes as the official statistics suggest it is not as widespread as it is in reality.

Addressing hate crime has been a priority of the Mayor and City Council. In 2020, Council approved a referral to implement new systems for reporting and response to hate incidents and crimes. This includes creating a hate crime reporting hotline, launching a public information campaign, and improving reporting on hate crimes by our Police Department. Implementation of these policies is currently underway.

AB 1947, introduced by Assemblymember Phil Ting, would require law enforcement agencies to adopt a policy on how officers identify, respond to, and report hate crimes. These policies would be submitted to the Department of Justice to ensure compliance. By having better protocols to address and report hate crimes, we will be in a better position to end hate crimes.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the recommendations in this report.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

- 1: Resolution
- 2: Text of AB 1947
- 3: AB 1947 Factsheet

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

IN SUPPORT OF AB 1947

WHEREAS, hate crimes are on the rise across the country over the last few years, with a significant increase in hate crimes against Asian Americans since the start of the COVID-19 pandemic; and

WHEREAS, while data from the FBI shows that in calendar year 2020, 7,759 hate crimes were reported across over 15,000 law enforcement agencies, according to the US Department of Justice, between 2015-2019 an average of 246,900 hate crimes took place each year; and

WHEREAS, with a large disparity between such crimes being committed and being reported, less resources are made available to address hate crimes as the official statistics suggest it is not as widespread as it is in reality; and

WHEREAS, Berkeley is currently taking action to improve reporting of hate crimes; in 2020 the City Council passed a referral to implement new systems for reporting and response to hate incidents and crimes, including creating a hate crimes reporting hotline, launching a public information campaign, and improving reporting on hate crimes by our Police Department; and

WHEREAS, AB 1947, introduced by Assemblymember Phil Ting, would require law enforcement agencies to adopt a policy on how officers identify, respond to, and report hate crimes;

WHEREAS, by having better protocols to address and report hate crimes, we will be in a better position to end hate crimes.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports AB 1947.

BE IT FURTHER RESOLVED that copies of the Resolution be sent to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Phil Ting.

AMENDED IN ASSEMBLY MARCH 16, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1947

Introduced by Assembly Members Ting and Bloom

February 10, 2022

An act to amend Sections 422.55, 422.87, 422.9, 13023, and 13519.6 of the Penal Code, and to amend Section 1 of Chapter 691 of the Statutes of 2021, relating to hate crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1947, as amended, Ting. Hate crimes: law enforcement policies.

Existing law defines a “hate crime” as a criminal act committed, in whole or in part, because of actual or perceived characteristics of the victim, including, among other things, race, religion, disability, and sexual orientation. Existing law requires the Commission on Peace Officer Standards and Training (POST) to develop guidelines and a course of instruction and training for law enforcement officers addressing hate crimes. Existing law requires state law enforcement agencies to adopt a framework or other formal policy created by POST regarding hate crimes. Existing law requires any local law enforcement agency that adopts or updates a hate crime policy to include specified information in that policy, including information on bias motivation. Existing law requires the Department of Justice to collect specified information relative to hate crimes and to post that information on its internet website.

This bill would require each local law enforcement agency to adopt a hate crimes policy. The bill would require those policies to, among other things, include instructions on considering the relevance of specific dates and phrases when recognizing whether an incident is a hate crime,

to include a supplemental suspected hate crime form, and to include a requirement that, absent a more pressing violent crime emergency, officers respond immediately to a report of a hate crime in progress, as specified. *form*. The bill would require every state and local agency to use specified definitions for the terms “hate crime incident” and term “protected characteristics.” The bill would require each law enforcement agency to report their hate crime policy to the Department of Justice, as specified. The bill would require the department to post information regarding the compliance and noncompliance of agencies that are required to provide information relative to hate crimes to the department. The bill would require POST to develop a model hate crime policy, as specified. The bill would additionally make specified findings regarding state-mandated local programs in its provisions. By imposing additional duties on local law enforcement agencies, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Freedom from Hate Crimes Act.
- 3 SEC. 2. Section 422.55 of the Penal Code is amended to read:
- 4 422.55. For purposes of this title, and for purposes of all other
- 5 state law unless an explicit provision of law or the context clearly
- 6 requires a different meaning, the following shall apply:
- 7 (a) “Hate crime” means a criminal act committed, in whole or
- 8 in part, because of one or more of the following actual or perceived
- 9 characteristics of the victim:
- 10 (1) Disability.
- 11 (2) Gender.
- 12 (3) Nationality.
- 13 (4) Race or ethnicity.

1 (5) Religion.

2 (6) Sexual orientation.

3 (7) Association with a person or group with one or more of these
4 actual or perceived characteristics.

5 (b) “Hate crime” includes, but is not limited to, a violation of
6 Section 422.6.

7 ~~(c) “Hate crime incident” means an incident of a hate crime.~~

8 ~~(d) “Multimission criminal extremism” means the nexus of two
9 or more of the following:~~

10 ~~(1) Hate crimes.~~

11 ~~(2) Antigovernment extremist crimes.~~

12 ~~(3) Anti-reproductive rights crimes, as defined in Section 13776.~~

13 ~~(4) Crimes committed in whole or in part because of the victims’
14 actual or perceived homelessness.~~

15 ~~(5) Crimes committed in whole or in part because of the victims’
16 actual or perceived status as journalists.~~

17 ~~(e) “Noncriminal hate incident” means an incident that is not a
18 crime and that is motivated by hate or other bias against one or
19 more of the protected characteristics listed in subdivision (a):~~

20 ~~(f)~~

21 (c) “Subject matter experts” includes, but is not limited to,
22 representatives of communities most victimized by hate crimes,
23 academic experts, and law enforcement agencies.

24 ~~(g) “Suspected hate crime” means a crime that a law
25 enforcement agency is to investigate or is investigating as
26 potentially being a hate crime.~~

27 SEC. 3. Section 422.87 of the Penal Code is amended to read:

28 422.87. (a) Each state and local law enforcement agency shall
29 adopt a hate crimes policy that shall include, but not be limited to,
30 all of the following:

31 (1) The definitions in Sections 422.55 and 422.56.

32 (2) The content of the framework and model policy that the
33 Commission on Peace Officer Standards and Training developed
34 in 2019 pursuant to Section 13519.6, and any content that the
35 commission has revised or added or may revise or add in the future,
36 including, but not limited to, any policy, definitions, response and
37 reporting responsibilities, training resources, and planning and
38 prevention methods.

39 (3) (A) Information regarding bias motivation.

AB 1947

— 4 —

1 (B) For the purposes of this paragraph, “bias motivation” is a
2 preexisting negative attitude toward actual or perceived
3 characteristics referenced in Section 422.55. Depending on the
4 circumstances of each case, bias motivation may include, but is
5 not limited to, hatred, animosity, discriminatory selection of
6 victims, resentment, revulsion, contempt, unreasonable fear,
7 paranoia, callousness, thrill-seeking, ~~youthful pranks~~, desire for
8 social dominance, desire for social bonding with those of one’s
9 “own kind,” or a perception of the vulnerability of the victim due
10 to the victim being perceived as being weak, worthless, or fair
11 game because of a protected characteristic, including, but not
12 limited to, disability or gender.

13 (C) (i) In recognizing suspected disability-bias hate crimes, the
14 policy shall instruct officers to consider whether there is any
15 indication that the perpetrator was motivated by hostility or other
16 bias, occasioned by factors such as, but not limited to, dislike of
17 persons who arouse fear or guilt, a perception that persons with
18 disabilities are inferior and therefore “deserving victims,” a fear
19 of persons whose visible traits are perceived as being disturbing
20 to others, or resentment of those who need, demand, or receive
21 alternative educational, physical, or social accommodations.

22 (ii) In recognizing suspected disability-bias hate crimes, the
23 policy also shall instruct officers to consider whether there is any
24 indication that the perpetrator perceived the victim to be vulnerable
25 and, if so, if this perception is grounded, in whole or in part, in
26 antidisability bias. This includes, but is not limited to, if a
27 perpetrator targets a person with a particular perceived disability
28 while avoiding other vulnerable-appearing persons such as
29 inebriated persons or persons with perceived disabilities different
30 than those of the victim, those circumstances could be evidence
31 that the perpetrator’s motivations included bias against persons
32 with the perceived disability of the victim.

33 (D) In recognizing suspected religion-bias hate crimes, the
34 policy shall instruct officers to consider whether there were targeted
35 attacks on, or biased references to, symbols of importance to a
36 particular religion or articles considered of spiritual significance
37 in a particular religion. Examples of religions and such symbols
38 and articles include, but are not limited to:

39 (i) In Buddhism, statues of the Buddha.

40 (ii) In Christianity, crosses.

1 (iii) In Hinduism, forehead markings, known as bindis and tilaks,
2 Aum/Om symbols, and images of deities known as murtis.

3 (iv) In Islam, hijabs.

4 (v) In Judaism, Stars of David, menorahs, and yarmulke.

5 (vi) In Sikhism, turbans, head coverings, and unshorn hair,
6 including beards.

7 (E) In recognizing suspected hate crimes committed against a
8 victim or victims with a particular known, evident, or perceived
9 protected characteristic, the policy shall instruct officers to consider
10 whether the crimes occurred on a day of actual or perceived
11 significance to, or concerning, the victim or victims or to persons
12 of the same actual or perceived protected characteristic as the
13 victim or victims. Examples of such days may include, but are not
14 limited to, ~~Chinese Lunar New Year, Cinco de Mayo, Easter,~~
15 ~~Hitler's birthday (April 20), Martin Luther King Day, September~~
16 ~~11,~~ and Yom Kippur.

17 (F) In recognizing any multiple suspected hate crimes, the policy
18 shall instruct officers to consider whether the victim or victims of
19 the crimes were one or more persons or properties with a particular
20 actual or perceived protected characteristic when other, at least
21 equally available and vulnerable potential victims were not
22 targeted. Examples of such discriminatory selection may include,
23 but are not limited to, the following:

24 (i) A series of sexual assaults of women and girls.

25 (ii) A series of crimes against actual or perceived transgender
26 women, against actual or perceived noncitizens of the United
27 States, or against persons demonstrating on behalf of a particular
28 race or ethnicity and any observers or bystanders.

29 (iii) A series of attacks on one or more places of worship of a
30 particular religion.

31 (iv) A series of attacks on one or more businesses, community
32 centers, or other gathering places operated, staffed, or frequented
33 by a person or persons with a particular known, evident, or
34 perceived protected characteristic.

35 (G) In recognizing any suspected hate crime, the policy shall
36 instruct officers to consider whether the victim is either of the
37 following:

38 (i) A person with an actual or perceived disability that is known
39 or evident to the perpetrator.

1 (ii) A person with any other actual or perceived protected
 2 characteristic that is known or evident to the perpetrator and that,
 3 under the existing facts and circumstances, is likely to make the
 4 victim the target of a hate crime. ~~Examples of such facts and~~
 5 ~~circumstances include, but are not limited to, the nationwide surge~~
 6 ~~of anti-Asian American and Pacific Islander hate crimes and~~
 7 ~~noncriminal hate incidents beginning in 2020 and resulting from~~
 8 ~~rhetoric blaming China for COVID-19.~~

9 (H) In recognizing a suspected anti-immigrant or antirace hate
 10 crime, the policy shall instruct officers to consider whether persons
 11 who are part of the victim’s community in the victim’s actual or
 12 perceived country of origin are commonly subject to hate or other
 13 bias there because of one or more of the protected characteristics
 14 and whether the perpetrator may have been motivated by such
 15 bias. ~~Examples include, but are not limited to, an~~
 16 ~~indigenous-language-speaking Mexican immigrant who is assaulted~~
 17 ~~by a perpetrator who uses racial slurs such as “Indio” or~~
 18 ~~“Oaxaquito.”~~

19 ~~(I) In recognizing a suspected anti-immigrant hate crime, the~~
 20 ~~policy shall instruct officers to consider whether the perpetrator~~
 21 ~~used terms such as “go back to your country” or “build the wall.”~~

22 ~~(J)~~
 23 (I) In any case described in subparagraphs (C) through ~~(I)~~ (H)
 24 or a similar case, and in every case in which a crime victim or
 25 witness believes that the crime was a hate crime or motivated by
 26 bias against an actual or perceived protected characteristic, the
 27 policy shall instruct officers to *include such statements in any*
 28 ~~report the crime as a suspected hate crime and not a mere crime~~
 29 ~~of opportunity, and generated as a result of the incident. The policy~~
 30 ~~shall instruct officers to not argue with a victim or witness who~~
 31 ~~believes it was a hate crime, regardless of the initial opinion of the~~
 32 ~~officer prior to, during, or after completion of the supplemental~~
 33 ~~report form required by paragraph (10). officer. The policy shall~~
 34 ~~instruct supervising officers who review reports of incidents in~~
 35 ~~which the victim believed the crime was a hate crime to carefully~~
 36 ~~consider whether additional investigation is necessary, consistent~~
 37 ~~with this section.~~

38 (4) Information regarding the general underreporting of hate
 39 crimes to, and by, law enforcement and the more extreme

1 underreporting of antidisability, antigender, and ~~anti-Sikh hate~~
2 ~~crimes~~ and a plan for the agency to remedy this underreporting.

3 (5) A protocol for reporting suspected hate crimes to the
4 Department of Justice pursuant to Section 13023.

5 (6) A checklist of first responder responsibilities, including, but
6 not limited to, being sensitive to effects of the crime on the victim,
7 determining whether any additional resources are needed on the
8 scene to assist the victim or whether to refer the victim to
9 appropriate community and legal services, and giving the victims
10 and any interested persons the agency's hate crimes brochure, as
11 required by Section 422.92.

12 (7) A specific procedure for transmitting and periodically
13 retransmitting the policy and any related orders to all officers,
14 including a simple and immediate way for officers to access the
15 policy in the field when needed.

16 (8) The title or titles of the officer or officers responsible for
17 ensuring that the department has a hate crime brochure as required
18 by Section 422.92 and ensuring that all officers are trained to
19 distribute the brochure to all suspected hate crime ~~victims and all~~
20 ~~other interested persons~~; *victims*, regardless of whether they
21 specifically request ~~it~~, *it, and to all other interested persons upon*
22 *request*.

23 (9) A requirement that all officers be familiar with the policy
24 and carry out the policy at all times unless directed by the chief,
25 sheriff, director, or other chief executive of the law enforcement
26 agency or other command-level officer to whom the chief executive
27 officer formally delegates this responsibility.

28 (10) A supplemental suspected hate crime report form providing
29 the information necessary for the law enforcement agency or the
30 prosecution agency to determine whether a hate crime has occurred
31 or whether to conduct a further investigation to make that
32 determination, and an instruction that responding officers complete
33 the form when ~~either of the following apply~~: *the officers have a*
34 *reasonable belief based upon the available evidence and*
35 *information, including the circumstances in subparagraphs (C)*
36 *through (H) of paragraph (3), that a hate crime may have been*
37 *committed*.

38 ~~(A) The officers have a reasonable suspicion that a hate crime~~
39 ~~occurred.~~

AB 1947

— 8 —

1 ~~(B) When the circumstances in subparagraphs (C) through (I)~~
 2 ~~of paragraph (3) indicate it may be a hate crime.~~

3 (11) A schedule for providing the hate crime training, including,
 4 but not limited to, that required by Section 13519.6 and any other
 5 hate crime training certified by the Commission on Peace Officer
 6 Standards and Training that the law enforcement agency selects.

7 ~~(12) A procedure for officers to document noncriminal hate~~
 8 ~~incidents for crime prevention, law enforcement planning, and~~
 9 ~~potential evidentiary purposes.~~

10 ~~(13) A requirement that, absent a more pressing violent crime~~
 11 ~~emergency, officers respond immediately to a report of a hate~~
 12 ~~crime in progress or in which the perpetrator may escape without~~
 13 ~~a rapid response, regardless of whether the report comes from a~~
 14 ~~victim, witness, or other person.~~

15 ~~(14)~~

16 (12) A requirement that, when an officer has reported a
 17 suspected hate crime and has identified a suspect, the person or
 18 unit of the agency responsible for determining whether the crime
 19 was a hate crime shall contact the Federal Bureau of Investigation
 20 and ask the bureau's assistance in searching publicly available
 21 records concerning the suspect for any relevant evidence.

22 ~~(15)~~

23 (13) A requirement that, when an officer suspects multimitigation
 24 criminal extremism, they report it to their agency's terrorism liaison
 25 officers.

26 (14) *In adopting a hate crimes policy, each state and local law*
 27 *enforcement agency shall seek to incorporate examples of*
 28 *terminology that is specific to the communities they serve. For*
 29 *example, given the nationwide surge of anti-Asian American and*
 30 *Pacific Islander hate crimes beginning in 2020 and resulting from*
 31 *rhetoric blaming China for COVID-19, agencies that serve Asian*
 32 *American and Pacific Islander communities may include*
 33 *terminology and slurs relating to the coronavirus as part of a hate*
 34 *crime investigation.*

35 (b) (1) A law enforcement agency shall be deemed in
 36 compliance with subdivision (a) if it adopts a policy including, but
 37 not limited to, all the provisions of the Commission on Peace
 38 Officer Standards and Training framework and model hate crime
 39 policy, including the supplemental suspected hate crime report
 40 form, called the "hate crime checklist" in the 2019 update, by April

1 1, 2023, and updates the agency’s policy within six months of each
 2 time the commission updates the framework and model policy.

3 (2) Any law enforcement agency that updates an existing hate
 4 crimes policy or adopts a new hate crimes policy may include any
 5 of the provisions of a model hate crime policy and other relevant
 6 documents developed by the International Association of Chiefs
 7 of Police that are relevant to California and consistent with state
 8 law.

9 *(c) This section is intended to establish statewide minimum
 10 practices, and shall not be construed to restrict a law enforcement
 11 agency from implementing more precise or more stringent policies.*

12 SEC. 4. Section 422.9 of the Penal Code is amended to read:

13 422.9. Except as other provisions of state or federal law require:

14 (a) Every law enforcement agency and each state and local
 15 agency shall use the definition of “hate crime” set forth in
 16 subdivision (a) of Section 422.55 exclusively.

17 ~~(b) Every law enforcement agency and each state and local
 18 agencies shall use the terms “hate crime incident” and “noncriminal
 19 hate incident” as defined in Section 422.55 exclusively and shall
 20 not use inexact terms such as “hate incident.”~~

21 (e)

22 (b) Every law enforcement agency and each state and local
 23 agency shall use the terms “characteristics” or “protected
 24 characteristics” as defined in Section 422.55 exclusively and shall
 25 not use misleading terms such as “protected classes” or “protected
 26 groups.”

27 SEC. 5. Section 13023 of the Penal Code is amended to read:

28 13023. (a) Subject to the availability of adequate funding, the
 29 Attorney General, in consultation with subject matter experts, as
 30 defined in Section 422.55, shall direct law enforcement agencies
 31 to report to the Department of Justice, in a manner to be prescribed
 32 by the Attorney General, any information that may be required
 33 relative to hate crimes.

34 (b) In 2023, and whenever changes in law or in the Commission
 35 on Peace Officer Standards and Training framework and model
 36 policy require it, or whenever the Attorney General in consultation
 37 of *with* subject matter experts deems it prudent, the information
 38 required by subdivision (a) shall include the agency’s hate crime
 39 policy and the hate crime pamphlet required pursuant to Section
 40 422.92.

1 (c) In every year, information required by subdivision (a) shall
2 also include any of the following that the agency failed to submit
3 in the previous year:

4 (1) Hate crime policies.

5 (2) Hate crime pamphlets.

6 (3) Any other information required by the Attorney General in
7 the previous year.

8 (d) On or before July 1 of each year, the Department of Justice
9 shall update the OpenJustice Web portal with the information
10 obtained from law enforcement agencies pursuant to this section.
11 The information shall include the names of agencies that have
12 complied with subdivision (a) and other relevant laws in the report
13 year and the names of any agencies that have failed to comply with
14 those laws. The information also shall include the names of any
15 agencies that failed to comply in the both the report year and the
16 previous year, regardless of whether any information is required
17 of compliant agencies in the report year. The department shall
18 submit its analysis of this information to the Legislature in the
19 manner described in subdivision (g) of Section 13010.

20 (e) For purposes of this section, “hate crime” has the same
21 meaning as in Section 422.55.

22 SEC. 6. Section 13519.6 of the Penal Code is amended to read:

23 13519.6. (a) The commission, in consultation with subject
24 matter experts, as defined in Section 422.55, shall develop
25 guidelines and a course of instruction and training for law
26 enforcement officers who are employed as peace officers, or who
27 are not yet employed as a peace officer but are enrolled in a training
28 academy for law enforcement officers, addressing hate crimes.
29 “Hate crimes,” for purposes of this section, has the same meaning
30 as in Section 422.55.

31 (b) The course shall make maximum use of audio and video
32 communication and other simulation methods and shall include
33 instruction in each of the following:

34 (1) Indicators of hate crimes.

35 (2) The impact of these crimes on the victim, the victim’s family,
36 and the community, and the assistance and compensation available
37 to victims.

38 (3) Knowledge of the laws dealing with hate crimes and the
39 legal rights of, and the remedies available to, victims of hate
40 crimes.

1 (4) Law enforcement procedures, reporting, and documentation
2 of hate crimes.

3 (5) Techniques and methods to handle incidents of hate crimes
4 in a professional manner.

5 (6) ~~Multimission criminal extremism, as defined in Section~~
6 ~~422.55, which means the nexus of certain hate crimes,~~
7 ~~antigovernment extremist crimes, anti-reproductive-rights crimes,~~
8 ~~and crimes committed in whole or in part because of the victim's~~
9 ~~actual or perceived homelessness, or status as a journalist.~~

10 (7) The special problems inherent in some categories of hate
11 crimes, including gender-bias crimes, disability-bias crimes,
12 including those committed against homeless persons with
13 disabilities, anti-immigrant crimes, anti-Sikh crimes, and anti-Arab
14 and anti-Islamic crimes, and techniques and methods to handle
15 these special problems.

16 (8) Preparation for, and response to, possible future anti-Asian,
17 anti-Hindu, anti-Sikh, anti-Arab/Middle Eastern, and anti-Islamic
18 hate crimewaves, and any other future hate crime waves that the
19 Attorney General, in consultation with subject matter experts,
20 determines are likely, and for which the Attorney General has
21 notified law enforcement agencies.

22 (c) The guidelines developed by the commission shall
23 incorporate the procedures and techniques specified in subdivision
24 (b), and shall include a framework and model hate crime policy.
25 The elements of the framework and model policy shall include,
26 but not be limited to, the following:

27 (1) A message from the law enforcement agency's chief
28 executive officer to the agency's officers and staff concerning the
29 importance of hate crime laws and the agency's commitment to
30 enforcement.

31 (2) The definition of "hate crime" in Section 422.55.

32 (3) References to hate crime statutes including Section 422.6.

33 (4) A title-by-title specific protocol that agency personnel are
34 required to follow, including, but not limited to, the following:

35 (A) Preventing and preparing for likely hate crimes by, among
36 other things, establishing contact with persons and communities
37 who are likely targets, and forming and cooperating with
38 community hate crime prevention and response networks.

39 (B) Responding to reports of hate crimes, including reports of
40 hate crimes committed under the color of authority.

AB 1947

— 12 —

1 (C) Accessing assistance, by, among other things, activating
2 the Department of Justice hate crime rapid response protocol when
3 necessary.

4 (D) Providing victim assistance and followup, including
5 community followup.

6 (E) Reporting.

7 (F) Each of the items Section 422.87 requires law enforcement
8 agencies to include in their hate crime policies.

9 (d) (1) The commission shall adopt revisions of, or additions
10 to, the framework and model policy only by a vote of the
11 commission following consultation with subject matter experts
12 and a public hearing before the commission.

13 (2) The framework and model policy are not regulations as
14 defined in Section 11342.600 of the Government Code.

15 (e) (1) The course of training leading to the basic certificate
16 issued by the commission shall include the course of instruction
17 described in subdivision (a).

18 (2) Every state law enforcement and correctional agency, and
19 every local law enforcement and correctional agency to the extent
20 that this requirement does not create a state-mandated local
21 program cost, shall provide its peace officers with the basic course
22 of instruction as revised pursuant to the act that amends this section
23 in the 2003–04 session of the Legislature, beginning with officers
24 who have not previously received the training. Correctional
25 agencies shall adapt the course as necessary.

26 (f) (1) The commission shall, subject to an appropriation of
27 funds for this purpose in the annual Budget Act or other statute,
28 for any basic course, incorporate the November 2017 video course
29 developed by the commission entitled “Hate Crimes: Identification
30 and Investigation,” as updated in August of 2020, and as updated
31 thereafter, or any successor video, into the basic course curriculum.

32 (2) The commission shall make the video course described in
33 paragraph (1) available to stream via the learning portal.

34 (3) Each peace officer shall, within one year of the commission
35 making the course available to stream via the learning portal, be
36 required to complete the November 2017 video facilitated course
37 developed by the commission entitled “Hate Crimes: Identification
38 and Investigation,” the course identified in paragraph (4), or any
39 other POST-certified hate crimes course via the learning portal or
40 in-person instruction.

1 (4) The commission, in consultation with subject matter experts
2 as defined in Section 422.55, shall develop and periodically update
3 an interactive course of instruction and training for in-service peace
4 officers on the topic of hate crimes and make the course available
5 via the learning portal. The course shall cover the fundamentals
6 of hate crime law and preliminary investigation of hate crime
7 incidents, and shall include updates on recent changes in the law,
8 hate crime trends, and best enforcement practices.

9 (5) The commission shall require the course described in
10 paragraph (3) to be taken by in-service peace officers every six
11 years.

12 (g) As used in this section, “peace officer” means any person
13 designated as a peace officer by Section 830.1 or 830.2.

14 ~~SEC. 7. Section 1 of Chapter 691 of the Statutes of 2021 is~~
15 ~~amended to read:~~

16 ~~SECTION 1. The Legislature finds and declares all the~~
17 ~~following:~~

18 ~~(a) (1) In 2018, the California State Auditor released a report~~
19 ~~entitled “Hate Crimes in California: Law Enforcement Has Not~~
20 ~~Adequately Identified, Reported, or Responded to Hate Crimes.”~~

21 ~~(2) The California State Auditor found that despite an increase~~
22 ~~in hate crimes in California since 2014, law enforcement has not~~
23 ~~been doing enough to identify, report, and respond to these crimes.~~

24 ~~(3) According to the Department of Justice’s annual report~~
25 ~~entitled “Hate Crime in California,” hate crime events increased~~
26 ~~31 percent from 1,015 in 2019 to 1,330 in 2020.~~

27 ~~(4) In 2021, the Southern Poverty Law Center tracked 838 active~~
28 ~~hate groups and found increased hate activity by individuals~~
29 ~~unaffiliated with any groups, increased spread of hate ideology,~~
30 ~~and, in some cases, affinity for violence in a growing number of~~
31 ~~persons with antigovernment extremist views and more~~
32 ~~traditionally mainstream populations.~~

33 ~~(5) Hate crimes and incidents against Asian Americans and~~
34 ~~Pacific Islanders (“APIs”) have surged in response to increased~~
35 ~~xenophobia and bigotry amidst the COVID-19 pandemic. The Stop~~
36 ~~AAPI Hate coalition has reported receiving 3,795 incidents~~
37 ~~nationwide of hate, violence, harassment, and discrimination~~
38 ~~against APIs, most of which targeted women, from March 19,~~
39 ~~2020, to February 28, 2021. Similarly, the Center for the Study of~~
40 ~~Hate and Extremism released data in early March 2021 that showed~~

1 the number of anti-Asian hate crimes reported to police in
2 America's largest cities spiked 145 percent between 2019 and
3 2020. California in particular has seen a rise in hate-fueled violence
4 against Asian Americans, including recent brutal attacks against
5 elderly Asian Americans. The Department of Justice figures
6 showed that anti-Asian hate crime events more than doubled in
7 2020, rising from 43 in 2019 to 89 in 2020. The numbers that are
8 being reported and the incidents that are being publicized reflect
9 only a fraction of the number of hate crimes and incidents that
10 actually occur because of insufficient data collection and
11 underreporting. AAPI immigrant communities face particular
12 barriers to reporting due to insufficient language access.

13 (6) Many of the estimated 9,000,000 Californians with
14 disabilities, including disabilities caused by aging, are always at
15 high risk of becoming victims of hate crimes, often including
16 extraordinary sadism, and antidisability hate crimes in California
17 and nationally are justifiably called the invisible hate crimes. A
18 2017 United States Bureau of Justice Statistics survey of hate crime
19 victims estimated 40,000 antidisability hate crimes per year. This
20 figure is certainly an underestimation because antidisability hate
21 crime victims often do not recognize that the crimes they suffered
22 were hate crimes, those with serious disabilities often find it
23 difficult or impossible to report the crimes, and the estimate omits
24 crimes in hospices, nursing homes, group homes, prisons, jails,
25 and other institutions. Yet in 2019, law enforcement agencies
26 reported just 177 antidisability hate crimes to the Federal Bureau
27 of Investigation (FBI), less than 0.5 percent of the earlier estimate.
28 In California in 2020, law enforcement agencies reported just five
29 antidisability hate crimes.

30 (7) According to the FBI's annual hate crime statistics, in 2019,
31 California law enforcement agencies reported more hate crimes
32 nationwide than any other state, accounting for almost 14 percent
33 of all reported hate crimes nationwide, despite comprising only
34 12 percent of the population, and almost 40 percent more than the
35 second highest reporting state, New York.

36 (8) Hate crimes are notoriously underreported, both by victims
37 to law enforcement and by law enforcement to state departments
38 of justice and the FBI, so the actual number of victims and cases
39 is generally unknown.

1 (9) According to the FBI's 2019 statistics, 11 California cities
2 with populations of at least 100,000 affirmatively reported zero
3 hate crimes in their jurisdictions.

4 (10) Also according to the FBI's 2019 statistics, only 195
5 California law enforcement agencies reported at least one hate
6 crime, out of the 692 law enforcement agencies listed on the
7 Commission on Peace Officer Standards and Training's internet
8 website.

9 (11) The California State Auditor's report found that out of the
10 four law enforcement agencies reviewed, three failed to properly
11 identify some hate crimes. For example, for the years 2014 to 2016,
12 inclusive, the Los Angeles Police Department and the San
13 Francisco State University Police Department failed to correctly
14 identify 11 of the 30 cases the California State Auditor reviewed
15 as hate crimes.

16 (12) The four law enforcement agencies the California State
17 Auditor reviewed failed to report to the Department of Justice a
18 total of 97 hate crimes—about 14 percent of hate crimes identified.

19 (13) The California State Auditor's report noted that better
20 proactive guidance and oversight by the Department of Justice
21 will result in improved reporting of hate crime information.

22 (14) The Department of Justice's current reporting process does
23 not capture the geographic location where each hate crime
24 occurred, but only reports the agency that reported the crime.

25 (15) Of the 245 law enforcement agencies the California State
26 Auditor surveyed, more than 30 percent stated they do not use any
27 methods to encourage the public to report hate crimes.

28 (16) The California State Auditor noted that the Department of
29 Justice is "uniquely positioned to provide leadership for law
30 enforcement agencies' response to hate crimes" because of its
31 statutory responsibilities to collect, analyze, and report on hate
32 crimes.

33 (17) The California State Auditor recommended better law
34 enforcement policies to guide officers. Section 422.87 of the Penal
35 Code, effective January 1, 2019, requires many local law
36 enforcement agencies to adopt hate crime policies with specified
37 content, and Section 422.92 of the Penal Code requires all state
38 law enforcement agencies to adopt such policies. Yet as of January
39 1, 2022, some agencies had no such policies, while some others
40 had policies that fell far short of the statutory guidelines.

1 ~~(b) (1) Section 422.92 of the Penal Code requires every law~~
2 ~~enforcement agency to have a hate crimes brochure and to provide~~
3 ~~it to hate crime victims and witnesses. As of January 1, 2022, it~~
4 ~~was unknown whether all agencies did so and there was no~~
5 ~~statutory accountability mechanism to ensure that agencies comply~~
6 ~~with this law.~~

7 ~~(2) Section 13519.6 of the Penal Code, contingent on future~~
8 ~~funding, requires all law enforcement agencies to conduct specific~~
9 ~~hate crime training. As of January 1, 2022, there was no statutory~~
10 ~~accountability mechanism to ensure that agencies comply with~~
11 ~~this law.~~

12 ~~(3) Section 422.9 of the Penal Code, enacted in 2004, requires~~
13 ~~all agencies to use the statutory definition of “hate crime”~~
14 ~~exclusively. Yet, as of January 1, 2022, some law enforcement~~
15 ~~agencies still used narrower, noncompliant decisions, and there~~
16 ~~was no statutory accountability mechanism to ensure that agencies~~
17 ~~comply with this law.~~

18 ~~(e) (1) Section 422.87 of the Penal Code, effective January 1,~~
19 ~~2019, requires that any local law enforcement agency that updates~~
20 ~~an existing hate crimes policy or adopts a new hate crimes policy~~
21 ~~shall include, but not be limited to, the content of the model policy~~
22 ~~framework that the Commission on Peace Officer Standards and~~
23 ~~Training developed pursuant to Section 13519.6 of the Penal Code,~~
24 ~~and any content that the commission may revise or add in the~~
25 ~~future, including any response and reporting responsibilities.~~

26 ~~(2) The California State Auditor in 2018 recommended that law~~
27 ~~enforcement agencies use supplemental hate crime report forms~~
28 ~~so that responding officers can conduct initial investigations on~~
29 ~~the scene.~~

30 ~~(3) The Commission on Peace Officer Standards and Training’s~~
31 ~~model policy framework, effective in May 2019, includes such a~~
32 ~~supplemental report form, which it calls a “hate crime checklist.”~~

33 ~~(4) The Los Angeles Police Department in 2021 reported that~~
34 ~~use of the form had “saved many officer/detective work hours,”~~
35 ~~in addition to improving public safety.~~

36 ~~(5) Many agencies, as of January 1, 2022, had updated or~~
37 ~~adopted hate crime policies in the three years since adoption of~~
38 ~~paragraph (2) of subdivision (a) of Section 422.87 of the Penal~~
39 ~~Code. Yet some had not included the form in their policies, and~~
40 ~~there was no statutory accountability mechanism to ensure that~~

1 agencies comply with this law. For such agencies, the requirement
2 of the act that amended that section in 2020 that their policies
3 include the form created no state-mandated local cost.

4 (d) It is the intent of the Legislature in enacting this act to do
5 all of the following:

6 (1) ~~Enact clear, specific language to apply the provisions of~~
7 ~~existing law and the highest priority recommendations of the audit~~
8 ~~to all law enforcement agencies throughout the state as quickly as~~
9 ~~feasible.~~

10 (2) ~~Establish an effective accountability mechanism.~~

11 (3) ~~Minimize costs to law enforcement agencies by allowing~~
12 ~~them to meet all of the requirements of this act by utilizing~~
13 ~~materials that the Commission on Peace Officer Standards and~~
14 ~~Training has produced and will update in the future.~~

15 ~~SEC. 8.~~

16 *SEC. 7.* (a) The Legislature finds and declares all of the
17 following:

18 (1) Section 422.87 of the Penal Code, as amended by this act,
19 creates no costs to state law enforcement agencies because it is
20 declaratory of existing law in subdivision (c) of Section 13519.6
21 of the Penal Code.

22 (2) Section 422.87 of the Penal Code, as amended by this act,
23 minimizes state-mandated local costs to local law enforcement
24 agencies by allowing them to meet the requirements of that section
25 by adopting the Commission on Peace Officer Standards and
26 Training model hate crime policy and any updates of that policy
27 that the commission develops in the future.

28 (3) Section 13023 of the Penal Code, as amended by this act,
29 creates no state-mandated local costs to local law enforcement
30 agencies because all of the requirements of the amendments to
31 that section were within the authority of the Attorney General to
32 require prior to enactment of those amendments.

33 (4) As concerning the supplemental report form requirements,
34 this act creates no state-mandated local cost to any local law
35 enforcement agency that has adopted or revised a hate crime policy
36 on or after January 1, 2019, ~~for reasons including, but not limited~~
37 ~~to, those stated in subdivision (e) of Section 7 of this act. 2019.~~

38 (b) If the Commission on State Mandates determines that this
39 act contains costs mandated by the state, reimbursement to local
40 agencies and school districts for those costs shall be made pursuant

AB 1947

— 18 —

- 1 to Part 7 (commencing with Section 17500) of Division 4 of Title
- 2 2 of the Government Code.

O

98

AB 1947

Freedom from Hate Crimes

Assemblymember
Phil Ting
19TH DISTRICT



SUMMARY

In 2018, the State Auditor found that “law enforcement has not adequately identified, reported, or responded to hate crimes.” AB 1947 follows the auditor’s recommendations by requiring each law enforcement agency to adopt a hate crimes policy, including specific guidelines for recognizing, reporting, and responding to these crimes.

BACKGROUND

Hate crimes have surged in California and nationally since 2015, escalating more since the start of the COVID-19 pandemic and still further in 2021.

The most commonly reported types of hate crimes are those committed with a racial, ethnic, or nationality bias, followed by sexual orientation and religious biases.

The Asian American Pacific Islander (AAPI) community has been largely targeted amidst the pandemic. California in particular has seen a rise in hate-fueled violence against Asian Americans, including recent brutal attacks against elderly Asian Americans.

The Center for the Study of Hate and Extremism’s preliminary 2021 data shows large increases in anti-AAPI hate crimes in major cities nationally, including 173% in LA and an astonishing 567% in San Francisco. Overall nationally, hate crimes were reported up another 11%, with African Americans remaining the most targeted community and a resurgence in anti-Semitic hate crimes

The national coalition Stop AAPI Hate noted at least 931 hate incidents in the Bay Area alone in 2021, and nearly 11,000 incidents nationwide.

Despite the spike in reported cases, hate crimes are still notoriously underreported. For instance, 11 California cities with populations of at least 100,000 reported zero hate crimes in 2019. Anti-female and anti-disability hate crimes remain the most underreported in California.

The numbers reported and the incidents publicized reflect only a fraction of the actual numbers because of insufficient data collection and underreporting. This results in a significant lack of support and services needed within our communities, and instills fear among Californians.

THIS BILL

AB 1947 requires every law enforcement agency to adopt a detailed, specific policy instructing officers on how to identify, respond to, and report hate crimes.

It also requires agencies to submit their hate crime policies, brochures, and training schedules to the Department of Justice to ensure compliance.

This bill does not create or expand the definition of any crime, increase penalties for any crime, or preclude restorative justice sentencing for any crime.

SUPPORT

- The Arc & United Cerebral Palsy California Collaboration (sponsor)
- Asian Law Alliance (sponsor)
- California Asian Pacific American Bar Association (sponsor)
- California Alliance for Retired Americans (sponsor)
- California Association of Human Relations Organizations (sponsor)
- California Council of Churches IMPACT (sponsor)

AB 1947

Freedom from Hate Crimes

Assemblymember
Phil Ting
19TH DISTRICT



- California Hawaii State Conference of the NAACP (sponsor)
- California League of United Latin American Citizens (LULAC) (sponsor)
- California Women's Law Center (sponsor)
- Center for the Study of Hate and Extremism, CSU San Bernardino (sponsor)
- Feminist Majority Foundation (sponsor)
- Hindu American Foundation (sponsor)
- National Japanese American Citizens League (sponsor)
- Sikh Coalition (sponsor)
- Alpha Resource Center
- The Arc San Francisco
- Asian Pacific Islander Legal Outreach
- BeChinatown
- California Catholic Conference
- California Community Living Network
- California Council of Behavioral Health Agencies
- California Democratic Party Senior Caucus
- California Foundation for Independent Living Centers
- California In-Home Supportive Services Consumer Alliance
- California La Raza Lawyers Association
- California Nurses Association
- California Rural Legal Assistance Foundation
- California Women's Law Center
- Coalition for Humane Immigrant Rights (CHIRLA)
- Council on American-Islamic Relations, California Chapter
- Compassion in Oakland
- Consumer Federation of California
- Dolores Huerta Foundation
- Easterseals Southern California
- Gray Panthers of San Francisco
- Islamic Networks Group (ING)
- Japanese American Citizens League, NCWNP
- Japanese Cultural and Community Center of Northern California
- Korean American Community Services in San Jose
- LEAD Filipino
- National Asian Pacific American Bar Association
- National Japanese American Historical Society
- Not in Our Town
- PathPoint
- Sacramento LGBT Community Center
- Salvador E. Alvarez Institute for Non-Violence
- Services Immigrant Rights and Education Network
- Sikh American Legal Defense and Education Fund (SALDEF)
- Stand with Asian Americans
- UDW/AFSCME Local 3930

STAFF CONTACT

Jessica Duong
Office of Assemblymember Phil Ting
(916) 319-2019
Jessica.Duong@asm.ca.gov



Rashi Kesarwani
Councilmember District 1

CONSENT CALENDAR

April 12, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmembers Lori Droste, Terry Taplin, and Susan Wengraf (Co-sponsor)

SUBJECT: Resolution Reaffirming the City of Berkeley's Commitment to Transgender Rights

RECOMMENDATION

Adopt a Resolution reaffirming the City of Berkeley's commitment to Transgender and Gender Expansive Rights

CURRENT SITUATION AND ITS EFFECTS

On February 22, 2022, Texas Governor Greg Abbott authored a letter to Texas's Department of Family and Protective Services saying that medical treatments provided to transgender adolescents should be classified as child abuse under existing state law.¹ This was in response to an opinion issued the week earlier by Texas Attorney General Ken Paxton stating that medical treatments such as puberty-suppressing drugs and hormones provided to transgender teens for gender-affirming care should be investigated as child abuse. This letter sowed fear among transgender youth and their families. Several families are already being unjustly investigated for supposed child abuse under this standard. On March 1, 2022, a lawsuit was filed by the American Civil Liberties Union and Lambda Legal Defense to secure a temporary restraining order and permanent injunction against both Governor Abbott and Jaime Masters, Commissioner of the Texas Department of Family Protective Services.² On March 11, Judge Amy Clark Meachum issued an injunction, declaring the Governor's order to be

¹ See NYTimes March 1, 2022 article: [Texas Investigates Parents Over Care for Transgender Youth, Suit Says](#)

² See NYTimes March 1, 2022 article: [Texas Investigates Parents Over Care for Transgender Youth, Suit Says](#)

unconstitutional.³ Within hours of Judge Meachum’s ruling, however, Attorney General Paxton tweeted that his office had filed an appeal to the ruling, thus freezing the injunction and allowing the investigations to continue.⁴ At the time of this writing, the legal landscape remains murky and it is uncertain whether these persecutory investigations will continue.

Transgender and gender expansive rights have recently come under direct attack in state legislatures across the country, and these individuals are especially vulnerable due to a lack of federal legal protections—with no comprehensive non-discrimination law inclusive of gender identity currently in place. As of March 2022, 15 states have sought to restrict access to gender-affirming care or are currently considering laws to do so. According to the Williams Institute at the UCLA School of Law, these bills carry severe penalties for health care providers and sometimes families who provide or seek out gender-affirming care for minors.⁵ In light of these bills and laws that seek to deny gender-affirming care to minors, it is critically important to reaffirm Berkeley’s commitment to the transgender and gender expansive community and their rights.

BACKGROUND

Acts of violence and discrimination against transgender and gender expansive individuals continue to be on the rise, despite the June 15, 2020, U.S. Supreme Court ruling in *Bostock v. Clayton County* which declared that discrimination based on transgender status counts as discrimination based on sexual orientation or gender identity (falling under discrimination due to sex prohibited in Title VII of the 1964 Civil Rights Act). Although this decision has become one of the most important for LGBTQ legal rights, transgender and gender expansive individuals have historically been oppressed and continue to face challenges—particularly in the workplace, healthcare, and education. The transgender community continues to grapple with violence as demonstrated by the at least 46 transgender and gender expansive individuals murdered in 2021—most of them Black or Latinx, according to the Human Rights Campaign Fund—marking the deadliest year on record.⁶

Berkeley is the first city in the United States to provide domestic partnership benefits to city and school district employees and has historically safeguarded the rights of the LGBTQ community. In 2018, Berkeley’s Commission on the Status of Women announced a resolution providing \$2,400 from the General Fund to fund a half-day Transgender Health Access Training for its Public Health staff. In 2015, Berkeley also added a provision to the Municipal Code requiring

³ See NYTimes March 11, 2022 article: [Texas Court Halts Abuse Inquiries into Parents of Transgender Children](#)

⁴ See Washington Post March 17, 2022 article: [Dreading the Knock at the Door: Parents of Trans Kids in Texas are Terrified for Their Families](#)

⁵ “Prohibiting Gender-Affirming Medical Care for Youth,” UCLA School of Law Williams Institute, March 2022, <https://williamsinstitute.law.ucla.edu/publications/bans-trans-youth-health-care/>

⁶ See the November 17, 2021 Human Rights Campaign Fund press release: [Marking the Deadliest Year on Record, Human Rights Campaign Fund Announces Release of Annual Report on Violence Against Transgender and Gender expansive People.](#)

that single-occupancy bathrooms in businesses and other places of public accommodation be designated as gender-neutral.

The state of California has also continued to support the transgender and gender expansive community and their rights. In 2014, AB 1577, the Respect After Death Act, requires any official who completes a transgender person's death certificate to record the deceased individual's sex to reflect their gender identity. In 2015, California became the first state to grant transgender prison inmates the right to have access to gender affirmation surgeries. Additionally, under AB 1732, California became the first state to require single-occupancy restrooms in businesses, government buildings, and places of public accommodation to be indicated as gender-neutral. In 2016, California passed AB 1887, which banned state-funded travel to states enacting laws that discriminated against or removed protections for individuals based on sex, gender identity, or sexual orientation.

Let this resolution reaffirm the City of Berkeley's strong history of commitment to upholding and protecting the rights of members of the LGBTQ community, including transgender and gender-expansive individuals.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

None

CONTACT PERSON

Rashi Kesarwani, Council District 1, 510-981-7110

Attachments:

1. Resolution

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

REAFFIRMING THE CITY OF BERKELEY'S COMMITMENT TO TRANSGENDER AND GENDER EXPANSIVE RIGHTS

WHEREAS, June 28, 2022 will mark the 53rd anniversary of the Stonewall Riots, which were a pivotal series of events that invigorated the modern movement for LGBTQ rights and served as the catalyst for the formation of LGBTQ activist organizations and pride marches.

WHEREAS, Even with the landmark Supreme Court decision *Bostock v. Clayton County* (2020), which prohibited employers from discriminating based on sexual orientation, transgender individuals still lack legal protection on the federal level since no comprehensive non-discrimination law inclusive of gender identity currently exists.

WHEREAS, More than 100 anti-transgender bills have been introduced in 33 states in an attempt to dismantle fundamental transgender rights and transgender identity.⁷

WHEREAS, Individual states are passing laws restricting access to medical care and sports participation for transgender youth, for example: Tennessee banned doctors from prescribing transition hormone treatments for transgender children; Arkansas prohibited doctors from providing gender-affirming medical treatment to transgender minors; and Alabama barred transgender girls and women from playing on female teams.

WHEREAS, The transgender and gender expansive community, especially the most marginalized transgender people such as trans women and trans people of color, experience daily challenges due to a lack of healthcare coverage, greater likelihood of living in poverty, and ongoing violence, harassment, and discrimination.

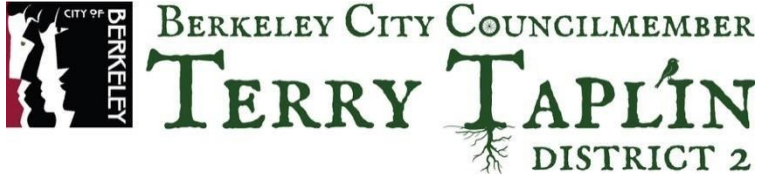
WHEREAS, the overwhelming majority of Americans believe transgender people should be guaranteed federal anti-discrimination protections and rights to participate in opportunities through the Equality Act, a bill that passed in the House of Representatives but is currently stalled in the Senate.

WHEREAS, In December 1984, the City of Berkeley was the first to extend health benefits to domestic partners who served as City and school district employees; Berkeley's Domestic Partner Task Force conceived the term "domestic partner"; and the City's policy set a precedent for domestic partner policies in the rest of the country.

NOW THEREFORE, BE IT RESOLVED by the City of Berkeley that it hereby reaffirms its commitment to assuring transgender and gender expansive rights, regardless of

⁷ See KQED's June 6, 2021 article [Pride: 2021 has Set a Record in Anti-Trans Bills in America](#)

socioeconomic, ethnic, racial, cultural, or religious background, and to opposing any laws or regulations that pose a threat to the well-being, identity, and advancement of the transgender and gender expansive community.

CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin, Councilmember Kate Harrison, and
Councilmember Susan Wengraf

Subject: Budget Referral: Municipal Electric Vehicle Charging Infrastructure

RECOMMENDATION

That the City Council refer to the FY2023-24 budget process the funding of electric charging infrastructure for the City's fleet of electric vehicles.

FISCAL IMPACTS

An estimated \$1,150,000 for the implementation of electric charging infrastructure at the Corporation Yard and other City properties.

CURRENT SITUATION AND ITS EFFECTS

In July of 2020, the Department of Public Works presented its 2020 Municipal Fleet Electrification Assessment to the City Council. This assessment, developed in response to a 2019 referral from Council requesting it, details the department's action plan for the pursuit of the full electrification of Berkeley's municipal vehicle fleet by the year 2030. Public Works' report, and this recommendation, are primarily focused on the electrification of the 40% of Berkeley's fleet that are light-duty vehicles. This is due to the fact that there are few existing medium and heavy-duty electric vehicles and none of them are suitable for the City's desired uses.¹

While the pursuit of the full electrification of Berkeley's light, medium, and heavy-duty vehicles remains limited by existing technologies, the City Council can and must prioritize the electrification of that portion of the fleet that is ready to be electrified. In order to meet its 2030 electrification goal and its broader climate goal to reach greenhouse gas emissions 80% below 2000 levels by 2050, the City of Berkeley has to make steady investments into the work of electrification.

Public Works is on track to complete conversion of the light duty fleet to EVs by 2028, two years ahead of the assessment's schedule. However, failure to fund and/or install the Corporation Yard charging stations may delay this schedule and/or compromise the City achieving the goal of an all EV light duty fleet. The FY 2022 budget did not include

¹ [2020 Municipal Fleet Electrification Assessment](#)

the \$850,000 necessary to construct the charging infrastructure for the Corporation Yard, and the total gap in funding needed to get this infrastructure to the Corp Yard and other sites is now \$1,150,000. The Corporation Yard is an especially important location because much of the City's light duty fleet resides there, and without this charging infrastructure, EV conversion will slow dramatically.

ALTERNATIVES CONSIDERED

Public Works and the Office of Energy and Sustainable Development may continue discussions with East Bay Community Energy for their potential financing and management of this important capital project.

ENVIRONMENTAL IMPACTS

The use of electric vehicles for Berkeley's municipal fleet stands to significantly reduce the City's greenhouse gas emissions. While the production of electric vehicles still results in some emissions, shifting away from fossil fuel-powered vehicles will nonetheless drastically advance the City's climate goals.

CONTACT

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

ATTACHMENTS

1. 2020 Municipal Fleet Electrification Assessment



Office of the City Manager

CONSENT CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Department of Public Works
 Subject: Referral Response: An Action Plan for Greening the City of Berkeley Fleet of Vehicles

RECOMMENDATION

Receive the City of Berkeley Municipal Fleet Electrification Assessment, a plan to accelerate Berkeley's municipal fleet electrification by 2030, and refer to the City Manager to pursue grant and rebate opportunities through East Bay Community Energy and other entities to support its recommendations for transitioning fleet vehicles away from fossil fuels to electric vehicles, including charging infrastructure and associated distributed energy resource options.

FISCAL IMPACTS OF RECOMMENDATION

This recommendation has no direct fiscal impacts. The City of Berkeley Municipal Fleet Electrification Assessment Plan (Fleet EV Plan), however, estimates that transitioning light-duty fleet vehicles to electric vehicles (EVs) over the next ten years will have significant costs, due primarily to expenses associated with needed charging infrastructure. Light-duty EV fleet replacement is estimated at \$9.76 million over the next ten years, compared with \$8.34 million for gasoline/hybrid vehicles. The differential is primarily due to the high costs associated with charging infrastructure including procurement, installation at the multiple locations where Berkeley fleet vehicles are domiciled, and electrical upgrades required to support charging. Further, if recommended solar photovoltaic (PV) and battery energy storage systems are included, an additional \$1.58 million will be required, totaling an estimated \$11.34 million over ten years. Light-duty vehicles are approximately 40% of the total Berkeley Municipal Fleet; costs associated with transitioning medium-duty, heavy-duty, and emergency vehicles to EVs have not been estimated in the Fleet EV Plan because very few options are available. Implementation of an electric fleet will require additional funding through future City Budget adoptions.

CURRENT SITUATION AND ITS EFFECTS

This Fleet EV Plan responds to Item 36, "An Action Plan for Greening the City of Berkeley Fleet of Vehicles," which originally appeared on the agenda of the June 25, 2019 Council meeting and was sponsored by Councilmembers Wengraf, Harrison, Robinson, and Mayor Arreguin. This Council item called for the City Manager and

Department of Public Works to create a plan to aggressively accelerate implementation of the electrification of the City's municipal fleet and phase out fossil fuel use in municipal vehicles by 2030. The Fleet EV Plan complements the drafting of Berkeley's first Electric Mobility Roadmap, by the Planning Department, and embodies the Roadmap goal of Demonstrating City Leadership, specifically the strategy to develop and implement a City fleet electrification plan.

This Fleet EV Plan completes the Strategic Plan Priority project "City Vehicle Fleet Assessment" and supports the Strategic Plan Goals of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities and being a global leader in addressing climate change and protecting the environment.

As directed by Council, the Fleet EV Plan includes an evaluation of the City's current fleet, and an analysis of opportunities for transitioning to a fleet of fossil fuel free vehicles, as soon as the technology can safely and reliably meet operational needs. Based on this analysis, the Fleet EV Plan focuses on light-duty vehicles (approximately 40% of the total fleet) because few medium- and heavy-duty EVs exist, and of those that do, performance is not appropriate for Berkeley's fleet. The Fleet EV Plan addresses 2021-2025 procurement cycles in detail, and 2026-2030 procurement cycles more generally, to ensure fiscally responsible procurement and deployment of EVs. It also proposes associated distributed energy resource (DER) options, including charging infrastructure and onsite solar PV and/or battery energy storage (BES) systems. Specifically, the plan includes an initial screening to identify sites at which solar PV and/or BES may be favorable to offset electricity consumption of the City's EV fleet. BES systems allow for operational flexibility, resilience, and energy demand management. The plan has details on vehicle and DER technology, and financial model recommendations for each fleet facility (domicile). It recommends a scenario to meet fleet electrification requirements with the greatest ease of implementation and integration.

As of February 2020, the City fleet, excluding emergency response vehicles, consisted of 99 passenger sedans and SUVs, 30 parking enforcement scooters, 88 medium-duty pick-up trucks and vans, and 98 heavy-duty vehicles, all domiciled in 15 dispersed locations. It was determined the light-duty fleet could be transitioned to battery electric vehicles (BEVs, such as Chevy Bolts), with some plug-in hybrid electric vehicles (PHEVs, such as Prius Primes) that travel primarily using electricity, but which also have gasoline engines for flexibility and resilience needed for emergency response and disaster preparedness. Emergency vehicles for police patrol and pursuit, firefighting, and emergency medical services are not currently available as BEVs or PHEVs. The plan recommends that medium-duty and heavy-duty gasoline engine/hybrid vehicles continue to be evaluated during the 2020-2030 timeframe via pilot programs, until EVs in these classes are available, cost-effective, and able to meet the same duty cycle of existing vehicles. For example, some of the fleet's 72 medium-duty pickup trucks may

be able to be replaced by the all-electric Ford F-150, a light-duty truck currently expected to arrive in the U.S. market by the end of 2021.

Table 1 summarizes Fleet EV Plan recommendations for adding charging stations, solar PV, BES systems, and backup generators to support the transition of the light-duty fleet to an EV fleet. Solar PV and BES recommendations are based on the energy load of the fleet, and some locations are being evaluated through East Bay Community Energy (EBCE)'s separate *Solar + Storage at Critical Municipal Facilities Assessment*, which is expected to be completed by the end of 2020. Backup generators are included in the Fleet EV Plan to provide resilience, but these needs may be met at some locations with solar PV and BES.

Table 1: Summary of Fleet EV Plan Recommendations for Charging Infrastructure and Associated Distributed Energy Resource Options to Support Light-duty Fleet Electrification Transition

Facility Name	Facility Location	Light-Duty EVs	Chargers	Solar PV (kW DC)	BES	Backup Generator
Corp Yard	1326 Allston Way	16	4 dual-head L2 and 1 DCFC	52.7	33 kW / 130 kWh	Yes
Berkeley Transfer Station (prior to rebuild)	1201 Second Street	5	2 dual-head L2 w/ load management			
Berkeley Marina	125/127 University Avenue	33 (includes scooters)	4 dual-head L2	70.5	75 kW / 300 kWh	Yes
Adult Mental Health Clinic	1521 University Avenue	13	3 dual-head L2	--	--	
Mental Health Clinic	1890 Alcatraz Avenue/ 3282 Adeline Street	6	1 dual-head L2	--	--	Yes
Center Street Garage	2025 Center Street	36 (some will relocate to Civic Center)	28 dual-head, 1 single L2 (existing)	168.9	63 kW / 250 kWh	
Central Library Parking Lot	2031 Bancroft Way	1	1 dual-head L2	18.8	--	Yes
Public Safety Building	2100 Martin Luther King Jr Way	2	1 dual-head L2	10.8	--	
Civic Center	2180 Milvia Street	1	2 dual-head L2	--	--	
Mental Health Clinic	2636/2640 Martin Luther King Jr Way	8	2 dual-head L2	60.1		
South Berkeley Senior Center	2939 Ellis Street	2	1 dual-head L2	7.8		Yes
North Berkeley Senior Center	1901 Hearst Avenue	2	1 dual-head L2	29.6		

The City fleet includes three take-home vehicles that are assumed to be charged at a staffs' homes.

Table 2 summarizes the estimated annual costs for transitioning the City's light-duty fleet to EVs. Estimates are based on April 2020 data for initial procurement, installation, and annual operation and maintenance costs. Factors that impact these estimates include change in costs of equipment, insurance, sales tax, and utility rates; change in the numbers of vehicles procured each year; implementation of solar PV and/or BES systems, and the availability of incentives and grants.

Table 2: Summary of Estimated Procurement and Operating and Maintenance Costs by Year

	2021	2022	2023	2024	2025	2026-30
Light-duty vehicle procurement	\$1,156,200	\$678,043	\$151,379	\$191,797	\$151,736	\$2,528,658
Charger procurement and installation*	\$675,500	\$675,500				
Annual charger maintenance fee*	\$12,400	\$22,300	\$22,300	\$22,300	\$22,300	\$111,500
Solar PV procurement and installation*	\$534,650	\$534,650				
BES procurement and installation	\$1,020,000					\$1,020,000
Back-up generator procurement	\$827,000					
Minimum reserved funds for heavy-duty EV evaluation	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	
Total	\$4,475,750	\$2,160,493	\$423,679	\$464,097	\$424,036	\$3,660,158

*Does not include charging stations and solar PV already installed or planned for 2020 or any charging stations that will be incorporated into the new Transfer Station rebuild project

As shown in Table 2, complete implementation of the EV Fleet Plan requires significant resources, particularly in the first two years of implementation, 2021 and 2022. Costs associated with building adequate charging infrastructure are unavoidable, but the plan attempts to minimize those costs via charger sharing, load management, and potentially providing mobile charging in some locations. EVs require charging stations for refueling, and the City's vehicles are domiciled in dispersed locations (see Table 1), most of which currently have limited electrical capacity, as well as physical constraints related to adding EV charging infrastructure. Although elements such as solar PV and BES are not essential for EV adoption, if incorporated, they will reduce utility costs associated with vehicle charging and provide greater resilience during power losses.

BACKGROUND

As staff sought resources to complete the Action Plan for Greening the City of Berkeley Fleet of Vehicles in July 2019, EBCE offered to perform rapid fleet electrification assessments for member cities to help update EBCE's electricity load growth curve forecast and plan for infrastructure build out. Member cities including Berkeley, Albany, Dublin, and Oakland expressed interest in participating in the assessments, and EBCE issued an RFP for consultant services in September 2019. City of Berkeley staff participated in review of the proposals, and final selection of the consultant team of Frontier Energy, DKS Associates, and Gladstein, Neandross & Associates. The project kicked off in November 2019 with Berkeley in first position for the comprehensive fleet electrification assessment. The consultant team, working closely with EBCE and Berkeley staff, completed the assessment in May 2020.

Transportation is the largest source of greenhouse gas (GHG) emissions in Berkeley, accounting for 60% of the community's total emissions in 2016.¹ In keeping with Berkeley Climate Action Plan goals, and consistent with Council's 2018 Climate Emergency Declaration and resolution to become a Fossil Fuel Free City, staff began incorporating EVs into the municipal fleet in 2016. The fleet currently includes 2 electric scooters (GO-4 EVs) for parking enforcement and 15 Toyota Prius Primes used in multiple departments including Health, Housing & Community Services, Planning, and Public Works.

At the end of 2019, 37 additional charging ports were added to the newly rebuilt Center Street Garage, for a total 57 ports available for public and fleet charging, at this facility which also hosts a 168.9 kW solar PV rooftop canopy. The Center Street Garage rebuild and charging expansion utilized a portion of the \$600,000 allocated in the FY2020 budget for EVs and charging infrastructure, with funding also going towards incorporating EV charging stations into current capital projects at the Mental Health Clinic and North Berkeley Senior Center; and charging design work at the Corp Yard and the Berkeley Marina. In addition, staff was recently informed Berkeley's application for the West Oakland Zero Emission Grant Program to fund fleet EVs and charging infrastructure has been recommended for a \$100,914 award for approval by the Bay Area Air Quality Management District Board in June 2020.

Further expansion of fleet EVs is dependent on providing appropriate charging infrastructure. This Fleet EV Plan provides the City of Berkeley with a plan and recommendations for the accelerated transition to fleet electrification, including associated DER options. EBCE graciously funded this plan, and will continue to offer assistance for the installation of EV charging infrastructure and DER. EBCE has applied to the California Energy Commission for CALeVIP funding that would provide \$14.5 million to our region over 4 years beginning in 2021, for Level 2 and DC Fast Charge stations. This could potentially be combined with other funding opportunities including

¹ Climate Action Plan Update, December 6, 2018, available at <https://www.cityofberkeley.info/climate/>.

Pacific Gas & Electric's EV Fleet program, but significant City investment will be required for plan implementation.

ENVIRONMENTAL SUSTAINABILITY

Driving an EV instead of a conventional gasoline or diesel-fueled combustion engine vehicle eliminates tailpipe emissions. The associated GHG emissions, when charging is powered by onsite solar PV or by EBCE's 100% carbon-free product (Brilliant 100, which is currently used by municipal accounts), are also completely eliminated.

Widespread electric mobility is an essential component of reaching the State's carbon neutrality (zero net carbon) by 2045, and becoming a Fossil Fuel Free City as soon as possible. This Fleet EV Plan estimates the annual lifecycle GHG emissions associated with the light-duty fleet would drop 96% between 2020 and 2030 from 56.6 metric tons to only 2.1 metric tons per year.

RATIONALE FOR RECOMMENDATION

The City of Berkeley Municipal Fleet Electrification Assessment presents an ambitious plan for transitioning fleet vehicles away from fossil fuels to electric vehicles, including developing charging infrastructure and associated distributed energy resource options, such as solar photovoltaics and battery energy storage. The Fleet EV Plan is thorough and was developed in close collaboration with City staff and EBCE to meet Council's referral request and to demonstrate City leadership in addressing climate change and protecting the environment. Given the budgetary impacts of COVID-19 on the City, no specific budget allocation to support Fleet EV Plan implementation is being requested at this time.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Daryl Witbeck, Public Works Operations Manager, Public Works, 510-981-6451
Greg Ellington, Equipment Maintenance Superintendent, Public Works, 510-981-6469
Sarah Moore, Sustainability Program Manager, Planning, 510-981-7494

Attachments:

- 1: City of Berkeley Municipal Fleet Electrification Assessment Plan
- 2: Original Referral Report from June 25, 2019 (Item 36, An Action Plan for Greening the City of Berkeley Fleet of Vehicles)

City of Berkeley Municipal Fleet Electrification Assessment



Prepared for: East Bay Community Energy on behalf of the City of Berkeley

FRONTIER ENERGY, INC.
1000 Broadway, Suite 410
Oakland, CA 94607

DKS ASSOCIATES
1970 Broadway, Suite 740
Oakland, CA 94612

GLADSTEIN, NEANDROSS & ASSOCIATES
2525 Ocean Park Blvd, Suite 200
Santa Monica, CA 90405

Contents

Glossary.....	3
Introduction	4
Summarized Recommendations	8
Summary of Estimated Costs by Year	9
Summary of Emissions Reduction.....	10
Fleet Electrification Transition	12
Light-duty Vehicles.....	12
Availability of Medium- and Heavy-Duty EVs	14
Availability of Emergency EVs.....	14
2026-2030 Budgeting Considerations for Light-Duty EVs.....	15
Charging Strategy Options	16
Distributed Energy Resources.....	19
Total Cost of Ownership	21
TCO Model Results.....	22
Greenhouse Gas Emissions Reduction.....	24
Conclusion.....	25
Appendix A: Municipal Fleet Assessment	26
Appendix B: Electrical Needs and Charging Infrastructure Summary	44
Appendix C: Distributed Energy Resources Analysis.....	55
Appendix D: Total Cost of Ownership.....	73
Appendix E: Recommendations by Domicile: Charging, Solar PV, BES for Light-Duty Fleet EVs.....	87
Site #1 Corp Yard.....	87
Site #2 Berkeley Transfer Station.....	92
Site #3 Berkeley Marina (125/127 University Avenue).....	93
Site #4 Adult Mental Health Clinic	97
Site #5 Mental Health Clinic.....	99
Site #6 Center Street Garage	101
Site #7 Central Library Parking Lot.....	104
Site #8 Public Safety Building.....	107
Site #9 Civic Center (City Hall).....	110

Site #10 Mental Health Clinic (2636/2640 Martin Luther King Jr Way)..... 112
Site #11 South Berkeley Senior Center 115
Site #12 North Berkeley Senior Center 118

Glossary

4WD/4x4	Four-wheel drive
A	Amperes
BAAQMD	Bay Area Air Quality Management District
BES	Battery energy storage
BEV	Battery electric vehicle
CALeVIP	California Electric Vehicle Incentive Program
CapEx	Capital expense
CARB	California Air Resources Board
CORE	California Off-Road Equipment
CVRP	Clean Vehicle Rebate Project
DCFC	DC Fast Charging
DER	Distributed energy resource
EBCE	East Bay Community Energy
EV	Electric vehicle
EVSE	Electric vehicle service equipment
GHG	Greenhouse gas
HVIP	Hybrid Voucher Incentive Program
ICE	Internal combustion engine
kW	Kilowatt
kWh	Kilowatt hour
LCFS	Low Carbon Fuel Standard
Level 2/L2	240-volt charging equipment
O&M/OpEx	Operation and maintenance (expense)
OEM	Original Equipment Manufacturer
PHEV	Plug-in hybrid electric vehicle
PV	Photovoltaic
RA	Resource adequacy
SF	Square feet
SUV	Sport utility vehicle
TCO	Total cost of ownership
V	Volt
W	Watt
ZEV	Zero emission vehicle

City of Berkeley Fleet Transition Plan

Introduction

Fleet electrification offers local governments economic benefits that include lower lifecycle costs and reduced risk of fuel price volatility when compared to internal combustion engine (ICE) vehicles. Deployment of electric vehicles (EV) in municipal fleets also benefits the local population through the use of clean electricity as fuel, which helps reduce criteria air pollutants and greenhouse gas emissions.

To assist local government partners in overcoming perceived barriers to municipal fleet electrification, East Bay Community Energy (EBCE) commissioned a consultant team to develop a plan on behalf of the City of Berkeley (City) that evaluates the short- and long-term cost savings associated with the transition to EVs, determines impacts and benefits to the City, and outlines steps to efficiently integrate EVs and charging infrastructure at municipal facilities in a fiscally responsible manner.

In June 2019 City Council requested the City Manager and Department of Public Works collaborate to create an Action Plan by June 2020 that would outline how the City would accelerate the implementation of municipal fleet electrification by 2030. The purpose of this report is to understand the current municipal fleet composition and make recommendations about transitioning from light-, medium-, and heavy-duty ICE vehicles to EVs by 2030, to the extent feasible. Commitment to fleet electrification will help move the City closer to achieving Council-adopted climate policies while leading by example in the community.

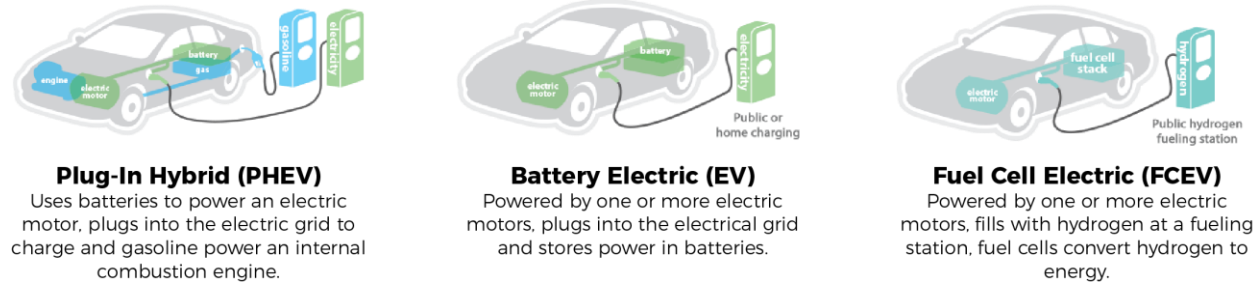
Development of this report was supported by data provided by the City and supplemental information gathered during meetings and interviews.

The purpose of this report is to present a formalized EV deployment plan for the City's municipal fleet in line with the City's commitments and goals. This plan addresses 2021-2025 procurement cycles in detail and 2026-2030 procurement cycles more generally to ensure fiscally responsible procurement and deployment of EVs and proposed associated distributed energy resource (DER) options, including charging infrastructure and onsite solar photovoltaic (PV) and/or battery energy storage (BES) systems. It includes reporting about vehicle and DER technology and financial model recommendations for each fleet facility (domicile), and it ultimately recommends a scenario to meet fleet electrification requirements with the greatest ease of implementation and integration.

Vehicle Technology

Zero-emission vehicles (ZEV) are those that have electric drivetrains to provide all or some of the vehicle's power. California regulations recognize three types of ZEVs as shown in Figure 1.

Figure 1: Types of Zero-Emission Vehicles



Source: Center for Sustainable Energy

- Plug-in Hybrid Electric Vehicles (PHEV): PHEVs are powered by electric charging and gasoline fueling. Most have an all-electric driving range of 10-50 miles. PHEVs can often be fully charged overnight from a standard electrical socket (Level 1) and accept Level 2 charging. PHEVs are more efficient than hybrids and, if driven on primarily on electric power, can achieve up to 133 miles per gallon gasoline equivalent.¹
- Battery Electric Vehicles (BEV): BEVs are powered by electric batteries only and have a range of between 70-315 miles. BEVs are very efficient and can achieve up to 120 miles per gallon gasoline equivalent.¹ Most BEVs can be charged at Level 1, which is ideal for vehicles with a long dwell time, and Level 2 and DC Fast Charging. Figure 2 illustrates the difference in time to charge at the three charging levels.
- Fuel Cell Electric Vehicles (FCEV): FCEVs are powered by a fuel cell that converts hydrogen into electric energy within the vehicle. Current FCEV models have a range of 312-380 miles. FCEVs are fueled at public hydrogen stations in about five minutes. One hydrogen station located at 1250 University Avenue in Berkeley is currently in development. FCEVs are efficient in power conversion and can achieve up to 68 miles per gallon gasoline equivalent.¹ Longer term, FCEVs may be considered for medium and heavy-duty fleet applications.

Charging Technology

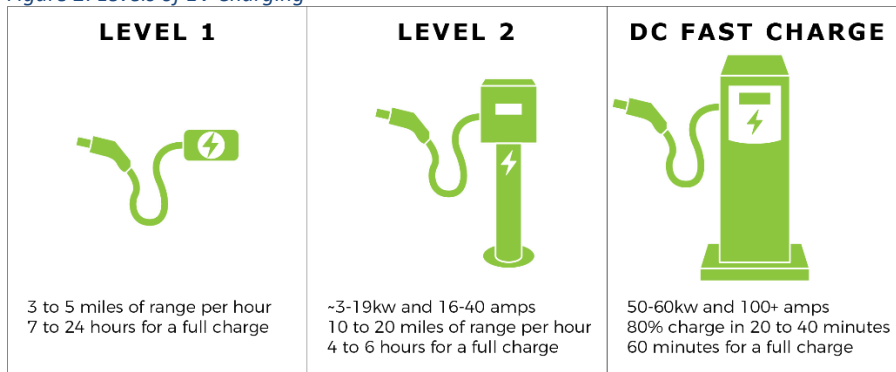
Chargers are identified by their input voltage and are designed and sold by many manufacturers with different prices, applications and functionality. Figure 2 illustrates the difference in charging speeds (miles of range added per hour) from the three charging levels.

- Level 1 charging uses a common wall outlet. Some vehicles can use a standard 120-volt outlet on a dedicated circuit for a “trickle” charge. Most EVs include a cord that can plug into a Level 1 outlet and, therefore, this level of charging does not require installation of charging equipment. Depending on the battery capacity of the EV, Level 1 charging can take 7 to 24 hours for a full charge.

¹ <https://fueleconomy.gov>

- Level 2 equipment offers charging through a 240V, AC plug and requires electric vehicle service equipment (EVSE) with a dedicated 40-amp circuit. All BEVs and PHEVs can use Level 2 charging by using the cord that is attached to the EVSE and plugging it into the vehicle. Level 2 EVSEs come in many configurations: wall mounted, free standing, curbside, and ceiling mounted, and can be networked (smart) to accept payment and communicate charging status or not networked (dumb). Depending on the battery capacity of the EV vehicle, Level 2 charging generally takes 4 to 6 hours to completely charge a depleted battery, however, charging duration can increase in extreme cold and hot temperatures.
- DC Fast Charging (DCFC) is the fastest way to charge an EV and requires a specialized charger on a dedicated circuit that matches the amperage of the EVSE—between 50 and 150 amps. Most BEVs can utilize a DCFC by using the cord attached to the EVSE. Most DCFCs are networked to charge customers for use and help with power management to avoid peaks in demand. Mobile and portable DCFCs are just entering the market. DCFC charging generally takes fewer than 60 minutes to completely charge a depleted battery, however, charging duration can increase in extreme cold and hot temperatures.

Figure 2: Levels of EV Charging



Source: Frontier Energy

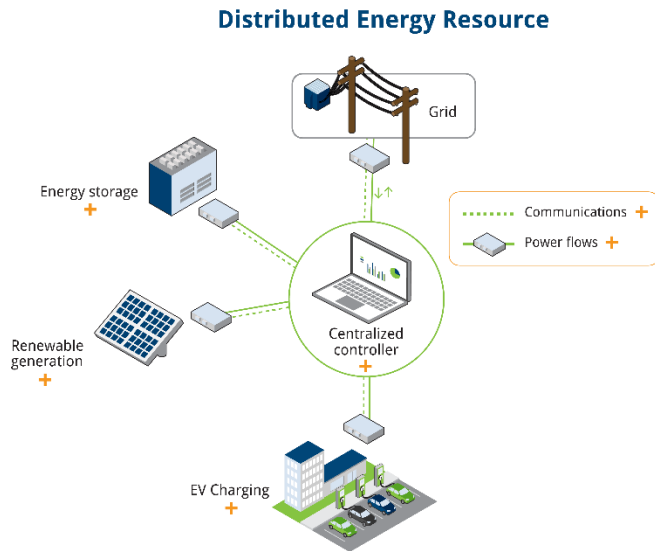
Solar Photovoltaic + Battery Energy Storage Systems

With the threat of a major earthquake predicted to impact the greater San Francisco Bay Area in the next 30 years, cities like Berkeley have extensive experience preparing for natural disasters that can interrupt the utility grid. In recent years, however, increased frequency of climate-related wildfires created a new impact on the City’s operations and those of its businesses and residents. As a last-resort measure to prevent grid-initiated fires, the investor owned utility PG&E implemented processes to de-energize targeted regions known as Public Safety Power Shutoff (PSPS) events. It is crucial that the City’s EV fleet has reliable fueling options when electric service is interrupted due to a natural disaster or PSPS to ensure staff can provide continuity of service to the community.

Onsite solar photovoltaic (PV) arrays paired battery energy storage (BES) systems can provide that resilience. And, on a day-to-day basis, these systems can also reduce costs associated with PG&E demand charges further helping the City’s fleet save on operational expenses.

With the help of a central controller, power generated from onsite solar PV is directed to the BES system. If a City facility is not suitable for onsite PV, electricity will be directed from the grid to the BES system by the controller. In either case, the controller monitors onsite electricity production, electricity flowing from the grid to the battery, and consumption by loads like building energy use and EV charging infrastructure. Figure 3 provides a simplified schematic of a solar PV and BES system.

Figure 3: Schematic of a DER system



Source: Frontier Energy

Summarized Recommendations

In late-February 2020, the City fleet, excluding emergency response vehicles, consisted of 99 passenger sedans and SUVs, 30 parking enforcement scooters, 88 medium-duty pick-up trucks and vans, and 98 heavy-duty vehicles. The City's fleet domiciles in 15 locations. With input from City staff, it was determined that the light-duty fleet could be transitioned to EVs and, in fact, that transition had already begun with the acquisition of 15 Prius Prime PHEVs. The detailed recommendations summarized in this report focus on the light-duty fleet. Medium- and heavy-duty vehicles should be evaluated during the 2020-2030 timeframe via pilot programs until EVs in these classes are cost effective and can meet the same duty cycle of the existing vehicles.

Table 1 summarizes the recommendations throughout this report for adding charging stations, solar PV, and BES systems to support the transition of the light-duty fleet to EVs. Solar PV and BES recommendations are based on the energy load of the fleet, and some locations are being evaluated through EBCE's separate *Solar + Storage at Critical Municipal Facilities Assessment*. Backup generators are included to provide resiliency, but these needs may be met at some locations with solar PV and BES.

Table 1: Summary of Light-duty Fleet Electrification Transition

Facility Name	Facility Location	Light-Duty EVs	Chargers	Solar PV (kW DC)	BES	Backup Generator
Corp Yard	1326 Allston Way	16	4 dual-head L2 and 1 DCFC	52.7	33 kW / 130 kWh	Yes
Berkeley Transfer Station (prior to rebuild)	1201 Second Street	5	2 dual-head L2 w/ load management			
Berkeley Marina	125/127 University Avenue	33 (includes scooters)	4 dual-head L2	70.5	75 kW / 300 kWh	Yes
Adult Mental Health Clinic	1521 University Avenue	13	3 dual-head L2	--	--	
Mental Health Clinic	1890 Alcatraz Avenue/ 3282 Adeline Street	6	1 dual-head L2	--	--	Yes
Center Street Garage	2025 Center Street	36 (some will relocate to Civic Center)	28 dual-head, 1 single L2 (existing)	168.9	63 kW / 250 kWh	
Central Library Parking Lot	2031 Bancroft Way	1	1 dual-head L2	18.8	--	Yes
Public Safety Building	2100 Martin Luther King Jr Way	2	1 dual-head L2	10.8	--	

Facility Name	Facility Location	Light-Duty EVs	Chargers	Solar PV (kW DC)	BES	Backup Generator
Civic Center	2180 Milvia Street	1	2 dual-head L2	--	--	
Mental Health Clinic	2636/2640 Martin Luther King Jr Way	8	2 dual-head L2	60.1		
South Berkeley Senior Center	2939 Ellis Street	2	1 dual-head L2	7.8		Yes
North Berkeley Senior Center	1901 Hearst Avenue	2	1 dual-head L2	29.6		

The City fleet includes three take-home vehicles that are assumed to be charged at staffs' homes.

Summary of Estimated Costs

Table 2 summarizes the estimated annual costs for transitioning the City's light-duty fleet to EVs. Estimates are based on data available in April 2020 for initial procurement, installation, and annual operation and maintenance costs. Factors that impact these estimates include change in cost of equipment, insurance, sales tax, and utility rates; change in the numbers of vehicles procured each year; implementation of solar PV and/or BES systems, and the availability of incentives and grants.

Table 2: Summary of Estimated Procurement and Operating and Maintenance Costs by Year

	2021	2022	2023	2024	2025	2026-30
Light-duty vehicle procurement	\$1,156,200	\$678,043	\$151,379	\$191,797	\$151,736	\$2,528,658
Charger procurement and installation*	\$675,500	\$675,500				
Annual charger maintenance fee*	\$12,400	\$22,300	\$22,300	\$22,300	\$22,300	\$111,500
Solar PV procurement and installation*	\$534,650	\$534,650				
BES procurement and installation	\$1,020,000					\$1,020,000
Back-up generator procurement	\$827,000					
Reserved funds for procurement of heavy-duty EVs for evaluation	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	
Total	\$4,475,750	\$2,160,493	\$423,679	\$464,097	\$424,036	\$3,660,158

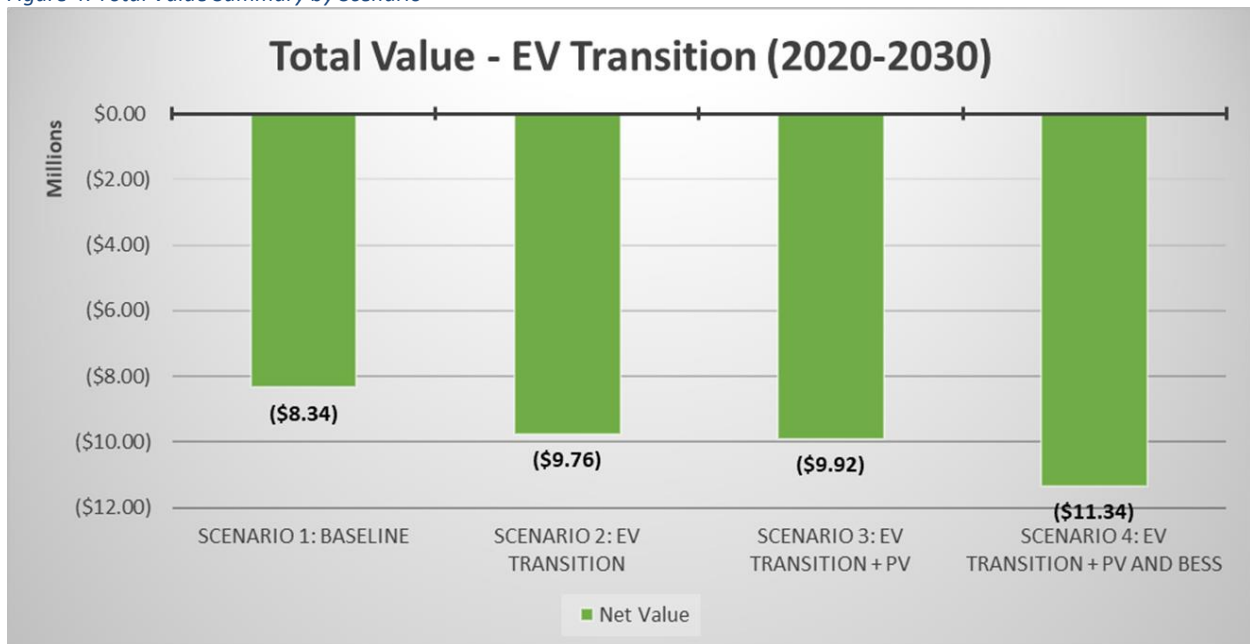
*Does not include charging stations and solar PV already installed or planned for 2020 or any charging stations that will be incorporated into the new Transfer Station rebuild project

To understand the total cost of ownership, four scenarios were created:

1. Baseline—assume that existing gasoline and hybrid ICE vehicles are replaced with similar vehicles
2. EV Transition—assumes that existing gasoline and hybrid ICE vehicles are replaced with EVs
3. EV Transition + PV—adds solar to the EV Transition
4. EV Transition + PV and BES—adds battery storage

Due to the high costs associated with charging infrastructure, including procurement, installation, and electrical upgrades, the EV transition scenario is more expensive over 10 years than the Baseline scenario. Adding solar PV is a slight increase further and the addition of both solar PV and BES systems further increases the total cost of ownership, as shown in Figure 4. EBCE plans to aggregate cities’ solar PV and BES needs into a competitive solicitation in 2020 to reduce the cost and complexity of deploying these systems in the near term for its local government partners.

Figure 4: Total Value Summary by Scenario



Additional charging may need to be added to support medium-, heavy-duty, and emergency response EVs as they become more readily available and economically feasible. Additionally, grant programs, rebates, and incentives may further offset costs of procuring and operating the proposed supporting DER technologies. It is recommended that the City closely track such funding opportunities and coordinate with partners, such as EBCE, accordingly.

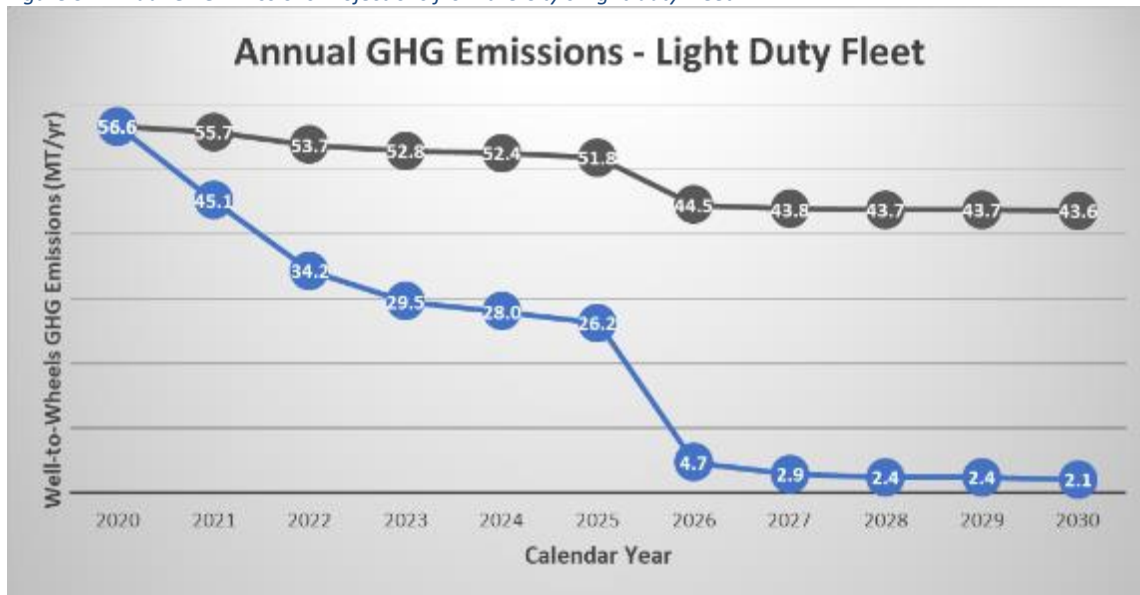
Summary of Emissions Reduction

Transportation contributes 60% of Berkeley’s greenhouse gas (GHG) emissions.² Transitioning to EVs charged with 100% renewable or carbon-free electricity that EBCE provides dramatically reduces GHGs from the City’s fleet. Figure 5 compares GHG emissions under the Baseline scenario and the EV

² <https://www.cityofberkeley.info/climate/>

transition scenario. Precipitous drops in the EV transition scenario in 2021, 2022, and 2025 are associated with the substantial number of vehicles slated for replacement in each of those years.

Figure 5: Annual GHG Emissions Projections from the City's Light-duty Fleet



In 2030, GHGs would be reduced 96% relative to the Baseline scenario. The few remaining GHG emissions are associated with seven PHEV SUVs that have a portion of their daily mileage powered by gasoline. By 2030, it is likely that SUV BEVs that meet the City's duty cycles will be available, effectively allowing the City to achieve a 100% reduction in the GHG emissions for the light-duty fleet considered in this analysis.

Fleet Electrification Transition

Light-duty Vehicles

As of February 2020, the City’s light-duty fleet passenger sedans (or cars), SUVs, and parking enforcement scooters (excluding vehicles used for emergency services and response) consisted of 75 passenger sedans, 24 SUVs, and 30 parking enforcement scooters

The City schedules vehicle replacement 7, 10, or 15 years from the purchase date, although some vehicles are kept longer than planned. All the GO-4 scooters are scheduled to be replaced in 2026. Based on the current vehicle replacement schedule, Table 3 summarizes year-by-year transition to EVs.

The consultant team recommends replacing existing passenger sedans with BEVs, transitioning some existing SUVs to BEV sedans and replacing other SUVs with PHEV SUVs. PHEV SUVs will primarily travel on the electricity available from the vehicles’ batteries and the gasoline engine provides flexibility and resiliency needed by these vehicles for emergency response and disaster preparedness. By 2026, the BEV parking enforcement scooters will likely meet the City’s needs for range and reliability. If BEV scooters are not viable or cost effective by 2026, the City may consider replacing the scooters with BEV sedans.

Table 3: Procurement Schedule for Passenger Sedans and SUVs

Year	Number of BEV Passenger Sedans/Wagons	Number of PHEV SUVs	Number of BEV Scooters
2020*	1	0	
2021**	29	3	
2022	10	8	
2023	3	1	
2024	4	1	
2025	4	0	
2026	11	0	30
2027	6	0	
2028	3	0	
2029	0	0	
2030	1	0	

*Vehicles the City procured in January and February 2020 or are scheduled to be procured in 2031 do not appear in this table.

**Six vehicles may be replaced with EVs in 2020 (instead of 2021), pending approval of a Bay Area Air Quality Management District (BAAQMD) grant application.

2020-2025 Budgeting Considerations for Light-Duty EVs

Based on the negotiated contract rates from National Auto Fleet Group, Table 4 lists the estimated price for EVs, including 9.25% sales tax, additional keys, and other fees. The prices are rounded to the nearest dollar, based on the City’s stated preference to standardize on the Nissan Leaf Plus and Chevy Bolt. The City doesn’t have a stated preference for an SUV replacement and three PHEV options are listed.

Table 4: Average Contract Rates for EVs

Technology Type	Body Type	Make and Model	NAFG Est. Price	EPA Rated All-electric Range	Battery Size (kWh)
BEV	Sedan	Nissan Leaf Plus	\$37,934	226	62
BEV	Small Wagon	Chevy Bolt	\$37,577	259	60
BEV	Scooter	GO-4 EV	\$47,666	100*	20
PHEV	SUV	Kia Niro LX PHEV	\$31,505	26	9
PHEV	SUV	Mitsubishi Outlander 4WD	\$40,061	22	12
PHEV	Minivan	Chrysler Pacifica	\$43,578	32	16

*Manufacturer estimate

Currently, the City is eligible to claim a Clean Vehicle Rebate Program (CVRP) rebate from the State of California for up to 30 EVs per year.³ In 2020, BEVs are eligible for a \$2,000 per vehicle rebate and some PHEVs are eligible for a \$1,000 rebate. The Mitsubishi Outlander, the only four-wheel-drive (4WD) PHEV, is not eligible for the rebate because it does not meet the minimum requirement for all-electric range.⁴ The Kia Niro crossover PHEV and the Chrysler Pacifica minivan are eligible for CVRP.

Table 5 estimates the cost for replacement EVs in 2020 through 2025 (from Table 3) for each budget year with the current contracted prices (from Table 4). The estimated budget will vary based on the contract price, vehicle selected, and changes in sales tax rates. Although more EV makes and models will become available, EV costs will likely remain in the same price range through 2025. Because the CVRP rebate program may not be continued beyond the planned end in 2022,⁵ the consultant team took a conservative approach and did not include the rebates starting in 2023.

Table 5: Year-by-Year Budget Estimates to Replace Existing ICE Vehicles with EVs

Year	Nissan Leaf Plus @ \$37,934	Chevy Bolt @ \$37,577	Mitsubishi Outlander PHEV @ \$40,061	Potential CVRP Rebate	Total Estimated Vehicle Cost
2020	\$37,934 (1)			(\$2,000)	\$35,934
2021*	\$455,208 (12)	\$638,809 (17)	\$120,183 (3)	(\$58,000)	\$1,156,200
2022	\$189,670 (5)	\$187,855 (5)	\$320,488 (8)	(\$20,000)	\$678,043
2023	\$113,802 (3)	\$37,577 (1)			\$151,379
2024	\$151,736 (4)		\$40,061 (1)		\$191,797
2025	\$151,736 (4)				\$151,736

*The City applied for a grant from Bay Area Air Quality Management District. If awarded, six vehicles scheduled to be replaced in 2021 will be replaced in 2020 and will not need to be included in the 2021 budget.

³ <https://cleanvehiclerebate.org/eng/fleet>. Rebates are on a first-come, first-served basis.

⁴ <https://cleanvehiclerebate.org/eng/faqs/why-don%E2%80%99t-i-see-my-vehicle-eligibility-list-0>

⁵ <https://ww3.arb.ca.gov/msprog/eqip/fundplan/fy1920fundingplan-appc-rev.pdf>

Availability of Medium- and Heavy-Duty EVs

The City fleet includes 72 medium-duty pickup trucks, some of which may be able to be replaced with an upcoming all-electric Ford F-150, which Ford announced will arrive in the U.S. market by the end of 2021. Ford also announced it will have an F-150 PHEV by late-2020; however, the battery is intended to be used for accessories and not motive power.⁶ It is unknown if the F-150s will have a utility body application, but companies like Motiv Power Systems produce an EV chassis that can be upfitted with a utility body. Motiv's EV-450 is larger than the F-250 and Rangers the City operates today.

The City also operates 16 cargo vans, primarily Ford E-250/350 and Connect Transit vans, two of which include a genset for camera operation. Electric vans (passenger and cargo) start at about \$100,000, but production has not kept pace with orders and supplies are very limited. Some cargo vans may be able to be replaced with PHEV SUVs or pick-ups.

The City operates three Ford E450 20-passenger buses for the South Berkeley Senior Center, two of which are scheduled for replacement in 2020 and 2022. Several manufacturers offer EV shuttle buses that cost \$270,000 and up, depending on configuration and accessories (e.g., wheelchair lift).

The fleet inventory list shows 16 refuse and dump trucks that are scheduled to be replaced in 2020 and 2021. Electric models of these vehicles are currently available in limited supply and cost about \$320,000 each. Fleet staff have feedback from other agencies that the limited range and long charging time of current BEV refuse trucks is not practical for City operations, which includes multiple 88-mile round trips to the Livermore landfill every day. The City's intention is to electrify refuse vehicles and add charging infrastructure, including solar PV and BES, during the rebuild of the Transfer Station.

From a budgeting perspective, the consultant team recommends allocating up to \$250,000 per year to procure medium- and heavy-duty EVs as pilot projects so that City staff can evaluate their suitability to duty cycle and task. As grants and incentives become available, this amount should be reconsidered annually.

Availability of Emergency EVs

Emergency vehicles for police patrol and pursuit, firefighting, and emergency medical services are not currently available in plug-in models. None of the automakers that build police-specific vehicles have announced a plug-in version.⁷

Rosenbauer, an Austrian company, has a concept BEV fire vehicle called the CFT that is smaller than a traditional U.S. firetruck.⁸ The City of Los Angeles recently ordered a CFT, which will be the first in North America. Electric "ambulances" are BEV sedans that have been retrofitted to provide aid at an incident;

⁶ Other companies have announced BEV pickups with starting prices in the \$70,000 range and are aimed at a luxury market. The consultant team did not consider these trucks for fleet use.

⁷ Ford announced a PHEV patrol sedan but released the car as "special services" sedan not rated for patrol or pursuit.

⁸ <https://innovation.rosenbauer.com/en/concept-fire-truck/>

they are not capable of transporting patients as a traditional ambulance does. None of the manufacturers that make firetrucks and ambulances have announced plans to electrify these vehicles.

2026-2030 Budgeting Considerations for Light-Duty EVs

The year-by-year replacement schedule calls for replacing a total of 21 passenger sedans and 30 parking enforcement scooters between 2026 and 2030, with most replacements occurring in 2026.

In its *Annual Energy Outlook*, the Energy Information Agency projects that 300-mile-range BEVs will be upper-tier of the EV market by 2025.⁹ Bloomberg New Energy Finance’s *Electric Vehicle Outlook*¹⁰ report published in late-2019 stated, “we expect price parity between EVs and internal combustion engines by the mid-2020s in most segments...”

By 2024, the City will have been acquiring data from the telematics system (scheduled to be installed in 2020) for four years. Data collected on vehicle use patterns and parking behavior will inform and support the City’s decision to either procure lower-cost BEVs with 100-to-150-mile range or higher-cost BEVs with 300-miles or more range. Although budgeting the cost of vehicles in future years is imprecise, Table 6 and Table 7 estimate costs for light-duty EVs for both scenarios. Should the City replace the GO-4 scooters with BEV sedans for parking enforcement, upfits to the sedans (e.g., lightbars, license plate readers) will result in approximately the same cost per vehicle as per scooter. Note that the current replacement schedule calls for no vehicles to be replaced in 2029.

Table 6: Higher-cost, Longer-range BEVs

Year	Sedan @ \$37,934	Scooter @ \$53,906	Total Estimated Vehicle Cost
2026	\$796,614 (21)	\$1,617,180 (30)	\$2,413,794
2027	\$227,604 (6)		\$227,604
2028	\$113,802 (3)		\$113,802
2030	\$37,934 (1)		\$37,934

Table 7: Lower-cost, Shorter-range BEVs

Year	Sedan @ \$32,273	Scooter @ \$53,906	Total Estimated Vehicle Cost
2026	\$677,733 (21)	\$1,617,180 (30)	\$2,294,913
2027	\$193,638 (6)		\$193,638
2028	\$96,837 (3)		\$96,837
2030	\$32,273 (1)		\$32,273

Medium- and heavy-duty EVs may be competitive in performance, range, and reliability by the latter half of the decade. Additionally, the range of light-duty vehicles may have increased enough that BEVs could be used for some emergency response vehicles (e.g. police patrol and pursuit, some fire applications). It is recommended that the City reevaluate the vehicle budget in early 2025.

⁹ <https://www.eia.gov/outlooks/aeo/>

¹⁰ <https://about.bnef.com/electric-vehicle-outlook/#toc-download>

Appendix A includes detailed information about fleet replacement analysis, including an itemized list of the passenger sedans and SUVs in the current fleet and recommended replacement types.

Charging Strategy Options

Analysis of the City's existing fleet found that most light-duty vehicles drive between 3 and 63 miles per day with an average usage of 27.1 miles. Considering the relative efficiency difference between gasoline-powered ICE vehicles and BEVs, this translates into approximately 80 kWh of electricity per day on average. In addition, most vehicles are driven during the day and parked overnight at City facilities, which provides ample dwell time for battery charging. The City stated intention to standardize on the Chevy Bolt and Nissan Leaf Plus, which have a 60 and 62 kilowatt/hour (kWh) battery, respectively, and well over 200 miles of range. Due to these minimal power requirements coupled with long dwell times for most vehicles domiciled at the City facilities, light-duty BEVs could share chargers and, at some facilities, share power loads by using a power load management strategy.

Table 8 lists the recommended charging infrastructure for transitioning the light-duty fleet to EVs, including charging stations that are already available to fleet vehicles. Cost estimates include electrical upgrades needed at City facilities (e.g., adding electrical capacity at the panel). To provide back-up power for resiliency, the consultant team included cost estimates for diesel generators at crucial sites, which would be powered by the City's supply of renewable diesel. On-site solar PV and BES may fulfill this requirement. It is assumed that the City will install all charging by 2022 to support rapid transition to electrification and take advantage of anticipated incentive programs.

Table 8: Near-term Recommendations for Charging

Facility Name	Facility Location	Chargers	New Service	Estimated Build-out Costs	Option	Backup Generator
Corp Yard	1326 Allston Way	4 dual-head L2 and 1 DCFC	Yes	\$354,000		\$487,000
Berkeley Transfer Station	1201 Second Street	2 dual-head L2	No	\$87,000		\$34,000
Berkeley Marina	125/127 University Avenue	4 dual-head L2	Yes	\$290,000		\$204,000
Adult Mental Health Clinic	1521 University Avenue	3 dual-head L2	Yes	\$135,000		
Mental Health Clinic	1890 Alcatraz Avenue/ 3282 Adeline Street	1 dual-head L2	Yes	\$147,000	\$45,000 for mobile charger	\$34,000

Facility Name	Facility Location	Chargers	New Service	Estimated Build-out Costs	Option	Backup Generator
Center Street Garage	2025 Center St	28 dual-head, 1 single L2	NA	Currently installed/Public access		
Central Library Parking Lot	2031 Bancroft Way	1 dual-head L2	Yes	\$149,000		\$34,000
Public Safety Building	2100 Martin Luther King Jr Way	1 dual-head L2	No	\$42,000		
Civic Center	2180 Milvia Street	2 dual-head L2	No	\$65,000		
Mental Health Clinic	2636/2640 Martin Luther King Jr Way	2 dual-head L2	NA	\$40,000*		
South Berkeley Senior Center	2939 Ellis Street	1 dual-head L2	Yes	\$82,000		\$34,000
North Berkeley Senior Center	1901 Hearst Avenue	1 dual-head L2	NA	\$45,000 In Progress		

*One L2 charging is being installed; cost is for adding one additional charger

Smart chargers also have an annual fee for networking, which can be negotiated as a multi-year contract. The City currently has a contract with ABM Industries through 2023 for EV network operations and maintenance, plus extended warranty for 57 Level 2 chargers at a cost that equals about \$1,100 per charger.¹¹ DCFC contracts range from \$2,500 to \$15,000 annually. For purposes of analysis, it was assumed that the Corp Yard DCFC will have a \$2,500 annual fee.

The California Electric Vehicle Infrastructure Project (CALeVIP),¹² an incentive program from the California Energy Commission, offers incentives to purchase and install Level 2 and DC fast chargers, available on a first-come, first-served basis. EBCE has applied as a co-funding partner for the 2021 funding round and, if selected, the City of Berkeley may be eligible for up to \$4,500 per Level 2 charging connector. Additionally, mobile charging units currently qualify for a 50% rebate under CARB's CORE¹³ program.

¹¹ https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-11_Item_12_Contract_No__9893B_Amendment.aspx

¹² <https://calevip.org/about-calevip>

¹³ <http://californiacore.org/>

In projecting energy demand for charging, the consultant team took a conservative approach and assumed that all light-duty vehicles will be BEVs, although some will be PHEV SUVs. Estimated costs are for dual-head, pedestal mounted chargers (each charger has two connectors) and include equipment and installation. At some facilities, the estimated cost includes upgrades to the electrical service on the City's side of the meter. For example, charging infrastructure at the Public Safety Building will require new electrical service with a 200 amperes (A) main breaker. Some facilities require one or more new breakers in an existing panel and other locations require a new subpanel.

Estimates do not include upgrades that may be required on the utility side of the meter. For example, the utility may need increase a transformer's capacity to handle the additional load from charging. EBCE will work with the City to identify utility upgrades that may be necessary. To provide back-up power for resiliency, the consultant team included cost estimates for diesel generators at crucial sites, although BES systems may fulfill this need.

Appendix B provides detailed information about how charging needs were determined and considerations for charging strategies to minimize staff time and PG&E demand charges.

Distributed Energy Resources

The consultant team evaluated potential areas for DER—onsite solar PV, BES and EV charging infrastructure—at each of the vehicle domicile locations. The analyses represented an initial screening to identify sites at which solar PV and/or BES may be favorable and reasonably sized to offset electricity consumption of the City’s EV fleet.

The current fleet assessment identifies the need to support 1,009 kWh/day of EV charging, indicating that solar PV arrays deployed at some sites could also serve onsite building loads and/or future fleet charging needs.

Five domicile locations are also being evaluated through EBCE’s *Solar + Storage at Critical Municipal Facilities Assessment*, which is funded by a Bay Area Air Quality Management District (BAAQMD) grant. The goal of this project is to identify critical facilities designated to serve the community in time of emergency throughout Alameda County and size solar PV and BES systems to meet critical loads at those sites. EBCE plans to aggregate the site portfolio into a competitive solicitation Summer 2020 to reduce the cost and complexity of deploying these systems near term for its local government partners.

Fleet modeling was performed using charging profiles beginning at 6:00 PM each day to provide a conservative baseline for EV charging costs.

As a result of modeling all domicile locations with the upcoming PG&E tariff schedule²² and assessing the physical space available for solar PV and/or BES systems, the consultant team recommends installing solar PV at eight locations (some of which are already planned or in construction) and augment three of these locations with BES systems for operational flexibility, resilience and demand management. BES at these locations will time-shift excess generation from solar PV or from EBCE-provided electricity during the day to use during the new evening peak period hours.

BES can provide resiliency at these three crucial locations, which could eliminate the need for diesel generators. Load management software for charging stations can effectively avoid PG&E’s electricity demand charges more cost effectively than BES.

Table 9 lists the domiciles and the recommendation for solar PV and BES to offset energy use by fleet charging.

Table 9: Recommended Solar PV and BES

Location	Existing and Planned Charging Stations	Total Solar PV Capacity (kW DC)	BES Recommendation	Potential Cost for Solar PV + BES
Corp Yard	4 Dual-head Level 2 and 1 DCFC	52.7*	33 kW / 130 kWh	\$423,800
Berkeley Marina	4 Dual-head Level 2	70.5*	75 kW / 300 kWh	\$54,000

Location	Existing and Planned Charging Stations	Total Solar PV Capacity (kW DC)	BES Recommendation	Potential Cost for Solar PV + BES
Center Street Garage	28 Dual-head Level 2 and 1 Single-head Level 2	168.9*	63 kW / 250 kWh	\$782,100
Central Library Parking Lot	1 Dual-head Level 2	18.8		\$75,200
Public Safety Building	1 Dual-head Level 2	10.8		\$43,200
Mental Health Clinic	1 Dual-head Level 2	60.1*		\$240,400
South Berkeley Senior Center	1 Dual-head Level 2	7.8		\$31,200
North Berkeley Senior Center	1 Dual-head Level 2	29.6*		\$118,400

**Already installed or considered for development via EBCE’s Solar + Storage at Critical Municipal Facilities initiative*

Appendix C provides details about solar PV and/or BES systems at Berkeley facilities and recommendations specific to EV charging needs.

Total Cost of Ownership

To determine the total cost of ownership (TCO) for the transition of the light-duty fleet to EVs, four scenarios were created and modeled over an analysis period from 2020 to 2030:

- Scenario 1. Baseline: This scenario assumes that the City's future fleet purchases maintain their existing light-duty vehicle technology composition, replacing each vehicle with a similar new vehicle at the end of the current vehicle's useful life. Traditional ICE vehicles powered by gasoline are replaced with new ICE vehicles, standard ICE hybrid vehicles powered by gasoline are replaced with new ICE hybrids, PHEVs are replaced with new PHEVs, etc. Under this scenario, no new DER options are deployed at any fleet location.
- Scenario 2. EV Transition: This scenario considers the transition of the light-duty fleet to both BEVs and PHEVs. Infrastructure costs for EV charging are included in this scenario, and electricity costs are based on costs of grid electricity supplied by EBCE.
- Scenario 3. EV Transition with Solar PV: Building on Scenario 2, this scenario includes the deployment of solar PV systems at eight City facilities where fleet vehicles are domiciled. Under this scenario, electricity costs for EV charging are largely eliminated through the onsite solar PV generation.
- Scenario 4. EV Transition with Solar PV and BES: This scenario further extends Scenario 3 to include the deployment of BES systems at two City facilities.

Each scenario also assumed vehicle capital and operational costs which were developed from historical operational and cost data provided by the City for each vehicle in the fleet. Replaced vehicles are assumed to maintain the same activity level of the existing vehicle.

The various electrification scenarios assumed the budgeted amounts for purchase and installation of charging infrastructure (in Table 8) and \$1,100 per Level 2 charger and \$2,500 for the DCFC in annual costs for network services and maintenance. Costs are based on current City contracts for existing Level 2 chargers at Center Street Garage, though it should be noted that the City is not bound to contracting with this provider for future charger deployment, and maintenance and service costs vary significantly depending on the provider.¹⁴ DCFC maintenance costs are estimated to be 2% of the cost of capital costs per year.

Solar PV and BES costs were estimated using the capital costs in Table 9 plus straight-line depreciation for the solar PV. It is assumed that BES will need to be replaced before 2030, effectively doubling the capital costs.¹⁵

¹⁴ Based on Contract 9893B Amendment (Dec 2018) for EVSP services. Average of Y3-Y5 maintenance/network costs. Y1-Y2 include installation costs for new chargers and were therefore excluded.

¹⁵ Studies indicate 5-to-7-year useful life for current lithium battery technologies at 50% or greater depth of discharge. Casals et al, "Second life batteries lifespan: Rest of useful life and environmental analysis", Journal of Environmental Analysis, Vol 232, February 2019, pgs 354-363. Smith et al, "Life Prediction Model for Grid-Connected Li-ion Battery Energy Storage System" National Renewable Energy Laboratory, presented at 2017 American Control Conference, Seattle, WA, May 24-26, 2017.

Fleet EVs can generate revenue credits earned through the California Low Carbon Fuel Standard (LCFS) program.¹⁶ LCFS credit prices vary and the average credit price in 2019 was \$196.¹⁷ This analysis took a conservative approach and escalated in future years’ credits using the average consumer price index increase of 2.2% per year.

Table 10 shows that transitioning to EVs increases the LCFS credits the City can generate over the baseline of the current fleet. Because all City fleet facilities currently receive 100% zero-carbon electricity from EBCE, adding solar PV and/or BES does not increase the LCFS credits that the City may earn.

Table 10: Value of LCFS Credits 2021-2029

	Scenario 1 Baseline	Scenario 2 EV Transition	Scenario 3 EV Transition + Solar PV	Scenario 4 EV Transition + Solar PV + BES
LCFS Credits	\$59,692	\$388,924	\$388,924	\$388,924

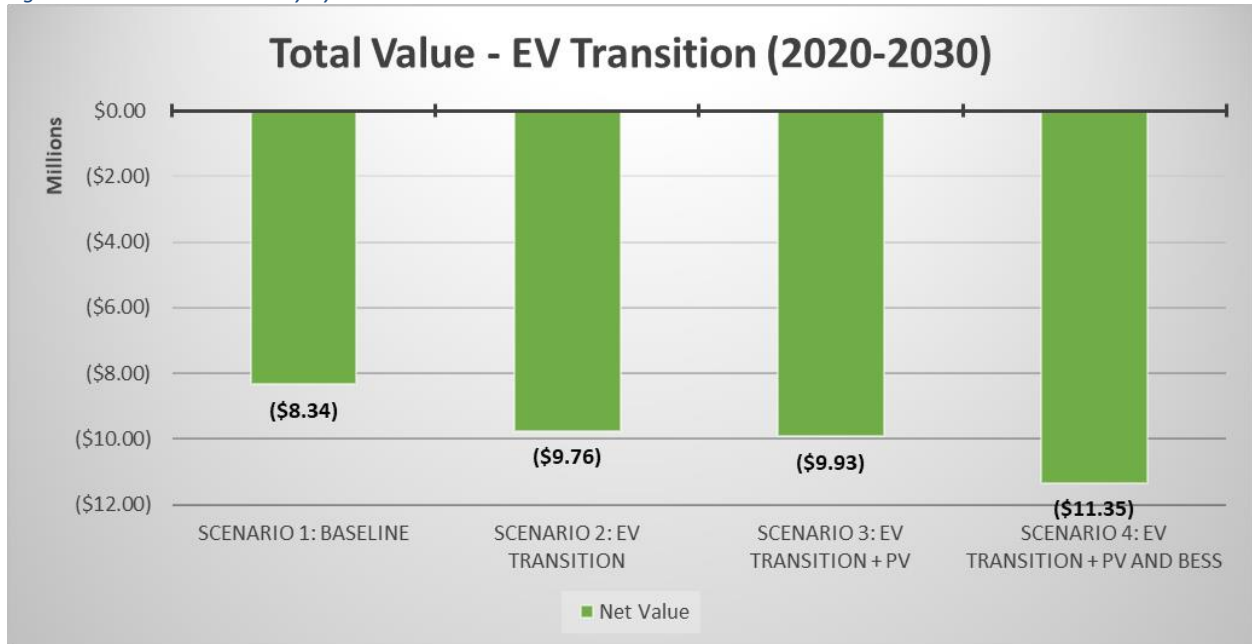
TCO Model Results

The TCO model estimates the cost of the Scenario 1 (Baseline), or business as usual, at \$8.34 million over the 2020-2030 analysis period, as shown in Total Value Summary by Scenario. Scenario 2 (EV Transition) cost is estimated at \$9.76 million over the same analysis period. The incremental cost of the charging infrastructure (including backup generation) are the primary contributors to the increased cost in this scenario. These costs are partially offset by lower vehicle maintenance costs, incentives, and LCFS program revenues. Additional details are provided in the figures and table below. Scenario 3 adds solar PV systems to Scenario 2 and increases cost by \$170,000. This is due to the offset of most of the additional infrastructure expense through reduced grid electricity costs. Scenario 4 adds BES, resulting in a total cost that is approximately \$3.0 million greater than Scenario 1 (Baseline). This increased cost assumes BES will need to be replaced before 2030. BES systems do not necessarily reduce operational cost to offset the incremental costs of BES deployment, but may provide resiliency to the City’s fleet instead of requiring diesel generators.

¹⁶ <https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard>

¹⁷ California Air Resources Board, Credit Activity Reports.

Figure 6: Total Value Summary by Scenario



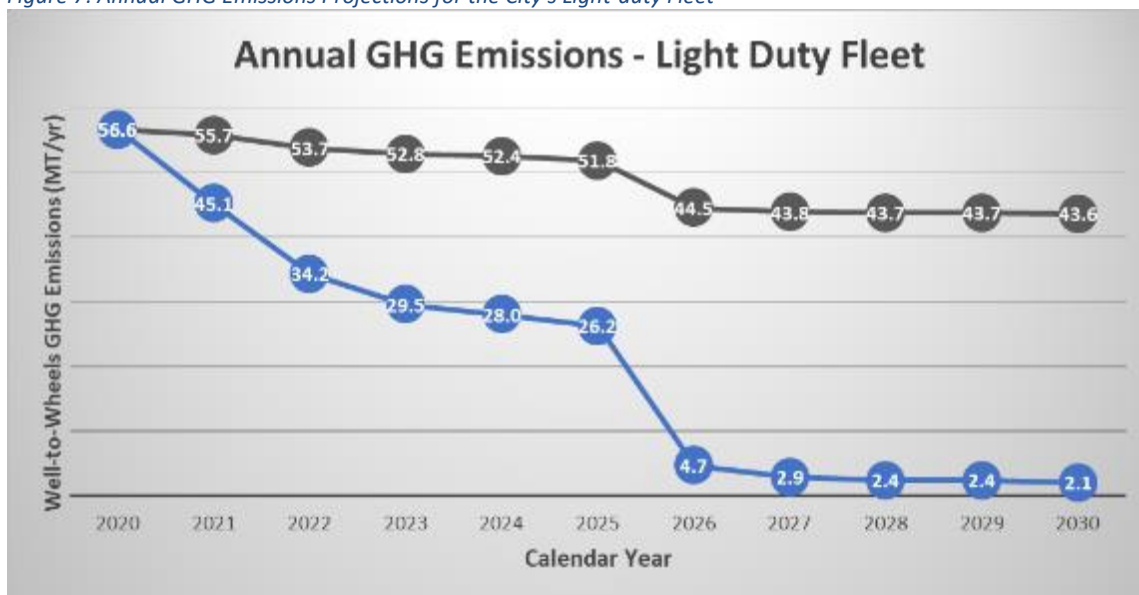
Appendix D provides a detailed analysis of total cost of ownership and the benefits to the City of Berkeley for the transition to EVs and DER.

Greenhouse Gas Emissions Reduction

Annual emissions from each vehicle were estimated using the using emissions factors from the California Air Resources Board’s LCFS program “lookup table” and aggregated to estimate annual GHG emissions for the light-duty fleet considered for EV transition. Because the City uses EBCE’s carbon-free electricity, GHG emissions from BEVs are estimated as zero.

Figure 7 shows that the emissions under Scenario 1 (Baseline) decline from 56.6 to 43.6 metric tons of CO2 equivalent per year (MT CO2e/year) by 2030. The 23% decrease in emissions largely comes from increasing fuel efficiency of gasoline and hybrid ICE vehicles. Under Scenario 2 (EV transition), emissions decline from 56.6 to 2.1 MT CO2e/year, **or 95% by 2030**. The significant reduction in annual emissions between 2025 and 2026 are associated with a substantial number of vehicles slated for replacement in 2026, including all the parking enforcement scooters. The few remaining GHG emissions are associated with seven PHEV SUVs that have a portion of their daily mileage powered by gasoline. By 2030, it is likely that SUV BEVs that meet the City’s duty cycles will be available, effectively allowing the City to achieve a 100% reduction in the GHG emissions for the light-duty fleet considered in this analysis.

Figure 7: Annual GHG Emissions Projections for the City's Light-duty Fleet



Conclusion

This analysis assumes that the City of Berkeley will quickly transition to an all-electric fleet powered by EBCE's 100% carbon free electricity. EBCE, City staff, and the consultant team collaborated on an implementation plan that enables a fast transition to EVs in the light-duty fleet, calls for prudent evaluation of medium- and heavy-duty electrification options, and increases resiliency. The team also took a fiscally conservative approach to capital and operating costs, especially regarding potential incentives and funding sources, given the uncertainties of these programs.

In addition to reduced GHG emissions, residents and businesses benefit from the fleet EV transition via reduced air pollution and noise, particularly in the instance of medium- and heavy-duty vehicle electrification. The City benefits from a more-predictable fuel cost when using electricity, rather than the more volatile price swings of conventional fuels. Additionally, the City will provide an example of how procuring and operating EVs and charging stations at scale can help reduce overall costs, which may encourage private fleet electrification and charging station deployment at workplaces.

Awareness will grow as more EVs perform essential City services in the public eye. Businesses and residents may be encouraged to choose zero-emission transportation options. As the City becomes a leading example in EV and DER deployment, it will encourage additional sustainable operations to be adopted within Berkeley's private sector and may attract even more sustainability-focused businesses to the city.

While recognizing Berkeley's reputation as a leader in local climate action and sustainability, EBCE looks forward to collaborating with the City on building and vehicle electrification efforts. The City can leverage EBCE's carbon-free electricity and ability to aggregate procurement of DER to reduce emissions and improve air quality, and to lower the upfront costs associated with these technologies. By acting on the recommendations laid out in this report, the City of Berkeley can further build its already well-recognized status as a city leading the way toward a future with improved quality of life for all its residents, businesses, and visitors.

Appendix A: Municipal Fleet Assessment

The units that can be transitioned to battery electric vehicles (BEV) and plug-in hybrid vehicles (PHEV) were identified by assessing the current fleet composition, identifying applicable electric vehicle models available today and expected to be introduced in the near term, and by using the City Fleet Services' existing vehicle replacement plan. Development of this report was supported by data provided by the City and supplemental information gathered during meetings and interviews. Table 1 summarizes the City's municipal fleet as it existed on February 21, 2020. The fleet includes 346 vehicles (excluding vehicles used for emergency services and response and off-road maintenance), of which only about 25% are capable of electrification today.

Table 11: Summary of the City of Berkeley's Fleet by Vehicle Type and Configuration

Vehicle Type	Fuel	Configuration	Number of Vehicles
Cargo Van	Gasoline	Cargo Van	18
Chassis Cab - Aerial Lift	Diesel	Aerial Lift	4
Chassis Cab - Box Truck	Gasoline	Box Truck	1
Chassis Cab - Pickup	Diesel	Pickup	1
Chassis Cab - Pickup	Gasoline	Pickup	1
Chassis Cab - Specialized Body	CNG	Sweeper	2
Chassis Cab - Specialized Body	Diesel	Chipper	2
Chassis Cab - Specialized Body	Diesel	Crane Truck	1
Chassis Cab - Specialized Body	Diesel	Dump	5
Chassis Cab - Specialized Body	Diesel	Dump/OVHD Loader	1
Chassis Cab - Specialized Body	Diesel	Road Patching Truck	2
Chassis Cab - Specialized Body	Diesel	Sweeper	4
Chassis Cab - Specialized Body	Diesel	Vactor Truck	3
Chassis Cab - Specialized Body	Gasoline	Container Handler	2
Chassis Cab - Specialized Body	Gasoline	Dump	5
Chassis Cab - Specialized Body	Gasoline	Sign Truck	1
Chassis Cab - Stake bed	Diesel	Stake bed	2
Chassis Cab - Utility Truck	Diesel	Utility Truck	3
Chassis Cab - Utility Truck	Gasoline	Utility Truck	22
Cutaway - Box Van	Gasoline	Box Van	1
Cutaway - Pass Van	Gasoline	Passenger Van	1
Cutaway - Shuttle Bus	Gasoline	Shuttle Bus	5
Cutaway - Step Van	Gasoline	Step Van	1
Cutaway - Van	Gasoline	Van	2
Passenger Car	CNG	Passenger Car	1
Passenger Car	Gasoline	Passenger Car	72
Passenger Van	Gasoline	Passenger Van	3
Pickup	Diesel	Pickup	2
Pickup	Gasoline	Pickup	69
Pickup	Gasoline	4x4	1

Vehicle Type	Fuel	Configuration	Number of Vehicles
Scooter	EV	Scooter (Go 4)	2
Scooter	Gasoline	Scooter (Go 4)	28
Semi-tractor	Diesel	Semi-tractor	8
SUV	Gasoline	SUV	26
Refuse Collection Vehicle	CNG	Front Loader	4
Refuse Collection Vehicle	Diesel	Front Loader	6
Refuse Collection Vehicle	CNG	Rear Loader	7
Refuse Collection Vehicle	Diesel	Rear Loader	7
Refuse Collection Vehicle	CNG	Roll-on/Roll-off	2
Refuse Collection Vehicle	CNG	Side Loader	5
Refuse Collection Vehicle	Diesel	Side Loader	6
Van	Gasoline	Van	7

Availability of Electric Vehicles

The City of Berkeley procures vehicles through several negotiated contracts including those from Sourcewell, Climate Mayors EV Fleet Purchasing Collaborative, and Houston-Galveston Area Council (HGAC). Contracts enable public and private fleets across the country to negotiate discounted rates based upon buying large numbers of vehicles. Table 2 lists the base cost (excluding tax, extra keys, and other fees) of light-duty BEVs and PHEVs available from National Fleet Auto Group, the company that manages many individual negotiated contracts.¹⁸

Table 12: EVs and PHEVs at National Fleet Auto Group

Make/Model	Body Type	Technology Type	EV Range	Total Range	Contract Unit Price
Mitsubishi Outlander	PHEV	SUV	22	310	\$31,219
Chrysler Pacifica	PHEV	Minivan	32	520	\$39,514
Toyota Prius Prime	PHEV	Mid-size Sedan	25	640	\$26,096
Ford Fusion Energi	PHEV	Mid-size Sedan	26	610	\$27,968
Kia Niro LX*	PHEV	Small Station Wagon	26	560	\$25,706
Kia Optima	PHEV	Mid-size Sedan	29	610	\$29,450
Hyundai Ioniq	PHEV	Mid-size Sedan	29	601	\$22,950
Honda Clarity	PHEV	Mid-size Sedan	47	293	\$34,219
Chevrolet Bolt	BEV	Small Station Wagon	259	259	\$33,987 ¹⁹
Nissan Leaf Plus	BEV	Mid-size Sedan	226	226	\$34,256 ³
Kia Soul	BEV	Small Station Wagon	111	111	\$27,762

¹⁸ <https://www.nationalautofleetgroup.com/>

¹⁹ Provided by Greg Ellington

Make/Model	Body Type	Technology Type	EV Range	Total Range	Contract Unit Price
Hyundai Ioniq	BEV	Mid-size Sedan	124	124	\$26,939
VW e-Golf	BEV	Compact Sedan	125	125	\$32,285

**The Kia Niro is also available as a BEV but is not listed on the National Auto Fleet Group contract.*

As a point of comparison, the City purchased 15 Toyota Prius Prime PHEVs between October 2019 and January 2020 at a cost of \$28,147 each using Climate Mayors EV Fleet Purchasing Collaborative.

Electric medium and heavy-duty trucks for municipal fleet applications, which include pickup trucks and cargo vans, are in earlier stages of commercialization than electric sedans and small wagons. Cities across the U.S. have deployed pilot projects to understand operational requirements of medium and heavy-duty vehicles for fleet use cases that include transit and shuttle buses, cargo vans, refuse trucks, and other types of work trucks, but limited data is yet available on their performance, reliability, and cost of ownership.

Emergency vehicles for police patrol and pursuit, firefighting, and emergency medical services are not available in plug-in models. The Fremont California Police Department is testing a Tesla Model S as a patrol vehicle and reports that it behaved favorably with considerably less downtime than the Ford Explorer Utility Interceptors that are most of the Fremont’s patrol vehicle fleet. The Department reports that it typically purchases Explorers (Utility Interceptors) for \$48,114 and expects to purchase the \$47,960 Ford Hybrid Explorer Hybrid police purpose-built in the future. However, the base price doesn’t include upfits that can double the cost of a police vehicle.²⁰

Although upcoming EVs like the Ford Mustang Mach E and Tesla Model Y will likely have sufficient interior capacity, battery range, and performance to the Ford police cars currently purchased, these EVs are not pursuit rated and do not have the suspension and security features that are standard on a patrol vehicle, nor are they pre-drilled for mounting lightbars, sirens, and safety equipment. None of the automakers that build police-specific vehicles have announced a plug-in version.²¹

Rosenbauer, an Austrian company, has a concept EV fire vehicle called the CFT that is smaller than a traditional U.S. firetruck.²² The City of Los Angeles recently ordered a CFT, which will be the first in the U.S. Electric “ambulances” in service and planned are sedans that have been retrofitted to provide aid at an incident; they are not capable of transporting patients in the same way an ambulance transport patients. None of the manufacturers that make firetrucks and ambulances have announced plans to electrify these vehicles.

²⁰ Upfits include lightbars, sirens, computer equipment, ballistic doors, molded rear seats, and a more than a dozen other police-specific features.

²¹ Ford announced a PHEV patrol sedan but released the car as “special services” sedan not rated for patrol or pursuit.

²² <https://innovation.rosenbauer.com/en/concept-fire-truck/>

Fleet Electrification Transition

Passenger Sedans and SUVs

As of February 2020, the City's light-duty fleet of passenger sedans (or cars) and SUVs (excluding vehicles used for emergency services and response) consisted of:

- 75 passenger sedans
 - 54 gasoline-powered hybrid internal combustion engine vehicles (ICEs) purchased between 2002 and 2017
 - 15 PHEVs purchased in late-2019 and early-2020
 - 5 gasoline-powered ICEs purchased 1999-2008
 - 1 natural gas-powered car purchased in 2003
- 24 Ford Escape SUVs purchased 2009-2015
 - 7 gasoline-powered hybrid ICEs
 - 17 gasoline-powered ICEs
 - 5 of these have four-wheel drive (4WD)

In February, the City did not use fleet management software or track data about individual vehicle use. The City's Equipment Maintenance Division of the Public Works Department planned to implement GPS tracking (telematics) on some vehicles in mid-2020. With this implementation, real-time service alerts and diagnostic information will be available so that departments can understand each vehicle's daily use, including origin/destination, number of miles traveled, the time parked between uses, and driver behavior that can impact fuel efficiency, including average vehicle speed and amount of idling time.

To identify an EV replacement schedule, the consultant team used data received from the City on the non-emergency passenger sedans and SUVs that shows all except two fleet vehicles have an average daily fuel use of less than one gallon of gasoline, which indicates that vehicles are driven less than 30 miles per day. The two exceptions are Ford Escape SUVs, one from Engineering and one from Meter Repair, that show an average daily fuel use of about 2.5 gallons of gasoline. Of the 97 passenger sedans and SUVs, 75 have a dwell time of 12 hours or longer. Telematics data will help determine if the vehicles are parked overnight or are parked for a few hours between use. In addition, a new Fuel Management System is expected to be installed in all City vehicles beginning in Spring or Summer 2020. It is a passive system that is not dependent on user input and will improve the accuracy of each vehicle's fuel use data.

The City schedules vehicle replacement 7, 10, or 15 years from the purchase date, although some vehicles are kept longer than planned. Based on the current vehicle replacement schedule, the year-by-year summary transition to EVs is listed in Table 4. It is recommended that each passenger sedan be replaced with a BEV and each SUV be replaced with a PHEV SUV. It is assumed that vehicles purchased in 2020 will be replaced in 2031.

Table 13: Procurement Schedule for Passenger Sedans and SUVs

Year	Number of BEV Passenger Sedans/Wagons	Number of PHEV SUVs
2020*	1	0
2021	29	3
2022	10	8
2023	3	1
2024	4	1
2025	4	0
2026	11	0
2027	6	0
2028	3	0
2029	0	0
2030	1	0

*Vehicles the City procured in January and February 2020 or are scheduled to be procured in 2031 do not appear in this table.

Since November 2019, the City added 12 passenger vehicles to its fleet to accommodate growing service needs. Fleet requested that this report assume that the City will use data from the new telematics platform to help each department determine if vehicles could be shared among staff and/or departments without impacting City services and, therefore, guide vehicle procurement and retirement practices that may not result in one-for-one replacements. The goal is to be able to expand City services without adding more vehicles to the fleet.

Based on the limited data available about vehicle use patterns, the consultant team identified the following potential right-sizing opportunities that the City can validate with telematics data and in consultation with interdepartmental leadership:

- Seven pool vehicles are scheduled to be replaced in 2021. All use less than 0.75 gallons of gasoline daily, on average, and could be replaced with a small BEV wagon like the Chevrolet Bolt, which the U.S. Environmental Protection Agency classifies as a small wagon and can meet the use case of these fleet vehicles. Replacing all seven vehicles with a Bolt would give each vehicle the same cargo capacity.
- The Equipment Maintenance Corp Yard division has two Ford Escape Hybrids scheduled to be replaced in 2021. Both use less than 0.15 gallons of gasoline daily, on average, and are listed as Special Purpose. The City can consider, based on telematics data, whether reducing the number of vehicles to one, or replacing one or both SUVs with a small BEV wagon (Chevrolet Bolt) or BEV sedan (Nissan Leaf) will enable Berkeley to retain the functionality of these vehicle use cases.
- In 2021 and 2022, four of the SUVs scheduled to be replaced use less than 0.25 gallons of gasoline daily, on average. These vehicles are used (one each) by the Office of Transportation, Library Services, Parks Facilities, and Engineering. The City can consider, based on telematics data, if replacing the SUVs with a small BEV wagon (Chevrolet Bolt) or BEV sedan (Nissan Leaf) will enable Berkeley to retain the functionality of these vehicle use cases.
- Five of the Ford Escape SUVs scheduled to be replaced in 2022 are 4WD. The Mitsubishi Outlander is currently the only 4WD PHEV available in the market. If 4WD is not essential for these vehicles, consider replacing with a Chevy Bolt or Nissan Leaf.

- Building and Safety currently operates 10 gasoline-powered hybrid ICE cars that are not dedicated to a special use and each use less than 0.5 gallons of gasoline daily on average. Five of these hybrids are scheduled to be replaced in 2021 and 2022, and the other five between 2024 and 2026. Optimizing vehicle use within the department could allow for the creation of a smaller pool of shared vehicles by 2024, when they are scheduled for replacement.

Table 14 is an itemized list of the passenger sedans and SUVs in the fleet in February 2020 sorted by replacement year and a recommended replacement type. This list does not include the 15 PHEVs already purchased in 2020 and are unlikely to be replaced before 2030. Additionally, six vehicles that are scheduled to be replaced in 2021 (unit numbers 8457, 9103, 9104, 9116, 4110, 9017) will be replaced with Chevy Bolts in 2020, pending approval of a Bay Area Air Quality Management District (BAAQMD) grant application.

Table 14: Itemized Vehicle Replacement List

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
Sedan	9102	Hon	Civic	Hybrid	2003	New Employees	Engineering	0.27	100%	2020	BEV sedan
Sedan	478	Frd	Taurus	Wagon	1999	Pool Vehicle	Equip Maint Pool	0.37	100%	2021	BEV small wagon
Sedan	489	Frd	Taurus	Wagon	1999	Pool Vehicle	Equip Maint Pool	0.67	100%	2021	BEV small wagon
Sedan	4011	Toy	Prius	Hybrid	2011	Special Purpose	Bldg & Safety	0.11	100%	2021	BEV sedan
Sedan	4108	Toy	Prius	Hybrid	2009		DHS Admin	0.15	100%	2021	BEV sedan
Sedan	6404	Frd	Fusion		2011		Comm Collection	0.13	100%	2021	BEV sedan
Sedan	6900	Hon	Civic	CNG	2003		Marina Operations	0.60	100%	2021	BEV sedan
Sedan	8192	Hon	Fit		2008	Special Purpose	Portable Meals	0.24	100%	2021	BEV sedan
Sedan	8457	Hon	Civic	Hybrid	2003	Special Purpose	FYC PROGAM	0.11	100%	2021	BEV small wagon
Sedan	8518	Frd	Focus		2001		South Berkeley Senior	0.51	100%	2021	BEV sedan
Sedan	9011	Toy	Prius	Hybrid	2002		Equip Maint Pool	0.52	87%	2021	BEV small wagon
Sedan	9013	Hon	Civic	Hybrid	2003		Equip Maint Pool	0.81	55%	2021	BEV small wagon
Sedan	9103	Hon	Civic	Hybrid	2003	Pool Vehicle	Equip Maint Pool	0.37	100%	2021	BEV small wagon
Sedan	9104	Hon	Civic	Hybrid	2003	Special Purpose	Housing Code Enforcement	0.18	100%	2021	BEV small wagon
Sedan	9106	Toy	Prius	Hybrid	2006	Code Enforcement	Housing Code Enforcement	0.16	100%	2021	BEV sedan
Sedan	9107	Toy	Prius	Hybrid	2006		Comm/ Radio's	0.50	90%	2021	BEV sedan
Sedan	9108	Toy	Prius	Hybrid	2006		Equip Maint Corpyrd	0.30	100%	2021	BEV sedan
Sedan	9109	Toy	Prius	Hybrid	2006		Equip Maint Pool	0.42	100%	2021	BEV small wagon
Sedan	9110	Toy	Prius	Hybrid	2006		Equip Maint Pool	0.26	100%	2021	BEV small wagon
Sedan	9111	Toy	Prius	Hybrid	2006		Parking Enforcement	0.31	100%	2021	BEV sedan
Sedan	9112	Toy	Prius	Hybrid	2006	Inspector	Building & Safety	0.16	100%	2021	BEV sedan
Sedan	9116	Toy	Prius	Hybrid	2010		Neighborhood Svc's	0.20	100%	2021	BEV small wagon
Sedan	9117	Toy	Prius	Hybrid	2011		DHS Admin	0.27	100%	2021	BEV sedan

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
SUV	1966	Frd	Escape	Hybrid	2009		Fire Training	0.87	55%	2021	PHEV SUV
SUV	2906	Frd	Escape	Hybrid	2009	Special Purpose	Equip Maint Corpyrd	0.13	100%	2021	BEV small wagon
SUV	4110	Frd	Escape	Hybrid	2008		Equip Maint Pool	0.62	79%	2021	BEV small wagon
SUV	6889	Frd	Escape		2008		Street Light Maint	1.34	72%	2021	PHEV SUV
SUV	6890	Frd	Escape	Hybrid	2009	Special Purpose	Equip Maint Corp Yard	0.06	100%	2021	BEV small wagon
SUV	9017	Frd	Escape		2009		Engineering	2.50	39%	2021	BEV small wagon
SUV	9115	Frd	Escape	Hybrid	2009	Assigned	Engineering	0.21	100%	2021	BEV small wagon
SUV	9604	Frd	Escape		2013		Trans/Disp Svc's	1.02	95%	2021	BEV small wagon
SUV	9605	Frd	Escape		2014	Special Purpose	Office of Trans.	0.16	100%	2021	BEV small wagon
Sedan	4805	Toy	Prius	Hybrid	2012		Comm/ Radio's	0.32	100%	2022	BEV sedan
Sedan	8506	Toy	Prius	Hybrid	2012		Building & Safety	0.32	100%	2022	BEV sedan
Sedan	8507	Toy	Prius	Hybrid	2012		Building & Safety	0.46	99%	2022	BEV sedan
Sedan	8508	Toy	Prius	Hybrid	2012		Building & Safety	0.30	100%	2022	BEV sedan
Sedan	8509	Toy	Prius	Hybrid	2012		Building & Safety	0.54	84%	2022	BEV sedan
SUV	1973	Frd	Escape		2013	Fire	Fire Prev/Insp/ Invest	0.50	100%	2022	PHEV SUV
SUV	1974	Frd	Escape	4WD	2013		Fire Operations	0.59	100%	2022	PHEV SUV
SUV	1975	Frd	Escape		2013		Fire/Supp/Rescue /Haz	1.10	88%	2022	PHEV SUV
SUV	1976	Frd	Escape	4WD	2013		Fire Operations	1.88	51%	2022	PHEV SUV
SUV	1977	Frd	Escape	4WD	2013		Fire Operations	1.69	57%	2022	PHEV SUV
SUV	2909	Frd	Escape		2013		Meter Repair Admin	2.55	38%	2022	PHEV SUV
SUV	8519	Frd	Escape	4WD	2013		Building & Safety	0.71	100%	2022	PHEV SUV
SUV	8520	Frd	Escape	4WD	2013	Inspector	Building & Safety	0.48	100%	2022	PHEV SUV
SUV	9004	Frd	Escape	Hybrid	2012		Corp Yard Mgmt. Office	1.35	36%	2022	BEV small wagon
SUV	9019	Frd	Escape	Hybrid	2012		Parks Facilities	0.27	100%	2022	BEV small wagon

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
SUV	9021	Frd	Escape		2013		Library Services	0.34	100%	2022	BEV small wagon
SUV	9119	Frd	Escape		2013		Engineering	0.99	98%	2022	BEV small wagon
SUV	9120	Frd	Escape		2013	New Employees	Engineering	0.41	100%	2022	BEV small wagon
Sedan	8006	Toy	Prius	Hybrid	2008		ASP	0.64	71%	2023	BEV sedan
Sedan	8007	Toy	Prius	Hybrid	2008		ASP/Crisis	0.63	72%	2023	BEV sedan
Sedan	9123	Toy	Prius	Hybrid	2013	Special Purpose	Vector Control II	0.11	100%	2023	BEV sedan
Sedan	2381	Frd	Escape		2014	Special Purpose	Sewer Maint	0.36	100%	2023	BEV small wagon
Sedan	8510	Toy	Prius	Hybrid	2014		Building & Safety	0.43	100%	2024	BEV sedan
Sedan	8511	Toy	Prius	Hybrid	2014		Building & Safety	0.39	100%	2024	BEV sedan
Sedan	9113	Toy	Prius	Hybrid	2009	Special Purpose	IT ADMIN	0.10	100%	2024	BEV sedan
Sedan	9126	Toy	Prius	Hybrid	2015		Meter Repair	0.20	100%	2024	BEV sedan
SUV	4114	Frd	Escape		2015		Bldg Maint	0.66	100%	2024	PHEV SUV
Sedan	1595	Frd	Fusion	Hybrid	2016		Parking Enforcement	0.24	100%	2025	BEV sedan
Sedan	8009	Toy	Prius V	Hybrid	2015		ASP/FSP	0.80	56%	2025	BEV sedan
Sedan	8010	Toy	Prius V	Hybrid	2015		ASP/FSP	0.71	64%	2025	BEV sedan
Sedan	8521	Toy	Prius V	Hybrid	2015		Building & Safety	0.36	100%	2025	BEV sedan
Sedan	8011	Toy	Prius V	Hybrid	2016		ASP	0.59	76%	2026	BEV sedan
Sedan	8012	Toy	Prius	Hybrid	2016		ASP/Crisis	0.32	100%	2026	BEV sedan
Sedan	8013	Toy	Prius V	Hybrid	2016		ASP/FSP	0.70	64%	2026	BEV sedan
Sedan	8014	Toy	Prius V	Hybrid	2016		Mental Health	0.73	62%	2026	BEV sedan
Sedan	8015	Toy	Prius V	Hybrid	2016	Special Purpose	FYC PROGAM	0.19	100%	2026	BEV sedan
Sedan	8016	Toy	Prius	Hybrid	2016		Mental Health	0.40	100%	2026	BEV sedan
Sedan	8232	Toy	Prius	Hybrid	2016		Tuolumne Camp Trk.	0.48	93%	2026	BEV sedan
Sedan	8512	Toy	Prius V	Hybrid	2016		Building & Safety	0.31	100%	2026	BEV sedan
Sedan	8522	Toy	Prius V	Hybrid	2016		Building & Safety	0.51	88%	2026	BEV sedan
Sedan	9024	Toy	Prius V	Hybrid	2016		Building & Safety	0.25	100%	2026	BEV sedan

Chassis	Unit #	Mk	Model	Type	Year	Dedicated Use	Division	Fuel Use	EV Fraction	Replace In	Replace with
Sedan	9025	Toy	Prius	Hybrid	2016	Special Purpose	Neighborhood Services	0.07	100%	2026	BEV sedan
Sedan	6406	Toy	Prius	Hybrid	2016		ZW Admin	0.17	100%	2027	BEV sedan
Sedan	8017	Toy	Prius V	Hybrid	2017		ASP/Crisis	0.66	68%	2027	BEV sedan
Sedan	9026	Toy	Prius V	Hybrid	2017	Special Purpose	Toxics Management	0.13	100%	2027	BEV sedan
Sedan	9118	Toy	Prius	Hybrid	2012	Special Purpose	FYC Program	0.13	100%	2027	BEV sedan
Sedan	9121	Toy	Prius	Hybrid	2012		ASP/Crisis	0.21	100%	2027	BEV sedan
Sedan	9122	Toy	Prius	Hybrid	2012		ASP/FSP	0.78	58%	2027	BEV sedan
Sedan	9022	Toy	Prius V	Hybrid	2014	Inspector	Health Inspections	0.20	100%	2028	BEV sedan
Sedan	9023	Toy	Prius V	Hybrid	2014	Special Purpose	Toxics Management	0.11	100%	2028	BEV sedan
Sedan	9125	Toy	Prius V	Hybrid	2014		Vector Control	0.24	100%	2028	BEV sedan
Sedan	8008	Toy	Prius	Hybrid	2015		ASP/Crisis	0.37	100%	2030	BEV sedan

Budgeting Considerations for Light-Duty Passenger Vehicles

Based on the negotiated contract rates from National Auto Fleet Group, Table 15 lists the estimated price for EVs, including 9.25% sales tax, additional keys, and other fees and rounded to the nearest dollar, based on the City’s stated preference to standardize on the Nissan Leaf Plus and Chevy Bolt, and includes three options for a PHEV SUV replacement.

Table 15: Average Contract Rates for EVs

Technology Type	Body Type	Make and Model	NAFG Est. Price	EPA Rated All-electric Range	Battery Size (kWh)
BEV	Sedan	Nissan Leaf Plus	\$37,934	226	62
BEV	Small Wagon	Chevy Bolt	\$37,577	259	60
PHEV	SUV	Kia Niro LX PHEV	\$31,505	26	9
PHEV	SUV	Mitsubishi Outlander 4WD	\$40,061	22	12
PHEV	Minivan	Chrysler Pacifica	\$43,578	32	16

Currently, the City is eligible to claim a Clean Vehicle Rebate Program (CVRP) rebate from the State of California for up to 30 EVs per year.²³ It is important to note that CVRP rebates are first-come, first-served and the program’s rebate funding amount must be reauthorized by the state legislature every year. Historically, legislature has annually authorized funding and the California Air Resources Board (CARB) has allocated money to rebate applications that were waitlisted in the previous fiscal year, which reduces the amount of funding for new applications. It is important to note that in the coming years the legislature may allocate less or no funding for CVRP, or only enough funding for the waitlist.

In 2020, BEVs are eligible for a \$2,000 per vehicle rebate and some PHEVs are eligible for a \$1,000 rebate. The Mitsubishi Outlander is not eligible for the rebate because it does not meet the minimum requirement for electric range,²⁴ however the Kia Niro crossover PHEV and the Chrysler Pacifica minivan are eligible for CVPR. The three vehicles are shown in Figure 8.

Figure 8: Kia Niro, Chrysler Pacifica, Mitsubishi Outlander



²³ <https://cleanvehiclerebate.org/eng/fleet>

²⁴ <https://cleanvehiclerebate.org/eng/faqs/why-don%E2%80%99t-i-see-my-vehicle-eligibility-list-0>

Table 16 estimates the cost for replacement vehicles in 2020 through 2025 as recommended in Table 14 for each budget year with the current estimated contracted prices as shown in Table 15. Note that the actual budget will vary based on the contract used, vehicle price, additional options, and changes in sales tax rates.

Between 2023 and 2025 a total of 13 City vehicles are expected to be replaced and it is likely that negotiated contracts will include more EV makes and models at that time. Vehicle costs will continue to be approximately \$30,000-\$35,000 because OEMs are focused on extending battery range rather than incrementally reducing vehicle cost. The consultant team recommends BEVs to replace existing passenger sedans due to the small price difference between PHEV and BEV sedans.

The consultant team recommends PHEVs to replace most ICE SUVs. Gasoline use indicates that most SUVs drive fewer than 30 miles a day, which will be confirmed by telematics data. SUVs will primarily travel on the electricity available from the PHEVs’ batteries, however, the gasoline engine provides flexibility and resiliency needed by these vehicles for emergency response and disaster preparedness.

CARB’s most-recent *Three-Year Plan for CVRP*²⁵ indicates that the existing rebate program may end by 2022 as CARB shifts funding to new, more-targeted equity programs that include Clean Cars 4 All, Financing Assistance for Lower-Income Consumers, and Clean Mobility Voucher Program. Although CVRP rebates may be renewed when CARB updates the *Three-Year Plan for CVRP* in 2021, the consultant team took a conservative approach and did not include the rebates starting in 2023 in Table 7. With that in mind, the City should track the status of CVRP and consider purchasing the four 2023 replacement EVs in 2022, if it appears CVRP rebates will be reduced or concluded in 2022.

As previously noted, the City can currently obtain a maximum of 30 rebates annually through CVRP. The City’s vehicle replacement schedule calls for replacing 32 vehicles in 2021, three of which are potentially Mitsubishi Outlander PHEVs that are not eligible for the rebate but are the only currently available 4WD PHEV SUV.

Table 16: Year-by-Year Budget Estimates to Replace Existing ICE vehicles with EVs

Year	Nissan Leaf Plus @ \$37,934	Chevy Bolt @ \$37,577	Mitsubishi Outlander PHEV @ \$40,061	Potential CVRP rebate	Total Estimated Vehicle Cost
2020	\$37,934 (1)			(\$2,000)	\$35,934
2021*	\$455,208 (12)	\$638,809 (17)	\$120,183 (3)	(\$58,000)	\$1,156,200
2022	\$189,670 (5)	\$187,855 (5)	\$320,488 (8)	(\$20,000)	\$678,043
2023	\$113,802 (3)	\$37,577 (1)			\$151,379
2024	\$151,736 (4)		\$40,061 (1)		\$191,797
2025	\$151,736 (4)				\$151,736

*if awarded the BAAQMD grant, six vehicles schedule to be replaced in 2021 will be replaced in 2020 and will not need to be included in the 2021 budget.

²⁵ <https://ww3.arb.ca.gov/msprog/aqip/fundplan/fy1920fundingplan-appc-rev.pdf>

In its *Annual Energy Outlook*, the Energy Information Agency projects that 300-mile-range BEVs will be upper-tier of the EV market by 2025.²⁶ By 2024, the City will have been acquiring data from the telematics system installed in March 2020 for four years. Data collected on vehicle use patterns and parking behavior will inform and support City and Fleet Services' EV decisions to procure lower-cost BEVs with 100-to-150-mile range for certain use cases or BEVs with 300-miles or more range at a higher price point for other uses cases. Longer-range BEVs may be applicable for municipal sites where deployment of charging infrastructure could be difficult due to space constraints (e.g., BEVs could share charging stations).

Parking Enforcement Scooters

The City operates 30 Westward Industries' gasoline powered GO-4 scooters for parking enforcement activities. During development of this assessment, City staff indicated that the scooters, which have a seven-year lifespan, are easy to maneuver and safely operate. Few companies make vehicles for parking enforcement, and Westward Industries is the only OEM working on an all-electric model. In 2017, the City took delivery of two all-electric GO-4 models. However, after using them in the field, staff found them unsuitable, as reported to City Council on May 14, 2019.²⁷ Therefore, the City recently purchased and put into service 15 gasoline-powered GO-4 scooters to replace older models that were scheduled for retirement.

The two electric GO-4 scooters were reconditioned by the manufacturer, and the City is testing the scooters to gauge their suitability. Scooters will not need to be replaced until 2026, and by then, it is anticipated the all-electric GO-4 will be further in its market development and other electric scooters may be available for this application.

City staff requested a summary of other local government experiences with all-electric vehicles for parking enforcement and security. Two EVs that cities tested, the FireFly scooter and the Mercedes Smart EV, are no longer available. Polaris offers a public safety package for its GEM neighborhood EV that includes an overhead beacon light and lockable trunk storage on the two and four-seat models. City staff previously researched this option and found it unsuitable for City needs.

Cities are also evaluating BEVs in their police fleets primarily for non-pursuit purposes. The City of Los Angeles uses BMW i3 hatchbacks for sworn officers on routine assignments, the City of Huntsville (MD) has two Chevy Bolts for traffic control officers, and the Cities of Pasadena and San Jose leased Chevy Bolts for civilian and sworn officers to use for safety meetings and injury investigations. None of the cities the consultant team spoke with indicated that they purchased or leased EVs specifically for parking enforcement.

²⁶ <https://www.eia.gov/outlooks/aeo/>

²⁷ https://www.cityofberkeley.info/Clerk/City_Council/2019/05_May/City_Council_05-14-2019_-_Regular_Meeting_Agenda.aspx

Medium-duty Vehicles

The City fleet includes 72 medium-duty pickup trucks, mostly Ford F-150, F-250, and Rangers. Of the 72 trucks, 60 pickups may be able to be replaced with an upcoming all-electric Ford F-150 EV. In mid-March 2020, Ford announced will arrive in the U.S. market late-2021 to early-2022. Ford also announced it will have an F-150 PHEV by late-2020, however, the battery is intended to be used for accessories and not motive power.²⁸ It's unknown if the F-150s will have a utility body application, but companies like Motiv Power Systems produce an EV chassis that can be upfitted with a utility body. Motiv's EV-450 is larger than the F-250 and Rangers the City operates today.

In 2019, the City purchased an F-150 for \$39,000. It is likely that the F-150 EV will have a higher price point than its gasoline counterpart, but Ford has not announced pricing. Other pickup trucks are also in development and expected to arrive in 2021-2022, but those are aimed at the luxury market and have MSRPs starting at \$70,000 or re being developed by start-up companies.

As the F-150 EV becomes available, and if incentives bring the cost of the BEV pickups in line with gasoline-powered ICE trucks, the consultant team recommends that the City evaluate up to three BEV pickups on different duty cycles to determine performance, suitability to task, and total cost of ownership.

The City also operates 16 cargo vans, primarily Ford E-250/350 and Connect Transit vans, two of which include a genset for camera operation. Ford, Mercedes, Nissan, and Volkswagen all introduced electric cargo and passenger vans in Europe in 2020 and intend to launch U.S. versions in 2023. Table 17 shows electric vans (passenger and cargo) that are currently available. Production, however, has not kept pace with orders and supplies are very limited.

Lightening Systems vans start at about \$100,000, although incentives can cut the price by half. The Hybrid Voucher Incentive Program (HVIP),²⁹ which provides incentives for medium- and heavy-duty EVs, has incentives up to \$50,000 for zero emission vans, however, the HVIP funds for 2019-2020 have been depleted and new voucher requests are not currently being accepted.³⁰

²⁸ Other companies have announced BEV pickups with starting prices in the \$70,000 range and are aimed at a luxury market. The consultant team did not consider these trucks for fleet use.

²⁹ <https://www.californiahvip.org/how-to-participate/#Eligible-Vehicle-Catalog>

³⁰ <https://content.govdelivery.com/accounts/CARB/bulletins/2699f43>

East Bay Community Energy Fleet Electrification

Table 17: HVIP Incentives for Panel Vans

Model	Make	HVIP Eligible Funds	GVWR	Type	Body Type	Battery Size	Chassis Type
C-Series Logistics	Envirotech	N/A	Class 3 (10,001-14,000 lb)	BEV	Logistics, Standard and Low Roof	106 kWh	Van
Ford Transit LEV60/120 Passenger Van	Lightning Systems	\$50,000	Class 3 (10,001-14,000 lb)	BEV	Ford Transit 350HD Passenger Wagon, 148"	43 kWh	Van
Ford Transit LEV60/120 Passenger Van	Lightning Systems	\$50,000	Class 3 (10,001-14,000 lb)	BEV	Ford Transit 350HD Passenger Wagon, 148"	86 kWh	Van
Ford Transit LEV Cargo	Lightning Systems	\$50,000	Class 3 (10,001-14,000 lb)	BEV	Ford Transit 350HD Cargo Van, 148"	43 kWh	Van
Ford Transit LEV Cargo	Lightning Systems	\$50,000	Class 3 (10,001-14,000 lb)	BEV	Ford Transit 350HD Cargo Van, 148"	86 kWh	Van
eSprinter	Mercedes Benz	N/A	Class 2 (6,001-10,000 lb)	BEV	Delivery	35, 55 kWh	Van
Ford Transit	SEA Electric	N/A	Class 3 (10,001-14,000 lb)	BEV	SEA-DRIVE 70a powertrain	88 kWh	Van
Electric Shuttle Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Passenger van	51.8 kWh	Van
Electric Shuttle Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Passenger van	62.1 kWh	Van
Electric Shuttle Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Passenger van	69 kWh	Van

Model	Make	HVIP Eligible Funds	GVWR	Type	Body Type	Battery Size	Chassis Type
Electric Cargo Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Cargo Van	51.8 kWh	Van
Electric Cargo Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Cargo Van	62.1 kWh	Van
Electric Cargo Van	Zenith Motors	Delisted 1/30/2020	Class 3 (10,001-14,000 lb)	BEV	Cargo Van	69 kWh	Van

The consultant team recommends that the City use findings from telematics data to identify cargo vans that might be transitioned to PHEV SUVs, and possibly the Ford F-150 PHEV that may be able to provide power for camera operation without requiring a genset. The team also recommends the City consider evaluating the suitability of an electric cargo van when one becomes available at a price (with HVIP or a similar incentive program) that is cost-competitive with a comparable gasoline-powered ICE vehicle.

Heavy-duty Vehicles

The City fleet has 98 heavy-duty vehicles (Class 3 or higher) that range from special-purpose vehicles like street sweepers and refuse trucks to a variety of utility vehicles and flatbed trucks. Fleet is already implementing electrification for vehicles as it is available, including liftgates, dump beds, and electric power take off systems (ePTOs) that use an electric motor and battery to power onboard equipment like aerial lifts and booms.

The City operates three Ford E450 20-passenger buses for the South Berkeley Senior Center. Several OEMs offer EV shuttle buses that are equipped for paratransit and have up to 120 miles of range, although range is dependent upon several factors including accessories (e.g., wheelchair lifts), operating terrain (e.g., up and down hills), and climate (running the heat or air conditioning.) Lion, an electric school bus OEM, also has an “urban midi bus” in development. The fleet inventory list supplied by the City shows that one shuttle will be replaced in 2020 and two in 2026.

Sacramento Regional Transit purchased nine GreenPower shuttles in partnership with Electrify America at a cost of \$270,000 to \$320,000 each depending on wheelchair lift configuration.³¹ The consultant team recommends that the City replace existing ICE shuttles with EVs. As previously noted, the HVIP program³² provides incentives for medium and heavy-duty EVs. These include up to \$90,000 in incentives for zero emission shuttles, as shown in Table 18. HVIP funds for 2019-2020 have been depleted and new voucher requests are not being accepted.³³ Alternatively, the City may consider a

³¹ March 1 interview with Will Berry from Electrify America

³² <https://www.californiahvip.org/how-to-participate/#Eligible-Vehicle-Catalog>

³³ <https://content.govdelivery.com/accounts/CARB/bulletins/2699f43>

East Bay Community Energy Fleet Electrification

grant program like the upcoming Clean Mobility Voucher Program with CALSTART and GRID Alternatives.³⁴

Table 18: HVIP Incentives for Shuttle Buses

Model	OEM	Vehicle Incentives	Battery	Model Years	GVWR
Gillig 29' ePlus Battery Electric Low Floor Bus	Gillig	\$90,000	296 kWh	2018	Bus < 30'
GreenPower EV Star All-Electric Min-eBus	GreenPower Motor Company	\$90,000	95 kWh	2018-19	Bus < 30'
Lightning Systems Ford Transit 350HD Passenger Bus - 120 Mile Range	Lightning Systems	\$80,000	86 kWh	2018-2019	Bus 20' - 24'
Lightning Systems Ford Transit 350HD Passenger Bus - 60 Mile Range	Lightning Systems	\$80,000	43 kWh	2018-2019	Bus 20' - 24'
Micro Bird D-Series Electric Shuttle Bus	Micro Bird	\$80,000	88 kWh	2019	< 14,000, Bus < 30'
Phoenix Motor Cars ZEUS 300 Passenger Shuttle	Phoenix	\$80,000	105 kWh	2018-2019	14,000 - 26,000, Bus < 30'
Phoenix Motor Cars ZEUS 400 Passenger Shuttle	Phoenix	\$80,000	105 kWh	2019	14,000 - 26,000, Bus < 30'
SEA E-450 EV*	SEA Electric	\$80,000	100 kWh	2020	14,000 - 26,000
SEA F-450 EV*	SEA Electric	\$80,000	136 kWh	2020	14,000 - 26,000
SEA F-550 EV*	SEA Electric	\$80,000	136 kWh	2020	14,000 - 26,000
SEA F-650 EV*	SEA Electric	\$90,000	160 kWh	2020	14,000 - 26,000

³⁴ <https://ww3.arb.ca.gov/msprog/lct/pdfs/cmo-voucher.pdf>

**SEA vehicles can also be configured as a large cargo van or delivery truck.*

The fleet inventory list supplied by the City’s Fleet shows 16 refuse and dump trucks that are scheduled to be replaced in 2020 and 2021. Electric models of these vehicles are currently available in limited supply. For an estimate of the cost, the City of Seattle procured two BYD refuse trucks at \$320,000 each. Furthermore, Fleet staff have feedback from other agencies that the limited range of and long charging time of current EV refuse trucks will not be practical or acceptable for City operations, which includes multiple 88-mile round trips to the Livermore landfill every day.

Table 19 lists the HVIP incentives available for this category of vehicle. As noted above, HVIP funds for 2019-2020 have been depleted and new voucher requests are not being accepted.³⁵ The consultant team recommends that the City prepare to evaluate one refuse truck and/or one dump truck when the Transfer Station is complete and when HVIP funding is replenished or a similar incentive is available.

Table 19: HVIP Incentives for Refuse and Dump Trucks

Model	OEM	Vehicle Incentives	Battery	Model Years	GVWR
BYD 8R Class 8 Refuse Truck	BYD Motors	\$150,000	295 kWh	2018-2019	> 26,000
Phoenix Motor Cars ZEUS 500 Flat Bed Truck	Phoenix	\$80,000	105 kWh	2018-2019	14,000 - 26,000
SEA NPR EV*	SEA Electric	\$80,000	136 kWh	2020	14,000 - 26,000
SEA 195 EV*	SEA Electric	\$80,000	136 kWh	2020	14,000 - 26,000
SEA ACMD 8 EV*	SEA Electric	\$150,000	216 kWh	2020	> 26,000
SEA EXPEDITOR EV*	SEA Electric	\$150,000	216 kWh	2020	> 26,000

**Several of the SEA models can be configured for different uses.*

Other HVIP-eligible vehicles include transit and school buses, delivery and drayage trucks, and food trucks that do not match the needs of the City’s fleet.

For the City’s heavy-duty municipal fleet vehicle use cases, cost-effective EVs are eight-to-ten years in the future, even when accounting for incentives. The consultant team recommends that the City continue to fuel medium- and heavy-duty diesel engine vehicles with renewable diesel. Renewable diesel is produced from plant, animal or other waste products and according to CARB, the full lifecycle emissions of carbon from renewable diesel produced from sustainable sources, which the City is procuring, are more than 60 percent lower than either petroleum diesel or B20 biodiesel. The City’s fleet of on and off-road vehicles and equipment consumes about 265,000 gallons of renewable diesel fuel a year, which has enabled the City to reduce its GHG footprint from petroleum diesel by approximately 74% percent.³⁶

³⁵ <https://content.govdelivery.com/accounts/CARB/bulletins/2699f43>

³⁶ Calculated from U.S. EPA Lifecycle GHG Emissions By Feedstock <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/lifecycle-greenhouse-gas-results>

In addition, the City operates 17 vehicles (15 refuse trucks and two street sweepers) that run on natural gas. Clean Energy, a distributor of natural gas and operator of natural gas fueling stations, is distributing its Redeem renewable natural gas (RNG) to cities that include Santa Monica, Santa Clarita, Midway City, Redondo Beach, Sacramento, Ontario and San Jose. RNG is derived from capturing biogenic methane that is produced from the decomposition of organic waste from dairies, landfills, and wastewater treatment plants. Until the refuse trucks can be replaced, the City might consider procuring RNG.

The consultant team also recommends the City continue to procure vehicles with electric power take off systems (ePTOs) that use an electric motor and battery to power onboard equipment like aerial lifts and booms until low and zero-emission vehicle technologies for this segment are more mature and prices are more competitive.

Appendix B: Electrical Needs and Charging Infrastructure Summary

This report documents existing parking and electrical service conditions at 15 facilities at which the City of Berkeley's fleet vehicles are domiciled (parked overnight) and recommends charging equipment and cost estimates to be implemented in the near term (two-to-five years). Eventual electrification of medium-duty, heavy-duty, emergency response vehicles, and other specialized equipment is treated in more general terms.

Similarly, for facilities that are planned for reconstruction in the medium-to-long-term, such as the Transfer Station, this report provides near-term recommendations for light-duty vehicle charging infrastructure and assumes that medium- and heavy-duty vehicle charging will be accommodated when the facilities are rebuilt or relocated.

For each domicile, the consultant team assessed that parking capacity and layout, the location and capacity of existing electrical service, and any anticipated site-specific constraints to future charging infrastructure installation. Table 20 summarizes near-term recommendations for each site evaluated. To provide back-up power for resiliency, the consultant team included cost estimates for diesel generators at crucial sites, which would be powered by the City's supply of renewable diesel. However, resiliency could be met with on-site solar energy production and storage batteries.

East Bay Community Energy Fleet Electrification

Table 20: Near-term Recommendations for Charging

Facility Name	Facility Location	Energy Needs (kWh/day)	Light-duty Vehicles		Chargers	New Service Req'd	Preliminary Build-Out Costs		
			LDV	C1			L2 (Dual Head)/DCFC	Option 1 Level 2 Only	Option 2 Mobile Only*
Corp Yard	1326 Allston Way	112.74	7	9	4 and 1 DCFC	Yes	\$354,000 (includes 1 DCFC)	-	\$487,000
Berkeley Transfer Station (prior to rebuild)	1201 Second St	49.64	2	3	2	No	\$87,000	-	\$34,000
Berkeley Marina	125/127 University Ave	296.07	33		4	Yes	\$290,000	-	\$204,000
Adult Mental Health Clinic	1521 University Ave	156.74	13		3	Yes	\$135,000		-
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	33.29	6		1 or 1 Mobile	Yes	\$147,000	\$45,000	\$34,000
Center Street Garage	2025 Center St	247.81	27	9	28 Dual, 1 Single	NA	Currently installed/Public access	-	-

East Bay Community Energy Fleet Electrification

Facility Name	Facility Location	Energy Needs (kWh/day)	Light-duty Vehicles		Chargers	New Service Req'd	Preliminary Build-Out Costs		
			LDV	C1			L2 (Dual Head)/DCFC	Option 1 Level 2 Only	Option 2 Mobile Only*
Central Library Parking Lot	2031 Bancroft Way	3.38	1		1	Yes	\$149,000	-	\$34,000
Public Safety Building	2100 MLK Jr Way	16.54		2	1	No	\$42,000	-	-
Civic Center	2180 Milvia St	7.19	1		2	No	\$65,000	-	-
Mental Health Clinic	2636/2640 MLK Jr Way	55.66	8		1	NA	\$40,000 1 In Progress/1 Future	-	-
S. Berkeley Senior Center	2939 Ellis St	7.33	2		1	Yes	\$82,000	-	\$34,000
N. Berkeley Senior Center	1901 Hearst Ave	11.84	2		1	NA	\$45,000 In Progress	-	-
Total cost							\$1,216,000	\$180,000	\$827,000

*Note: LDV=Light Duty Vehicle (passenger sedans). Class 1 (C1) includes any vehicle on a truck-style frame with a GVWR of 6,000 lbs or less including SUVs.

Charging Strategy Options

Analysis of the City's existing fleet found that most light-duty vehicles drive between 3 and 63 miles per day with an average usage of 27.1 miles. Considering the relative efficiency difference between gasoline-powered ICE vehicles and BEVs, this translates into approximately 80-kWh of electricity per day on average. In addition, most vehicles are driven during the day and parked overnight at City facilities, which provides ample dwell time for battery charging. The City's stated intention is to standardize its fleet on the Chevy Bolt and Nissan Leaf Plus, which have a 60- and 62-kWh battery, respectively, and well over 200 miles of range. Due to these minimal power requirements coupled with long dwell times for most vehicles domiciled at the City facilities, light-duty BEVs could share chargers or share power loads via a power load management strategy.

Current Charging Options

Currently available charging technologies appropriate to the City of Berkeley's light-duty vehicle fleet needs include the strategies discussed below and summarized in Table 21. The recommended strategies for each site are listed in Table 22.

Dedicated Chargers

The basic way to charge a fleet is with individual chargers dedicated to each vehicle in the fleet. This approach to charging typically requires each fleet vehicle be assigned a parking stall and that each parking stall be equipped with its own charger. Fleets typically use Level 2 chargers to provide greater range and deploy smart chargers to track electrical use by vehicle or department, similar to tracking gasoline consumption. In cases where vehicle use is minimal, BEVs have long-range batteries, and/or long dwell times, Level 1 charging may be an option.

Vehicle operators pick up the vehicle at the assigned stall, manually disconnect the charger before using the vehicle, and later return the vehicle to the assigned stall and reconnect the charging cord. For fleet facilities with on-site staff or an automated parking management system, vehicles could be rotated between stalls because all stalls would be comparably equipped with chargers. For example, the City could potentially implement this approach at the Center Street Garage, which is currently equipped with more chargers than planned fleet EVs; however, the chargers assigned to City vehicles would not be available for public use under this scenario.

Benefits: The primary benefit of this approach is its simplicity and predictability for fleet operators and drivers. It also provides flexibility due to the relative abundance of chargers, allowing for future expansion via implementation of load management systems or other options.

Disadvantages: A ratio of one charger per parking stall or per EV requires numerous charger installations, which is generally inefficient and can potentially be a more-costly approach due to the expense of procuring and installing³⁷ each charger. In addition to the cost, the parking facility is more heavily impacted during the charging infrastructure construction period.

³⁷ Installation costs typically include design, permitting, and electrical service upgrades.

With a one-EV-to-one-charger ratio, the capacity to charge other vehicles is wasted for two reasons: 1) the charger sits idle while the dedicated vehicle is in use, and 2) a fully charged EV in the assigned parking space blocks other vehicles from using the charger.

Operational costs of dedicated chargers can be higher as well. Simultaneously charging multiple EVs at fleet facilities, without managed charging or energy storage incorporated into the system, could result in costly demand charges. This expense is included in PG&E's electricity delivery fees component of customer bills. This cost is different from EBCE's electric generation charge, which helps save the City money on its operating costs while maximizing the utilization of renewable energy.

Network and data costs can also add up over time when smart chargers or third-party load management systems are deployed, and ongoing charger maintenance costs are usually proportionate to the quantity of chargers installed.

General Recommendations: Dedicated chargers generally make the most sense in the following circumstances:

- Locations, such as the Center Street Garage, that are currently equipped with significant quantities of chargers that could be dedicated to a unique parking space/fleet EV. These chargers, however, would not be available to the public when in use by the City's fleet.
- Facilities at which a limited number of EVs are domiciled and ample electrical capacity is available, such as the Central Library parking lot.
- When funds are not constrained.

Dedicated Chargers with Load Management

Load splitting, balancing, or management systems can reduce the maximum power load to avoid or reduce needed electrical service upgrades or utility demand charges. These systems enable fleet operators to control when and how each fleet EV charges.

For example, the company Cyber Switching has a control unit called the EVMC that switches power to multiple chargers in a "round-robin" scenario. A single electrical line can feed multiple chargers and incrementally rotate the current to each charger on a programmable timed basis. The EVMC first polls an individual EV to check its battery status, and if charged, moves on to the next EV in line. Another example, Powerflex, includes sophisticated Adaptive Load Management that incorporates driver inputs and real-time electrical load monitoring to determine which EV will receive a determined amount of electricity and when.

These systems can be paired with Level 2 chargers that are not networked ("dumb" chargers) to upgrade their functionality. Cyber Switching's EVMC spreads the power typically allocated to a single charger to up to four chargers. Powerflex can manage a series of up to 100 chargers while monitoring building loads by reading the power currently in use by all the building's electrical circuits. If additional electric capacity is available, Powerflex will redirect excess electrical capacity to the chargers. Additionally, some charging networks like ChargePoint and Greenlots have dedicated software with customizable algorithms to intelligently share power among networked ("smart") chargers so every EV charges as fast as possible without exceeding the site's rated electrical capacity.

Benefits: The primary benefit of load management is reduction of peak electrical load to reduce or avoid costly electrical service upgrades and PG&E’s demand charges.

Disadvantages: Load management requires networked smart chargers, which may have higher capital and/or operating costs and depends on the individual system and quantity of chargers. Third-party load splitting or management systems can operate with non-networked dumb chargers, but the equipment and service require additional capital and data costs.

General Recommendations: Adding load management to dedicated chargers generally makes the most sense in parking facilities with limited power supply where large numbers of heavily utilized EVs with long dwell times are domiciled. This does not apply to most of the City’s domicile locations; however, as the City adds more EVs to the fleet, the circumstance could change.

Shared Chargers

At facilities with shared chargers, a minimum number of Level 2 chargers are installed to serve all the fleet EVs domiciled by rotating charger use. This is generally feasible for the City because most fleet vehicles travel relatively few miles per day and are parked and available for charging for at least 14 hours. Not needing to charge their batteries every night means the City’s fleet EVs could share chargers by taking turns based on a schedule or depending on a vehicle’s state of charge. Additionally, a shared DCFC could supplement shared Level 2 chargers at large City facilities with multiple light, medium and heavy-duty vehicles such as the Corp Yard. In cases where dwell times are limited to only four hours, the anticipated duration of charging would still be sufficient to charge the relatively small number of EVs.

Benefits: The primary benefit of sharing EV chargers is cost reduction. The City can purchase and install a minimum number of chargers and avoid the need to increase facility electrical capacity. An additional benefit is reduced construction related disruption at facilities during charger installation.

Disadvantages: Sharing chargers requires careful management of fleet EVs to ensure that all vehicles maintain a sufficient state of charge for their intended daily use. As more EVs are added to the fleet, it is likely that the City will need to procure and install additional chargers.

General Recommendations: Sharing chargers makes the most sense under the following circumstances:

- Facilities that serve fleet EVs that typically drive less than 40 miles a day and have dwell times longer than eight hours, such as the Corp Yard and Mental Health Clinics.
- Facilities with limited available electrical capacity to avoid the expense of electrical service upgrades.

Shared Chargers with Load Management

This is a variation on shared chargers that incorporates load management to provide flexibility. This could be achieved by networked smart chargers with integral load management or by a third-party add-on system.

Benefits: The primary benefit is to reduce PG&E peak demand charges, potential electric service upgrades costs, and initial investment costs associated with the procurement and installation of

chargers generally (e.g., reduced number of individual units required). This approach is also useful to leverage the constrained electrical capacity of certain sites to install more chargers that would share available electrical load.

Disadvantages: It requires active parking/charging management by City staff and poses a potential risk that fleet EVs may not be sufficiently charged if not managed properly.

General Recommendations: Adding load management to shared chargers makes the most sense at locations like the Transfer Station at which a load management system can serve the four chargers needed near term with a relatively small 40-amp electrical capacity.

Mobile Charging

Mobile or semi-mobile charging is an alternative or complement to fixed EV chargers. These consist of energy storage systems that draw power from the grid then dispense the electricity to EVs when needed. Examples are from Freewire Technologies, which has two mobile charging units, Mobi and Boost; and Danner, which has the Mobile Power Station (MPS). The MPS and Mobi units are equipped with wheels and operator controls, while the Boost is stationary and hard-wired but can be easily disconnected for re-location to another facility.

Each Mobi can charge up to eight light-duty EVs per shift and can be equipped with an optional Hydra unit that simultaneously charges seven vehicles (charging is at Level 1 speed). Boost is a larger unit that has 160 kWh of battery capacity and 120 kW output capable of charging 25 light-duty EVs per shift at 100kW.

Dannar's MPS can charge multiple types of batteries and replicate the function of a mobile generator. The DANNAR 4.00 base configuration comes standard with three 42 kWh Li-Ion battery packs (126 kWh total) and can be easily upgraded with up to nine additional packs for a total of 504 kWh of on-board electricity.

Another example, SparkCharge, is an innovative startup that produces a highly portable, modular DCFC. Its battery-powered chargers snap together like Lego blocks, and provide up to 20 miles of range per battery module. Fleets can use SparkCharge modules to augment short-range EVs or rescue EVs that run out of charge, which avoids the need to be towed to a charger.

Benefits: By being able to accept power from the grid at low voltage and/or during times when electrical demand is low or during the day when grid renewables and/or onsite solar (depending on the City facility) generation is high, mobile energy storage platforms can help to avoid PG&E's demand charges. Other benefits include the ability to:

- Charge additional fleet EVs than the facility's existing power capacity may support.
- Provide backup energy to fleet vehicles during power outages.
- Charge multiple EVs at the same site by moving the charger, rather than moving the vehicles.
- Relocate the charger from one facility to another to address changing needs or to provide flexible charging capacity at non-City owned facilities where fleet EVs may be domiciled.

The Danner Mobile Power Stations can also be outfitted with auxiliary equipment such as lifts or loaders, allowing these units to function as fully electric off-road equipment. Both the Danner and Mobi can also perform the function of a generator by powering electrical equipment where no power outlets are available.

Disadvantages: The main disadvantage of this option is the large upfront costs. Using mobile charging units also requires active parking/charging management by City staff who will need to move the charger to individual fleet EVs and manually connect them. Mobile chargers take up space in the parking lot and staff may not be able to get the unit close enough to the EV in a crowded parking facility. Theft and vandalism may also be a concern at facilities lacking site security.

General Recommendations: Using mobile charging units as an option may make sense at:

- Facilities where power upgrades may be significant due to large numbers of EVs and/or has space constraints make installation of multiple individual chargers difficult. (e.g., Berkeley Marina at 125/127 University Ave)
- Facilities that are leased (e.g., Adult Mental Health Clinic at 1521 University Avenue).
- Facilities where fixed charging infrastructure near term is needed but may not be fiscally responsible because of site redevelopment plans in the future (e.g, Transfer Station) or that will be redeveloped.

The Mobi and the Danner units qualify for a 50% rebate under CARB's CORE³⁸ program.

³⁸ <http://californiacore.org/>

Table 21: Charging Strategy Summary

	Dedicated chargers	Dedicated chargers with load management	Shared chargers	Shared chargers with load management	Mobile charging
Strengths:					
Convenience and simplicity	Yes	Yes	No	No	Yes
Capacity for future fleet expansion	Yes	Yes	No	No	Yes
Reduces peak demand and resulting service upgrades	No	Yes	Yes	Yes	Yes
Reduces capital expenditure from fewer chargers purchased and installed.	No	No	Yes	Yes	Depends on facility scale
Challenges:					
Costs for hardware purchase, installation and load upgrades.	Yes	Yes	No	No	More cost effective for larger facilities
Initial cost of system plus data charges	No	Yes	No	Depends on provider	Yes
Requires active parking/charging management by City staff	No	No	Yes	Yes	Yes
Risk of vehicles not being charged	No	No	Yes	Yes	Yes

Table 22: Facility Recommendation Summary

Domicile	Dedicated connectors	Dedicated connectors with load management	Shared connectors	Shared connectors with load management	Mobile charging
Corporation Yard			8 L2 + 1 DCFC		
Berkeley Transfer Station		4 L2			1 Mobile
Berkeley Marina			8 L2		Possible option: 1 Mobile
Adult Mental Health Clinic					3 Mobile
Mental Health Clinic			2 L2		Possible option: 1 Mobile
Center Street Garage	35 L2 (connectors from existing chargers currently assigned to fleet)				
Central Library Parking Lot	2 L2				
Public Safety Building	2 L2				
Civic Center Building	4 L2				
Mental Health Clinic			2 L2		
South Berkeley Senior Center	2 L2				
North Berkeley Senior Center	2 L2				

Future Charging Technologies

The City should monitor emerging charging technologies and plan for pilot programs/evaluation as these become market ready.

- Inductive charging which can wirelessly charge an EV
- Automated charging which pairs with autonomously operated vehicles are paired with robotic or wireless chargers
- Bi-directional charging provides vehicle-to-grid (V2G), vehicle-to-building (V2B), and vehicle-to-vehicle (V2V) electrical flow.

East Bay Community Energy Fleet Electrification

- V2G would enable surplus EV battery capacity to be sold back to the grid in times of peak grid electrical demand, thereby creating a potential source of revenue for fleets.
- V2B would facilitate sharing of power between the buildings co-located with the fleet parking facility and the vehicles that charge there, allowing buildings to borrow stored electricity from the EV batteries at times of peak building electrical demand, thereby avoiding PG&E's demand charges.
- V2V would allow EVs to transfer power to and from each other's batteries. Since utilization by most City fleet vehicles is well within the battery range of currently available EVs, a substantial surplus power is typically available. This power could be shuffled between vehicles on an as-needed basis, reducing demands on fleet charging infrastructure as well as on the grid.

As these technologies come to market, the costs will be higher than with traditional charging recommended in this report yet may reduce staff time needed to manage charging and, with bi-directional charging, may help balance utility costs.

Appendix C: Distributed Energy Resources Analysis

The purpose of this report is to summarize the potential areas for distributed energy resources (DER) deployment at each of the City of Berkeley's fleet domiciles. DER is defined as onsite solar photovoltaics (solar PV), battery energy storage (BES) and electric vehicle (EV) charging infrastructure. The analyses represent an initial screening that implies the DER deployments identified are favorable and reasonably sized compared to the proposed EV fleet's needs. Performance and costs are meant to be budgetary level, and firm quotes and scopes of work for each location are encouraged to determine the actual capital needs required.

Summary of Recommendations

Twelve domicile location were examined for solar PV and BES deployment, to balance the electrical load from EV charging. Based on our findings, the consultant team recommends that the City consider deploying solar PV and BES systems at the eight locations listed in Table 23.

Table 23: Recommended Solar PV and BES

Location	Existing and Planned Charging Stations	Total Solar PV Capacity (kW DC)	BES Recommendation	Potential Cost for Solar PV + BES
Corp Yard	4 Dual-head Level 2 and 1 DCFC	52.7*	33 kW / 130 kWh	\$423,800
Berkeley Marina	4 Dual-head Level 2	70.5*	75 kW / 300 kWh	\$782,100
Center Street Garage	28 Dual-head Level 2 and 1 Single-head Level 2	168.9*	63 kW / 250 kWh	\$375,000
Central Library Parking Lot	1 Dual-head Level 2	18.8		\$75,200
Public Safety Building	1 Dual-head Level 2	10.8		\$43,200
Mental Health Clinic	1 Dual-head Level 2	60.1*		\$240,400
S. Berkeley Senior Center	1 Dual-head Level 2	7.8		\$31,200
N. Berkeley Senior Center	1 Dual-head Level 2	29.6*		\$118,400

*Already installed or being considered for development via EBCE's Solar + Storage at Critical Municipal Facilities initiative (see below)

Of the recommended locations, five are also being evaluated through EBCE's *Solar + Storage at Critical Municipal Facilities Assessment*, which is funded by a Bay Area Air Quality Management District grant. The goal of this complementary project is to identify critical facilities designated to serve the community in time of emergency throughout Alameda County and size solar PV and BES systems to meet critical loads at those sites. EBCE plans to aggregate the site portfolio into a competitive solicitation Summer 2020 to reduce the cost and complexity of deploying these systems near term for its local government partners.

Three domicile locations, the Adult Mental Health Clinic, Mental Health Clinic, and Civic Center, were excluded from solar PV and BES deployment due to constraints specific to each location discovered during the assessment. The Transfer Station was evaluated to support the LD fleet only, however Solar PV for this size fleet only not recommended. Solar PV and BES should be re-evaluated when the site is rebuilt, and impact of the heavy-duty fleet is assessed at that time.

Solar Potential at City Sites

To offset the electricity consumption of Berkeley's EV fleet, the solar PV potential for each of the primary facilities where vehicles are domiciled was evaluated. Eight of the 12 facilities were found suitable for solar PV for EV fleet charging, while four were found to have site specific constraints precluding solar PV deployment. Solar PV arrays consist of multiple modules, each approximately 17.8 square feet (SF) (5.5-feet x 3.25-feet) and weighing about 40 lbs. The exact size, weight, and electricity output of PV modules will vary by manufacturer however the average electricity output is 300 watts (W) which will produce approximately 16.5 W/SF of area. Panels with more surface area and higher outputs of 350–400 watts (W) are available, but these panels have an equivalent area normalized output of 16.5 W/SF. Roof locations where solar PV are mounted must be able to support the weight of the proposed PV array, which ranges from 650 pounds for a five-kilowatt (kW) array to more than 2,000 pounds for a 15-kW array. Array that use mounting racks must be designed to resist wind-lift, and the underlying roof structure must be more resistant. No structural load analysis was conducted for this project.

At each domicile location, the consultant team analyzed building rooftop and parking carport opportunities.³⁹ This potential is dictated by the overall unobstructed area available to install the solar PV system and orientation of the system to the sun throughout the day with south, southwestern and west facing facades yielding the greatest electricity production. Surface areas with shading caused by architectural details and mechanical equipment and adjacent trees or buildings are not suitable for solar PV systems.

This methodology resulted in array sizing that matched the existing solar PV design at two projects at the Mental Health Clinic at 2636/2640 MLK Jr Way and the North Berkeley Senior Center, resulting in consistency with work previously performed. Once the geometry constraints of the available roof areas were determined, the configuration was entered in the National Renewable Energy Laboratory's (NREL) PVWatts Calculator.⁴⁰ Output from PV Watts was exported as hourly data to combine the performance of the multiple solar PV arrays simulated for each location. The results are summarized in the following sections.

Annual Solar PV Generation

The following provides a brief summary of the conditions for each location where the City's EV fleet will be domiciled, and the result of the solar PV screening. The total generation potential for all sites based on the resources identified is 419.2 kW of solar PV, with 231.3 kW of new capacity recommended. The

³⁹ This analysis did not assess whether roof or other structural upgrades would be necessary at City sites, or approximate costs for those potential upgrades.

⁴⁰ <https://pvwatts.nrel.gov/>

East Bay Community Energy Fleet Electrification

solar PV resource generates an average of 1,753 kWh/day. The current fleet electrification assessment identifies the need to support 1,009 kWh/day of EV charging, indicating that solar PV arrays deployed at some sites could also serve onsite building loads and/or future fleet charging needs, as shown in Table 24.

East Bay Community Energy Fleet Electrification

Table 24: Solar PV Sizing Results and Daily Generation

Facility Name	Facility Location	Overall Assessment	Total Solar PV Capacity (kW DC)	Average Daily Generation (kWh/day)	Average Daily EV Charging Need (kWh/day)
Corp Yard	1326 Allston Way	Replacement of the existing 19 kW solar array with a 30.6 kW using higher output panels. Install new 16.1 kW array over the fuel island, and 6.0 kW covered parking array in the yard parking area.	52.7	195.3	112.74
Berkeley Transfer Station	1201 Second St	Defer array design until site redeveloped. Charging need based on near-term light-duty fleet.	0	0	49.64
Berkeley Marina	125/127 University Ave	Suitable for one rooftop array and one parking lot array.	70.5	297.6	298.93
Adult Mental Health Clinic	1521 University Ave	Existing array is not property of the city. No further solar PV can be deployed.	n/a	n/a	156.74
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	No solar PV recommended due to insufficient roof area.	0	0	33.29
Center Street Garage	2025 Center St	Existing 168.9 kW rooftop solar PV array installed. No further solar PV recommended.	168.9	732.4	247.81
Central Library Parking Lot	2031 Bancroft Way	Suitable for one rooftop solar PV array.	18.8	71.0	3.38
Public Safety Building	2100 MLK Jr Way	Suitable for one rooftop solar PV array. Parking areas substantially shaded and not recommended.	10.8	40.8	16.5
Civic Center	2180 Milvia St	Roof structurally unsuitable for deployment. No solar PV recommended.	0	0	6.17
Mental Health Clinic	2636/2640 MLK Jr Way	A 60.1 kW solar PV array has already been designed for the facility. No further solar PV recommended.	60.1	258.7	64.94
S. Berkeley Senior Center	2939 Ellis St	Suitable for one rooftop solar PV array.	7.8	33.6	7.33
N. Berkeley Senior Center	1901 Hearst Ave	A 29.6 kW solar PV array has already been designed for the facility. No further solar PV recommended.	29.6	127.8	11.84
Total			419.2 (231.3 new)	1752.7	1,009.3

Changes in Utility Tariffs and Coincidence of DER Loads

Per California Public Utilities Commission (CPUC) Decision 18-08-013,⁴¹ PG&E will phase out legacy tariff series “A” and “E,” and replace each tariff with a “B” series that reflects the current costs of transmission. Every account will be migrated to the corresponding “B” series rate by March 2021 (e.g., accounts on the A-1 rate will be migrated to B-1; accounts on E-19 will be migrated to B-19, etc.). All ECBE accounts, including those for the City will be impacted by these changes. Table 25 compares the difference in the peak periods from the tariff revision. The “B” rates shift the peak period from midday to late afternoon and early evening, and the peak period will apply year-round.

Table 25: Changes in Peak Utility Period from Tariff Update

Period	“A” & “E” Rates (Current)	“B” Rate (Future)
Summer Period	May 1 – Oct 31	June 1 – Sep 30
Peak	12:00 PM – 6:00 PM M-F	4:00 PM – 9:00 PM All days
Part-peak	8:30 AM – 12:00 PM M-F 6:00 PM – 9:30 PM M-F	2:00 PM – 4:00 PM All days 9:00 PM – 11:00 PM All days
Off-peak	All other hours	All other hours
Super Off-peak	None	None

Period	“A” & “E” Rates (Current)	“B” Rate (Future)
Winter Period	Nov 1 – Apr 30	Oct 1 – May 31
Peak	None	4:00 PM – 9:00 PM All days
Part-peak	8:30 AM – 9:30 PM M-F	None
Off-peak	All other hours	All other hours
Super Off-peak	None	9:00 AM – 2:00 PM All days March – May only

Every rate class has a varying energy charge (\$/kWh) for each of the time periods in Table 3, with the energy rate in the peak period being approximately 30% higher than the off-peak period during the summer months and 15% higher during the winter months. **The variation between on-peak and off-peak energy costs in the “B” series tariffs is not substantially different from the current “A” and “E” tariffs in place today, only the time of the on-peak period has changed.**

⁴¹ https://www.pge.com/tariffs/assets/pdf/adviceletter/ELEC_5499-E.pdf

East Bay Community Energy Fleet Electrification

The rate classes of B-10 and B-19 (for larger facilities) have demand charges in addition to the energy charges for each period. Demand is based on the highest rate of energy consumption in a specified 15-minute period and is charged at a cost per kW (\$/kW). Best management practices to manage this demand from EV fleet charging can include scheduled charging, smart charging (auto scheduling), and discharge from a battery energy storage system coincident with EV charging. These methods can be successful in lowering, but not eliminating the resulting demand charge, and are most effective when applied against fleet charging that occurs on a regular, controlled schedule. Intermittent charging, and locations that support both fleet charging and public charging can have substantial financial impact from demand charges.

Tariff B-10 has one monthly demand charge assessed for the peak power consumption on any 15-minute interval. Tariff B-19 has up to three demand charges separately assessed monthly and added together: one for the peak period, one for the part-peak period, and one for any 15-minute interval in the month. Tariffs B-1 and B-6 do not have demand charges. Table 26 summarizes the peak for each tariff.

Table 26: Tariffs with Demand Components

Demand Component in Tariff	B-1	B-6	B-10	B-19
Peak	No	No	No	Yes
Part-peak	No	No	No	Yes
Any-hour	No	No	Yes	Yes

The impact of all the above components must be considered when determining the value of the solar PV and BES. For simplicity, assumptions are grouped by rate structure. **Due to the impending rate change, the consultant team evaluated each deployment by using the corresponding new “B” tariff and ECBE supply rates, rather than the current utility rate.** Under the new delivery tariff, ECBE would continue to provide the City with its carbon-free electricity supply product, Brilliant 100. Table 27 summarizes the assumptions used to model rates at each fleet domicile location.

East Bay Community Energy Fleet Electrification

Table 27: Utility Modeling Assumptions

Rate	Buildings	Rate Modeling Assumptions
B-1	Berkeley Marina Adult Mental Health Clinic (1890 Alcatraz) Mental Health Clinic	<ul style="list-style-type: none"> No demand component in rate. Solar PV generation and EV charging impacts energy consumption in the period it occurs. Addition of EV unlikely to push facility above 75 kW threshold needed to stay on rate B-1.
B-6	S. Berkeley Senior Center	<ul style="list-style-type: none"> No demand component in rate. Solar PV generation and EV charging impacts energy consumption in the period it occurs. Addition of EV unlikely to push facility above 75 kW threshold needed to stay on rate B-6.
B-10	Corp Yard Berkeley Transfer Station Central Library Parking Lot Mental Health Clinic (2636/2640 MLK) N. Berkeley Senior Center	<ul style="list-style-type: none"> Solar PV reduces any-hour monthly demand. EV charging does not impact demand.
B-19	Public Safety Building Civic Center	<ul style="list-style-type: none"> Solar PV reduces the any-hour monthly demand typically occurring mid-day. EV charging impacts peak and part-peak demand. EV charging does not impact the any-hour demand typically occurring mid-day.
B-19	Center Street Garage	<ul style="list-style-type: none"> Due to observed load building shape, Solar PV does not reduce the any-hour monthly demand that occurs at approximately 8:00 PM. EV charging impacts peak and part-peak demand EV charging impacts the any-hour demand due to building load shape.

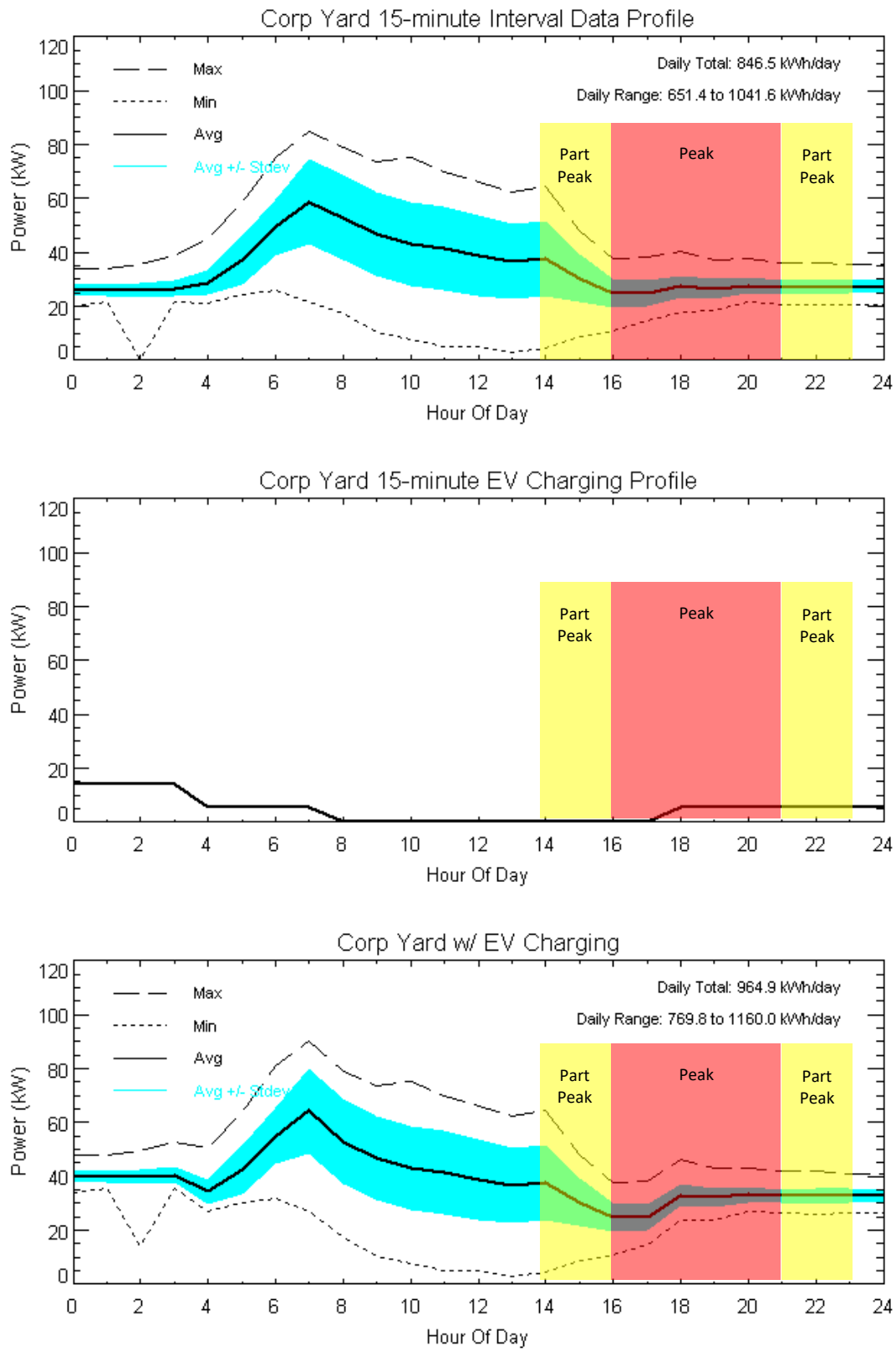
Figure 9 displays the impacts of these assumptions using actual data for the Corp Yard and the stipulated EV charging profile. The Corp Yard peak power occurs at 7:00 AM and decreases throughout the day as the existing solar PV array provides generation. Under the new B-10 rate, the facility has only a single demand charge, which would be largely unchanged from the addition of EV charging. Part-peak and peak-period energy increases from EV charging would occur, as well as off-peak charging for the balance of the evening. Figure 10 shows that under the new tariff, most of the solar PV generation is during the off-peak hours.

Figure 11 shows the impact of EV charging on the Center Street Garage. This facility already has a sizable solar PV array, and limited additional solar PV can be reasonably accommodated. In the original design, there was space for 20 additional panels to be added totaling 7.5 kW DC (4%) additional capacity, however pursuing this capacity should be secondary to establishing solar PV at the other identified locations. This facility will be adversely impacted by the transition to the B-19 tariff. The facility peak occurs during the new peak period, even before EV charging is added. EV charging contributes to the peak-period demand and the part-peak demand. Additionally, the impact of public charging, which may be highly coincident with the new time-of-use peak period is not considered in this study. The Center Street Garage is adjacent to the Theatre District, and therefore may be subject to substantial evening public charging.

Fleet modeling was performed using charging profiles beginning at 6:00 PM each day, to provide a conservative baseline for EV charging costs. The selected examples illustrate the need for smart charging controls or a load management system to regulate the timing of charging outside of the peak period and demonstrates the opportunity to control costs via a BES system. The City should continue to explore these options, as well as coordinate with ECBE to secure further alternatives for energy supply options and demand mitigation throughout the transition of the tariffs.

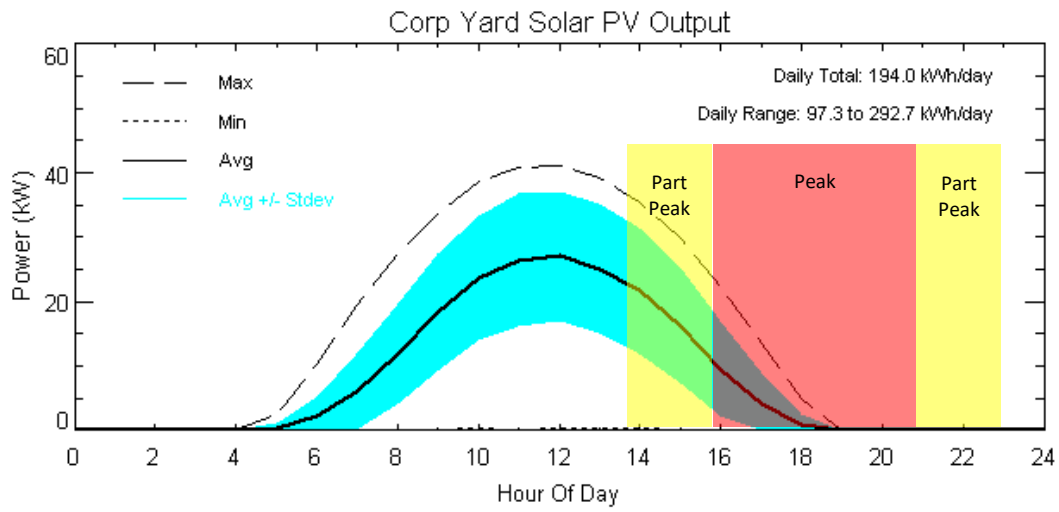
East Bay Community Energy Fleet Electrification

Figure 9: Corp Yard Current Electric Load and Impact of EV Charging (Tariff B-10)



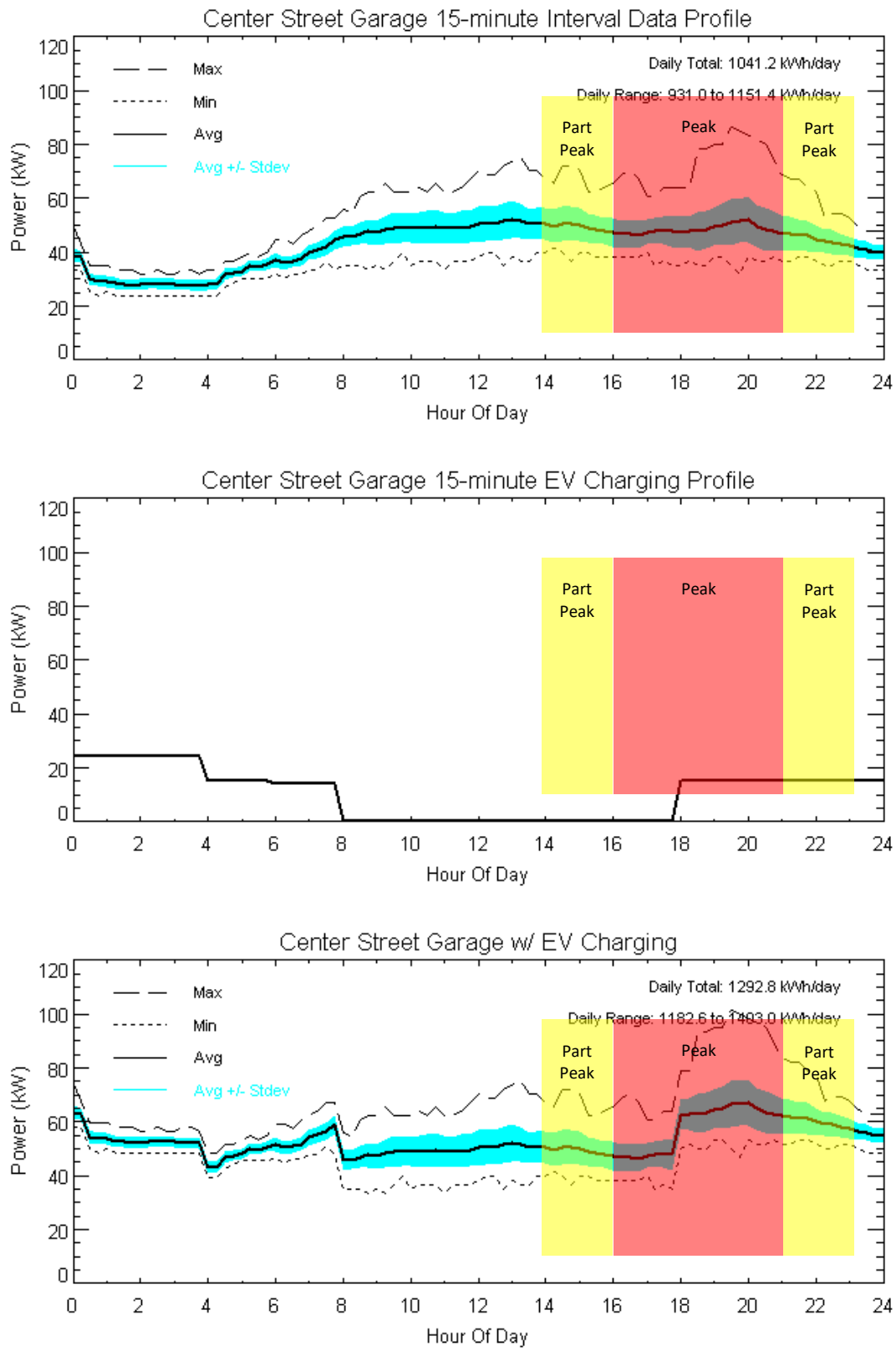
East Bay Community Energy Fleet Electrification

Figure 10: Proposed PV System Performance – Corp Yard (Tariff B-10)



East Bay Community Energy Fleet Electrification

Figure 11: Center Street Garage Current Electric Load and Impact of EV Charging (Tariff B-19) (3/10/2019 – 2/20/2020)



With a large City fleet and public charging potential and substantial deployed solar PV, the rate options for the Center Street Garage should be investigated more deeply. Two rate options are available for this building and have a dramatic impact on utility charges. Option R is for buildings with less than 15% of annual generation produced by on-site solar; and Option S is for buildings with battery storage sized to 10% or greater of peak demand. These options are only available for facilities on the B-19 rate.

These rate options trade lower demand charges during the peak and part-peak period for higher energy charges in those periods. Option S takes the demand/energy trade-off further by introducing an “as-used-daily-demand” charge. This allows the facility to capitalize on days when BES can limit demand without a substantial penalty for missing a day of demand reduction.

Modeling these rate options showed little impact on the cost of charging, however, the influence of the building energy use profile must also be considered. A full load shape study incorporating interval data of the building, and temporary metering data for all EV charging circuits (public or City fleet) should be performed prior to exercising either rate option. The City should continue to engage with ECBE to investigate these rate and load profile studies to ensure the most beneficial rate structures are being utilized.

Value of Solar PV

The value of the solar PV systems modeled was calculated using the applicable ECBE rate for the location and incorporated the impacts of demand and time-of-use costs of energy, where applicable. The time-of-day variation and potential for demand reduction from the prevailing utility rate structure was used to determine the value of the electricity produced from solar PV. This results in the energy generated from solar PV having a much higher value on a \$/kWh basis than the comparable average cost of energy of the baseline building evaluated. The underlying energy profile of the host account was not considered in determining the value of the solar PV generation, nor was limiting the solar PV output in the case of grid constraint or curtailment.

Installation costs for the proposed solar PV arrays were based on typical values for small- to medium-sized systems deployed in the Bay Area. A normalized cost of \$4.00/watt DC was applied to the rooftop arrays, and \$7.00/watt DC was applied to the parking area arrays. Table 28 lists the economic potential from solar PV generation if the electricity is used at the time of generation either as EV charging or as displaced building import energy. Note that all costs are budgetary and need verification from actual scope and industry price quotes prior to proceeding. The City should continue to work with EBCE for all available program dollars and maximize the value of bulk purchase arrangements to reduce this value to the extent possible.

East Bay Community Energy Fleet Electrification

Table 28: Economic Potential from PV Generation

Facility Name	Facility Location	Prevailing Rate	Annual Value of Solar PV Generation	Solar PV System Budget Cost ⁴²	Calculated Payback (years)
Corp Yard	1326 Allston Way	B-10SX Brilliant 100	\$16,833	\$228,800	13.6
Berkeley Transfer Station	1201 Second St	B-10SX Brilliant 100	n/a	n/a	n/a
Berkeley Marina	125/127 University Ave	B-1X Brilliant 100	\$26,219	\$332,100	12.7
Adult Mental Health Clinic	1521 University Ave	B-1X Brilliant 100**	n/a	n/a	n/a
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	B-1X Brilliant 100	n/a	n/a	n/a
Center Street Garage	2025 Center St	B-19S Bright Choice	n/a	n/a	n/a
Central Library Parking Lot	2031 Bancroft Way	B-10SX Brilliant 100	\$6,120	\$75,200	12.3
Public Safety Building	2100 MLK Jr Way	B-19S Bright Choice	\$4,269	\$43,200	10.1
Civic Center	2180 Milvia St	B-19S Bright Choice	n/a	n/a	n/a
Mental Health Clinic	2636/2640 MLK Jr Way	B-10SX Brilliant 100	\$22,445	\$240,400	10.7
S. Berkeley Senior Center	2939 Ellis St	B-6 Brilliant 100	\$2,814	\$31,200	11.1
N. Berkeley Senior Center	1901 Hearst Ave	B-10SX Brilliant 100	\$11,043	\$118,400	10.7
Total* (new only)			\$89,743	\$1,069,300	11.9

*Existing systems not included in total

** Account not owned by the City of Berkeley

⁴² Add 25% for engineering and 25% for soft costs if a detailed engineering analysis is needed

Fleet Charging Costs

Costs for fleet charging were computed using the applicable utility rate and the stated assumptions for impact on demand charges. Table 29 summarizes the cost of charging the EV fleet per domicile location, without the support from beneficial solar PV and BES systems. Total electrification of the light duty fleet by 2030 would have a present-day charging cost of \$78,795 at 21.4¢/kWh, calculated from the sum of the EV charging energy (kWh) and the cost of charging (\$) under the governing utility rate for each domicile location.

Table 29: Annual Cost of EV Fleet Charging

Facility Name	Facility Location	Annual EV Energy (kWh/year)	Cost of EV Charging (\$/year)	Average Cost of Fleet Electricity (\$/kWh)
Corp Yard	1326 Allston Way	41,149	\$6,272	\$0.152
Berkeley Transfer Station (near-term light-duty fleet)	1201 Second St	18,119	\$2,906	\$0.160
Berkeley Marina	125/127 University Ave	109,109	\$26,994	\$0.247
Adult Mental Health Clinic	1521 University Ave	57,212	\$14,098	\$0.246
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	12,149	\$2,993	\$0.246
Center Street Garage	2025 Center St	90,451	\$19,449	\$0.215
Central Library Parking Lot	2031 Bancroft Way	1,234	\$200	\$0.162
Public Safety Building	2100 MLK Jr Way	6,036	\$690	\$0.114
Civic Center	2180 Milvia St	2,626	\$396	\$0.151
Mental Health Clinic	2636/2640 MLK Jr Way	23,702	\$3,516	\$0.148
S. Berkeley Senior Center	2939 Ellis St	2,675	\$627	\$0.235
N. Berkeley Senior Center	1901 Hearst Ave	4,320	\$655	\$0.152
Total		368,782	\$78,795	\$0.214

Battery Energy Storage Options

Battery energy storage (BES) systems allow for energy from daytime solar PV generation to be time-shifted for use during the evening and nighttime hours. This allows either on-site generated electricity from solar PV or ECBE’s carbon-free electricity to be provided during periods when solar PV is not providing generation. BES systems can also be sized for fleet resilience, providing 100% of the fleet's energy needs over the course of a one-day grid outage. Alternatively, a BES system can be downsized to offset EV charging loads only during the peak and part-peak periods to save the City operational costs.

Additional BES capacity larger than that needed to meet the EV charging requirements can be installed to meet building resiliency loads, or to participate in a utility resource adequacy (RA) program. The City should work with ECBE to investigate these options as programs develop.

BES systems are an evolving technology, and new standards in battery chemistry and technology are emerging each day. Presently the standard for battery technology is centered on the lithium-ion (Li-Ion) technology as a widely available, robust energy storage medium. Current best-in-class Li-ion BES technologies have storage durations of approximately four hours, also known as a four-hour resource. Longer duration storage of six-to-eight hours is under development for utility system support, but not currently available as a behind-the-meter resource. This analysis focuses on the four-hour resource.

BES systems are typically installed as either a packaged containerized system or require a dedicated outdoor shelter. The typical footprint of a BES system is approximately 0.17 sf/kWh. A 25 kW / 100-kWh unit would therefore occupy a 170-sf area, plus applicable clearances around the BES system as required by NFPA and local code enforcement, which generally doubles the area needed.

Fleet charging typically starts at the end of staff shifts and persists across the vehicle dwell time or until the EV is fully charged. The start time of charging will need optimization based on the prevailing utility rate structure. With new utility rates dedicated to EV charging, the City should work with ECBE to choose the optimum rate structure for each location and adapt fleet charging times, when feasible, to ensure the most cost-effective charging configuration.

Based on the daily solar PV generation and EV charging needs, Table 30 provides the required BES system sizing and resulting cost to meet 100% of fleet needs with BES for resilience.

East Bay Community Energy Fleet Electrification

Table 30: BES Sizing and Cost – BES Sized for EV Resiliency Meeting 100% of Daily EV Electricity Need

Facility Name	Facility Location	BES Size Required*	Daily Average EV Need (kWh/day)**	BES Potential Cost
Corp Yard	1326 Allston Way	33 kW / 130 kWh	112.74	\$195,000
Berkeley Transfer Station	1201 Second St	To be added during rebuild.	49.65	\$0
Berkeley Marina	125/127 University Ave	75 kW / 300 kWh	298.93	\$450,000
Adult Mental Health Clinic	1521 University Ave	Insufficient space to site BES.	156.74	\$0
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	Insufficient space to site BES.	33.29	\$0
Center Street Garage	2025 Center St	63 kW / 250 kWh	247.81	\$375,000
Central Library Parking Lot	2031 Bancroft Way	2.5 kW / 10 kWh	3.38	\$15,000
Public Safety Building	2100 MLK Jr Way	5 kW / 20 kWh (EVs only)	16.5	\$30,000
Civic Center	2180 Milvia St	2.5 kW / 10 kWh	6.17	\$15,000
Mental Health Clinic	2636/2640 MLK Jr Way	20 kW / 80 kWh	64.94	\$120,000
S. Berkeley Senior Center	2939 Ellis St	2.5 kW / 10 kWh	7.33	\$15,000
N. Berkeley Senior Center	1901 Hearst Ave	3 kW / 12 kWh	11.84	\$18,000
Total		258 kW / 1032 kWh		\$1,233,000

*BES sizing based on 4-hour resource

** Daily Average EV need determined in Fleet Assessment and Charging Infrastructure Analysis

The cost of charging in Table 7 is useful for prioritizing the importance of BES deployment at each location where fleet EVs are domiciled. Domicile locations with substantial annual charging costs and higher average costs of energy should be prioritized for initial BES deployment. These locations will benefit the most from the added operational flexibility and the protection from demand charges that BES provides. The Corp Yard, Berkeley Marina, and Center Street Garage all have substantially more charging load and higher costs of energy than the other domicile locations. Facilities with annual charging costs of less than \$3,000 are unlikely to be cost effective for BES deployment, unless the EVs at these locations are critical to providing community services in times of emergency. Table 31 summarizes the locations recommended for BES deployment.

Table 31: BES Sizing and Cost – Recommended Locations

Facility Name	Facility Location	BES Size Recommended	Daily Average EV Need (kWh/day)	BES Potential Cost
Corp Yard	1326 Allston Way	33 kW / 130 kWh	112.74	\$195,000
Berkeley Marina	125/127 University Ave	75 kW / 300 kWh	298.93	\$450,000
Center Street Garage	2025 Center St	63 kW / 250 kWh	247.81	\$375,000
Total		170 kW / 680 kWh		\$1,020,000

Combined Value

The consultant team recommends installing solar PV at the eight locations identified, and augment three of these locations with BES systems for operational flexibility, resilience and demand management. BES at these locations will time-shift excess generation during the day for use during the new evening peak period hours. The Corp Yard and Berkeley Marina, savings from the BES systems assume that all energy from the BES comes from excess on-site solar PV and has a value equal to the grid purchased energy it displaces at the time of use, including applicable demand charge assumption listed in Table 27. Inter-day arbitrage may be possible at the Center Street Garage using the Option S rate rider, however a deeper study into that rate incorporating the impact of the building profile is needed, and the probability of increased savings is uncertain.

Overall, solar PV and BES systems to support EV fleet charging has a total cost of \$2,089,300 as shown in Table 32.

East Bay Community Energy Fleet Electrification

Table 32: Recommended Solar PV + BES Summary

Facility Name	Facility Location	Annual Savings	Solar PV Cost	BES Cost	Payback (years)
Corp Yard	1326 Allston Way	\$13,390	\$228,800	\$195,000	31.7
Berkeley Transfer Station	1201 Second St	\$4,295	\$0	\$0	n/a
Berkeley Marina	125/127 University Ave	\$26,994	\$332,100	\$450,000	29.0
Adult Mental Health Clinic	1521 University Ave	\$0	\$0	\$0	n/a
Mental Health Clinic	1890 Alcatraz Ave/ 3282 Adeline St	\$0	\$0	\$0	n/a
Center Street Garage	2025 Center St	\$19,449	\$0	\$375,000	19.3
Central Library Parking Lot	2031 Bancroft Way	\$6,120	\$75,200	\$0	12.3
Public Safety Building	2100 MLK Jr Way	\$4,269	\$43,200	\$0	10.1
Civic Center	2180 Milvia St	\$0	\$0	\$0	n/a
Mental Health Clinic	2636/2640 MLK Jr Way	\$22,445	\$240,400	\$0	10.7
S. Berkeley Senior Center	2939 Ellis St	\$2,814	\$31,200	\$0	11.1
N. Berkeley Senior Center	1901 Hearst Ave	\$11,043	\$118,400	\$0	10.7
Total		\$110,820	\$1,069,300	\$1,020,000	19.3

Appendix D: Total Cost of Ownership

This report estimates the total cost of ownership (TCO) and greenhouse gas (GHG) emissions to the City from 2020 to 2030 under four electrification scenarios. Four scenarios form the basis of the TCO analysis presented in this report. All scenarios are modeled over an analysis period from 2020 to 2030 for the light-duty fleet.

- Scenario 1. Baseline: This scenario assumes that the City's future light-fleet purchases maintain their existing light-duty vehicle technology composition, replacing each vehicle with a similar new vehicle at the end of the current vehicle's useful life. Traditional internal combustion engine (ICE) vehicles powered by gasoline are replaced with new (ICE) vehicles, standard ICE hybrid vehicles powered by gasoline are replaced with new ICE hybrids, PHEVs are replaced with new PHEVs, etc. Under this scenario, no new DER options are deployed at any fleet location.
- Scenario 2. EV Transition: This scenario considers the transition of the light-duty fleet to both BEVs and PHEVs. Infrastructure costs for EV charging, or Electric Vehicle Service Equipment (EVSE), are included in this scenario, and electricity costs are based on costs of grid electricity supplied by EBCE.
- Scenario 3. EV Transition with Solar PV: Building on Scenario 2, this scenario includes the deployment of solar PV systems at City facilities where fleet vehicles are domiciled.⁴³ Under this scenario, demand costs for EV charging are largely eliminated because the solar PV is generating enough power to offset the vehicle energy need. (This assumes that all solar PV power is for the EVs and none for the building.)
- Scenario 4. EV Transition with Solar PV and BES: This scenario further extends Scenario 3 to include the deployment of BES systems at City facilities described in the Task 2.1 report.

⁴³ As described in the Distributed Energy Resources (DER) Suitability Analysis report.

TCO Methodology and Assumptions

Prior chapter reports are based on an analysis of the City’s existing light-duty fleet on a vehicle-by-vehicle basis and projections of the aggregated electrical loads for each fleet facility, considering the specific vehicles domiciled at each facility. The TCO analysis continues this approach, calculating fleet costs on a vehicle-by-vehicle basis and infrastructure costs on a facility basis. Specific cost components included in the TCO analysis and the basis for their estimated values are discussed below.

Vehicle Costs

Vehicle costs have been developed from historical operational and cost data provided by the City for each vehicle in the fleet. Wherever possible, future replacements of existing vehicles are assumed to maintain the same activity level of the existing vehicle. In some cases, recently deployed vehicles do not have any significant historical operational data upon which to develop activity assumptions. For these vehicles, an average of operational data from similar vehicles domiciled at the same facility is used as the baseline activity data.

Capital and Operational Costs

A description of each cost assessed in the vehicle cost model and the basis for projecting future costs is described below.

Capital Costs (CapEx) – The purchase cost of the vehicle (inclusive of taxes), extended warranties, and additional keys are included. The baseline purchase cost is determined by vehicle type and technology. Costs are estimated using recent procurement prices and estimates reported by the City. For gasoline powered ICE vehicles, compressed natural gas (CNG) sedans and gasoline powered ICE SUVs, no recent purchase price data were available from the City as the City has not bought these vehicles in five years or more. Instead, estimates made are based on escalated prices from prior years. Prices for PHEVs and BEVs are consistent with pricing reported in the Fleet Assessment report. Future year prices are estimated using year-over-year percentage changes from the US Energy Information Administration (EIA) Annual Energy Outlook.⁴⁴ EIA does not project prices for traffic enforcement scooters. Instead, the year-over-year percentage changes for sedans are used as a surrogate for scooter pricing. This recognizes that the City may transition scooters to sedans or small wagons if suitable BEV versions of scooters do not become available before the current fleet of scooters is due for replacement. Prices for CNG SUVs, CNG scooters, HEV scooters, PHEV scooters, and BEV SUVs are not estimated as none of these vehicles are proposed for deployment.

⁴⁴ US EIA, Annual Energy Outlook 2020, “Table 52. New Light-Duty Vehicle Prices”. BEV projections based on “200-mile Electric Vehicle” category. PHEV projections based on “Plug-in 40 Gasoline Hybrid” category. SUV projections are based the “Small Crossover Car” subcategory and Sedans are based on the “Compact Cars” subcategory.

East Bay Community Energy Fleet Electrification

Table 33. 2020 Vehicle Purchase Price Assumptions

Technology	Sedan	Scooter	SUV
Gasoline ICE	\$23,000	\$46,622	\$27,000
CNG	\$23,000	N/A	N/A
Gasoline Hybrid ICE	\$29,876	N/A	\$33,387
PHEV	\$28,147	N/A	\$36,295
BEV	\$34,256	\$57,218	N/A

Operating Costs (OpEx) – This category refers primarily to maintenance and repair costs as other operational costs (fuel, insurance, and registration) are identified separately in this report. Maintenance cost data provided by the City does not show a strong dependence on vehicle technology type or annual mileage. This is not unexpected as most of the City’s vehicles considered in this analysis have low daily mileages, meaning that maintenance costs are based primarily on calendar time rather than accumulated mileage. Because gasoline powered hybrids and PHEVs have internal combustion engines, preventative maintenance related to engine fluids is not eliminated in the way that such maintenance would be eliminated in a BEV. These results are consistent with other municipal fleets. For example, the City of New York reported reduced maintenance costs associated with their BEVs, whereas reported data showed that maintenance costs for gasoline powered ICE vehicles, including both hybrids and PHEVs, varied substantially with no clear trend in cost reductions for the hybrid platforms. Only BEVs showed clear maintenance cost reductions, albeit over less than a full life cycle thus far.⁴⁵ Maintenance reductions reported in the New York data for BEVs ranged from approximately 60% to 90% relative to traditional gasoline powered ICE vehicles. Alameda County cites maintenance cost reductions of 56% for BEVs relative to gasoline ICE vehicles.⁴⁶ Additionally, the City of Minneapolis cites a prior Electric Power Research Institute study estimating maintenance cost reductions of approximately 35% for light-duty BEVs.⁴⁷

For the purposes of this analysis, it is assumed that gasoline hybrids and PHEVs have maintenance costs equivalent to traditional gasoline ICE vehicles and that BEVs provide a 56% maintenance cost reduction. Actual maintenance cost reductions may vary, based on factors such as topography, weather, driver behavior, and vehicle.

Fuel Costs – Fuel prices are escalated from current prices using EIA Annual Energy Outlook 2020 projections.⁴⁸ The average cost of unleaded gasoline (inclusive of taxes) paid by the City in 2019 was \$3.45/gallon. CNG pricing is estimated at \$2.47/gasoline gallon equivalent (GGE) based on average West Coast CNG pricing.⁴⁹ Electricity pricing was estimated based on the facility where the vehicle is domiciled and varies depending on the implementation of DERs at facilities where fleet EVs are domiciled. Table 2 summarizes the estimated cost of electricity for each facility. Without DER infrastructure, costs for fleet charging are computed using the applicable utility rate at each location, as described in the DER

⁴⁵ New York City Department of Citywide Administrative Services, NYC Fleet Newsletter, March 8, 2019. Issue 255.

⁴⁶ Bay Area Climate Collaborative – Ready, Set, Charge Fleets, May 2015.

⁴⁷ City of Minneapolis, Electric Vehicle Study, October 2017

⁴⁸ US EIA, Annual Energy Outlook 2020, “Table 3. Energy Prices by Sector and Source - Pacific Region”.

⁴⁹ US Department of Energy - Alternative Fuels Data Center, Alternative Fuel Price Report, Table 5, January 2020.

Suitability Analysis report. Where DER solutions are implemented, electricity costs are effectively zero because onsite solar PV systems will generate enough power to fully offset fleet energy costs. Additionally, incremental demand charges are not incurred beyond the current site loads due to the use of charging management systems. Note that where BES systems are deployed as recommended the systems provide additional confidence that demand charges can be avoided if charging management systems are unable to consistently avoid incremental demand during peak pricing periods. However, under the assumption that charging management is successfully implemented and avoids incremental demand charges the cost of electricity is the same for sites deploying solar PV only or solar

Table 34. Estimated EV Charging Cost by Facility

Facility Name	Location	Cost of EV Charging (\$/year)	Average Cost of Fleet Electricity (\$/kWh)
Corporation Yard	1326 Allston Way	\$6,272	\$0.152
Berkeley Transfer Station	1201 Second Street	\$2,906	\$0.160
Berkeley Marina	125/127 University Avenue	\$26,994	\$0.247
Adult Mental Health Clinic	1521 University Avenue	\$14,098	\$0.246
Mental Health Clinic	1890 Alcatraz Avenue/3282 Adeline Street	\$2,993	\$0.246
Center Street Garage	2025 Center Street	\$19,449	\$0.215
Central Library Parking Lot	2031 Bancroft Way	\$200	\$0.162
Public Safety Building	2100 Martin Luther King Jr. Way	\$690	\$0.114
Civic Center	2180 Milvia Street	\$396	\$0.151
Mental Health Clinic	2636 Martin Luther King Jr. Way	\$3,516	\$0.148
South Berkeley Senior Center	2939 Ellis Street	\$627	\$0.235
North Berkeley Senior Center	1901 Hearst Avenue	\$655	\$0.152
N/A	Take Home		\$0.240

Fuel economy also impacts total fuel cost. To capture these impacts, EIA projections of fuel economy improvements for light-duty vehicles are applied to the baseline fuel economy of the current fleet vehicle.⁵⁰ When the vehicle is replaced, the fuel economy improvement for the replacement vehicle is calculated relative to the baseline vehicle and adjusted to account for any differences in technology.

Insurance Costs – The City participates in an Excess Liability insurance pool rather than purchasing specific automobile insurance coverage. Consequently, it is difficult to assess the effective cost of insurance on a vehicle-by-vehicle basis. As a conservative estimate, it is assumed that annual insurance costs are 1% of the vehicle purchase price.⁵¹

⁵⁰ US EIA, Annual Energy Outlook 2020, “Table 40. Light-Duty Vehicle Miles per Gallon by Technology Type - Pacific Region”

⁵¹ Per City guidance.

Registration Costs – Vehicle registration fees are calculated based on California Department of Motor Vehicle (DMV) guidelines. A portion of vehicle registration fees is based on the DMV’s estimate of the current market value of the vehicle. Table 35 summarizes the variable fee schedule based on the age of the vehicle. The calculated cost of the variable portion of the registration fee is the percentage of the purchase price for the age of the vehicle in the registration year. A fixed portion of the fee also applies and is currently \$112 for BEVs and \$132 for all other light-duty vehicles.

Table 35. California DMV Vehicle Registration Fee Schedule for Variable Portion of Fee (% of original purchase price)

Age (years)	0	1	2	3	4	5	6	7	8	9	10	11	12
Fee	0.65%	0.59%	0.52%	0.46%	0.39%	0.33%	0.26%	0.20%	0.16%	0.13%	0.10%	0.10%	0.10%

Residual Value – The residual value of the vehicle is calculated using straight-line depreciation over five years for all traditional gasoline and CNG ICE vehicles. Depreciation is calculated over seven years for gasoline powered hybrids, PHEVs, and BEVs per City guidance.

Revenue Opportunities

While fleets typically only present costs to the City, PHEVs and BEVs can generate revenue credits earned through the California Low Carbon Fuel Standard (LCFS) program. These revenue sources partially offset the costs of deploying EVs and are calculated in the TCO model.

Purchase incentives are also assumed to be available to the City through 2023 via the Clean Vehicle Rebate Program (CVRP) at a rate of \$1,000 per PHEV and \$2,000 per BEV. CVRP incentives are calculated in the TCO model as well.

LCFS Credits - The California LCFS program allows fleets to generate credits for the use of low carbon fuels like electricity in transportation applications. One credit is equal to one metric ton of GHG reductions. The number of credits generated by a vehicle depends on the carbon intensity of the electricity supplied, calendar year, and activity of the vehicle. Credit price dependency on calendar year stems from the declining carbon intensity “benchmark” established in the LCFS program. Credit generation is calculated based on the difference between this benchmark and the carbon intensity of the transportation fuel used. Consequently, the number of credits generated per kWh declines approximately ten percent as the benchmark value declines by ten percent between 2020 and 2030. All City fleet facilities currently receive 100% zero-carbon electricity from EBCE. The only leased facility where fleet vehicles are domiciled, the Adult Mental Health Clinic at 1521 University Avenue, is also an EBCE customer.

LCFS credit prices vary and are determined by market demand. The average credit price in 2019 was \$196.⁵² While there is substantial variation in the market price for LCFS credits, credit prices have trended up over the last several years and now sit near the effective price cap of \$219. This price cap is adjusted each year based on the consumer price index using a base price of \$200 in 2016. For purposes of this analysis, it is assumed that the LCFS credit price will continue to be near the price cap through

⁵² California Air Resources Board, Credit Activity Reports.

2030. Hence, the 2019 average price of \$196 is escalated in future years at the average consumer price index increase of 2.2% per year observed between 2016 and 2019.

Infrastructure Costs

Infrastructure costs were developed in the Electrical Needs and Charging Infrastructure and DER Suitability reports. The underlying assumptions and bases for these costs are detailed in the associated reports.

Charging and Associated Infrastructure

EVSE costs include the chargers themselves and the associated facility electrical infrastructure upgrades required to serve the chargers. The cost of BES systems to serve as backup generators in time of grid outages is also included, but detailed separately, as summarized in Table 36. Residual values for both the EVSE and BES systems are calculated based on a 10-year useful life and a construction year of 2021. Residual values use straight line depreciation over the useful life of the equipment. Annual maintenance costs include network services and maintenance by an EVSE service provider. Costs are estimated at \$1,100 per dual-head Level 2 charger and are based on current City contracts for existing EVSE at Center Street Garage, though it should be noted that the City is not bound to contracting with this EVSE provider for future EVSE deployment, and maintenance and service costs vary significantly depending on the provider.⁵³ A single DC fast charger is proposed to be deployed at the Corporation Yard. Maintenance and network costs for DCFCs can vary widely based on site conditions and other factors such as required service response times. Typical maintenance contracts can range from \$2,500 to \$15,000 per charger per year. Additionally, service providers may use complex pricing models that include per-site costs in addition to per-charger costs. For the purposes of this analysis, the maintenance costs for the DCFC are estimated at \$2,500 per charger per year, consistent with a standard maintenance contract that does not include rapid service response times or other special features.

Table 36. EVSE and Related Infrastructure Costs by Facility

Facility Name	Location	Existing EVSE	New EVSE (dual-head L2)	CapEx - EVSE	CapEx-Genset ⁵⁴	Residual Value - EVSE	Residual Value - Genset	Annual Maint. Cost
Corporation Yard	1326 Allston Way	0	5 ⁵⁵	\$354,000	\$487,000	\$35,400	\$48,700	\$6,900
Berkeley Transfer Station	1201 Second Street	0	2	\$87,000	\$34,000	\$8,700	\$3,400	\$2,200
Berkeley Marina	125/127 University Avenue	0	4	\$290,000	\$204,000	\$29,000	\$20,400	\$4,400
	201 University Avenue							

⁵³ Based on Contract 9893B Amendment (Dec 2018) for EVSP services. Average of Y3-Y5 maintenance/network costs. Y1-Y2 include installation costs for new chargers and were therefore excluded.

⁵⁴ Genset refers to a backup generator used to provide power during grid outages.

⁵⁵ 4 Level 2 dual-head chargers and 1 DCFC.

East Bay Community Energy Fleet Electrification

Facility Name	Location	Existing EVSE	New EVSE (dual-head L2)	CapEx - EVSE	CapEx-Genset ⁵⁴	Residual Value - EVSE	Residual Value - Genset	Annual Maint. Cost
	841 Folger Avenue							
Adult Mental Health Clinic	1521 University Avenue	0	3	\$135,000	\$0	\$13,500	\$0	\$3,300
Mental Health Clinic	1890 Alcatraz Avenue	0	1	\$147,000	\$34,000	\$14,700	\$3,400	\$1,100
	3282 Adeline Street							
Center Street Garage	2025 Center Street	29	0	\$0	\$0	\$0	\$0	\$0
Central Library Parking Lot	2031 Bancroft Way	0	1	\$149,000	\$34,000	\$14,900	\$3,400	\$1,100
Public Safety Building	2100 Martin Luther King Jr. Way	0	1	\$42,000	\$0	\$4,200	\$0	\$1,100
Civic Center	2180 Milvia Street	0	1	\$65,000	\$0	\$6,500	\$0	\$1,100
Mental Health Clinic	2636 Martin Luther King Jr. Way	1	0	\$0	\$0	\$0	\$0	\$0
South Berkeley Senior Center	2939 Ellis Street	0	1	\$82,000	\$34,000	\$8,200	\$3,400	\$1,100
North Berkeley Senior Center	1901 Hearst Avenue	1	0	\$0	\$0	\$0	\$0	\$0
Take Home		0	3	\$0	\$0	\$0	\$0	\$0

Solar Photovoltaic Systems

Solar PV system costs are summarized in Table 5. Residual values for solar PV systems are based on the listed construction year. For all locations except Berkeley Transfer Station, the assumed construction year is 2021. Because the Berkeley Transfer Station is currently planned for redevelopment with construction slated for 2026, the construction year for the solar PV system at this facility is also assumed to be 2026. Residual values use straight-line depreciation over the useful life of the equipment, which is assumed to be 20 years.

Table 37. Solar Photovoltaic System Costs by Facility

Facility Name	Location	Construction Year	CapEx	Residual Value
Corporation Yard	1326 Allston Way	2021	\$228,800	\$125,840
Berkeley Marina	125/127 University Avenue	2021	\$332,100	\$182,655
	201 University Avenue			
	841 Folger Avenue			

East Bay Community Energy Fleet Electrification

Facility Name	Location	Construction Year	CapEx	Residual Value
Adult Mental Health Clinic	1521 University Avenue	2021	\$0	\$0
Mental Health Clinic	1890 Alcatraz Avenue	2021	\$0	\$0
	3282 Adeline Street			
Center Street Garage	2025 Center Street	2021	\$0	\$0
Central Library Parking Lot	2031 Bancroft Way	2021	\$75,200	\$41,360
Public Safety Building	2100 Martin Luther King Jr. Way	2021	\$43,200	\$23,760
Civic Center	2180 Milvia Street	2021	\$0	\$0
Mental Health Clinic	2636 Martin Luther King Jr. Way	2021	\$240,400	\$132,220
South Berkeley Senior Center	2939 Ellis Street	2021	\$31,200	\$17,160
North Berkeley Senior Center	1901 Hearst Avenue	2021	\$118,400	\$65,120

Battery Energy Storage Systems

BES system costs are summarized in Table 38. Residual values for BES are based on the listed construction year. For all locations the assumed construction year is 2021. The first generation of BES deployments are assumed to have a five-year useful life, with replacement required five years after the initial construction year.⁵⁶ Second generation deployments are assumed to have a ten-year useful life as battery technology improves. Residual values use straight line depreciation over the useful life of the equipment, which is assumed to be five or ten years, as described above.

Table 38. Battery Energy Storage System Costs by Facility

Facility Name	Location	Construction Year	First Replacement	CapEx	First Replacement Cost	Residual Value
Corporation Yard	1326 Allston Way	2021	2026	\$195,000	\$195,000	\$117,000
Berkeley Transfer Station	1201 Second Street	2026	2031	\$0	\$0	\$0
Berkeley Marina	125/127 University Avenue	2021	2026	\$450,000	\$450,000	\$270,000
	201 University Avenue					
	841 Folger Avenue					
Adult Mental Health Clinic	1521 University Avenue	2021	2026	\$0	\$0	\$0
Mental Health Clinic	1890 Alcatraz Avenue	2021	2026	\$0	\$0	\$0

⁵⁶ Studies indicate 5-to-7-year useful life for current lithium battery technologies at 50% or greater depth of discharge. Casals et al, "Second life batteries lifespan: Rest of useful life and environmental analysis", Journal of Environmental Analysis, Vol 232, February 2019, pgs 354-363. Smith et al, "Life Prediction Model for Grid-Connected Li-ion Battery Energy Storage System" National Renewable Energy Laboratory, presented at 2017 American Control Conference, Seattle, WA, May 24-26, 2017.

East Bay Community Energy Fleet Electrification

Facility Name	Location	Construction Year	First Replacement	CapEx	First Replacement Cost	Residual Value
	3282 Adeline Street					
Center Street Garage	2025 Center Street	2021	2026	\$375,000	\$375,000	\$225,000
Central Library Parking Lot	2031 Bancroft Way	2021	2026	\$0	\$0	\$0
Public Safety Building	2100 Martin Luther King Jr. Way	2021	2026	\$0	\$0	\$0
Civic Center	2180 Milvia St	2021	2026	\$0	\$0	\$0
Mental Health Clinic	2636 Martin Luther King Jr. Way	2021	2026	\$0	\$0	\$0
South Berkeley Senior Center	2939 Ellis Street	2021	2026	\$0	\$0	\$0
North Berkeley Senior Center	1901 Hearst Avenue	2021	2026	\$0	\$0	\$0
Take Home		2021	N/A	\$0	\$0	\$0

TCO Model Results

The TCO model estimates the cost of the Scenario 1 (Baseline), or business as usual, at \$8.34 million over the 2020-2030 analysis period, as shown in Figure 12. Scenario 2 (EV Transition) cost is estimated at \$9.76 million over the same analysis period. The incremental cost of the charging infrastructure (including backup generation) are the primary contributors to the increased cost in this scenario. These costs are partially offset by lower vehicle maintenance costs, incentives, and LCFS program revenues. Additional details are provided in the figures and table below. Scenario 3 adds solar PV systems to Scenario 2 and increases cost by \$170,000. This is due to the offset of most of the additional infrastructure expense through reduced grid electricity costs. Scenario 4 adds BES, resulting in a total cost that is approximately \$3.0 million greater than Scenario 1 (Baseline). This increased cost is the byproduct of the assumption made in prior reports that smart charging (e.g., load management) can effectively avoid electricity demand charges and that the grid acts as energy storage. Under those assumptions BES systems do not provide additional operational cost reductions to offset the incremental costs of BES deployment. However, there may be additional value not quantified in this analysis to the BES systems based on their ability to provide a degree of resiliency to the City's fleet to ensure continuity of service to the community in time of grid outage.

East Bay Community Energy Fleet Electrification

Figure 12. Total Value Summary by Scenario

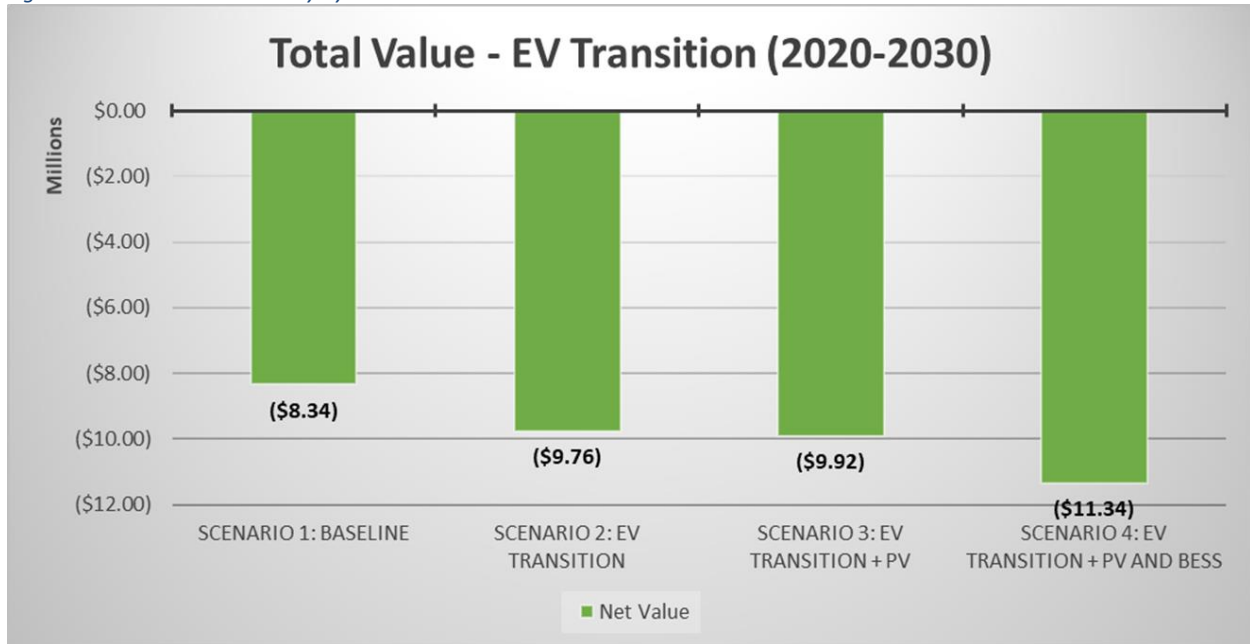


Figure 13 breaks down the major cost components for each scenario. Scenario 1 has the least expenditures, revenue, and residual values. Both Scenario 2 and Scenario 3 have higher upfront expenditures associated with the cost of infrastructure. However, the higher infrastructure costs provide greater residual value, particularly for the solar PV systems that are assumed to have a 20-year useful life. Table 39 further breaks down costs into infrastructure and vehicle categories and the capital and operational cost categories described previously in this report.

Figure 13. Total Value Detail by Scenario

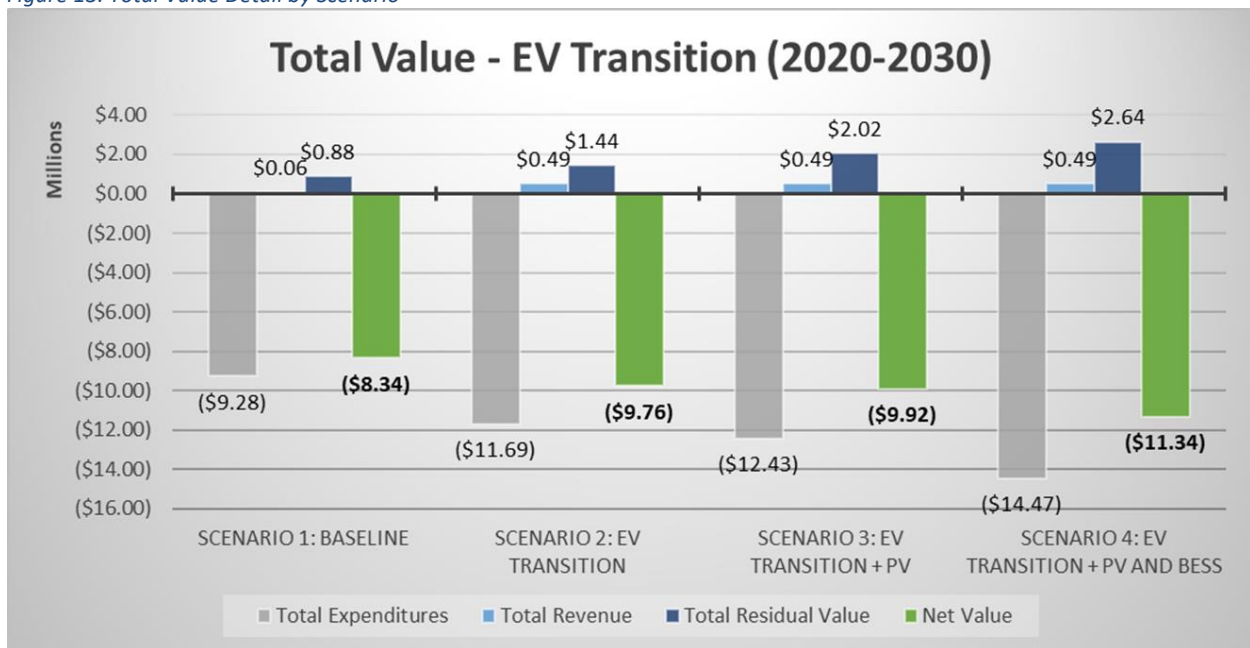


Table 39. TCO Cost Detail

Scenario		Scenario 1 Baseline	Scenario 2 EV Transition	Scenario 3 EV Transition + Solar PV	Scenario 4 EV Transition + Solar PV + BES
Infrastructure	EVSE CapEx	\$0	(\$1,351,000)	(\$1,351,000)	(\$1,351,000)
	EVSE Maintenance	\$0	(\$200,700)	(\$200,700)	(\$200,700)
	EVSE Residual	\$0	\$135,100	\$135,100	\$135,100
	GenSet CapEx	\$0	(\$827,000)	(\$827,000)	(\$827,000)
	GenSet Residual	\$0	\$82,700	\$82,700	\$82,700
	Solar PV CapEx	\$0	\$0	(\$1,069,300)	(\$1,069,300)
	Solar PV Residual	\$0	\$0	\$588,115	\$588,115
	BES CapEx	\$0	\$0	\$0	(\$1,020,000)
	BES First Replacement	\$0	\$0	\$0	(\$1,020,000)
	BES Residual	\$0	\$0	\$0	\$612,000
	Infrastructure Subtotal	\$0	(\$2,160,900)	(\$2,642,085)	(\$4,070,085)
Vehicles	CapEx	(\$4,403,279)	(\$4,737,081)	(\$4,737,081)	(\$4,737,081)
	OpEx	(\$3,278,010)	(\$2,902,697)	(\$2,902,697)	(\$2,902,697)
	Fuel Costs	(\$653,735)	(\$665,212)	(\$337,809)	(\$337,809)
	Insurance	(\$478,279)	(\$532,245)	(\$532,245)	(\$532,245)
	Registration	(\$466,180)	(\$474,370)	(\$474,370)	(\$474,370)
	Specialized Equipment	\$0	\$0	\$0	\$0
	Residual Value	\$875,159	\$1,217,642	\$1,217,642	\$1,217,642
	Incentives	\$0	\$104,000	\$104,000	\$104,000
	LCFS Credits	\$59,692	\$388,924	\$388,924	\$388,924
	Vehicles Subtotal	(\$8,344,632)	(\$7,601,039)	(\$7,273,635)	(\$7,273,635)
	Total	(\$8,344,632)	(\$9,761,939)	(\$9,915,720)	(\$11,343,720)

Greenhouse Gas Emission Projections

GHG emissions and energy consumption metrics for the light-duty fleet are calculated based on projected fuel/electricity use under Scenario 1 and 2 described for the TCO modeling. Metrics are shown for the cumulative 2020-2030 analysis period, as well as the 2030 calendar year. As with the TCO model, activity and emissions are calculated on a vehicle-by-vehicle basis for each calendar year.

GHG Emission Factors

GHG emissions reflect well-to-wheels emissions (emissions associated with the full lifecycle of the fuel including extraction, processing, production, transport, and end use in a vehicle) using emissions factors from the California Air Resources Board's LCFS program. The assumed emission factors are summarized in Table 40. CNG and gasoline values use current LCFS program "lookup table" values for these fuels.⁵⁷ Their values are not assumed to decline over the analysis period. Electricity supplied from the grid uses the California grid average carbon intensity for 2020, but declines each year based on California Energy Commission projections.⁵⁸ Electricity supplied by onsite solar PV systems and/or through EBCE's Brilliant

⁵⁷ <https://ww2.arb.ca.gov/resources/documents/lcfs-pathway-certified-carbon-intensities>

⁵⁸ California Energy Commission, Integrated Energy Policy Report, 2018. Appendix B. Uses emissions reductions based on SB350 through 2029. Future years assume a straight-line decrease from the 2029 value to zero by 2045.

East Bay Community Energy Fleet Electrification

100 electricity service are assumed to have a zero-carbon intensity. Note that all City-owned fleet facilities are served by EBCE. In turn, all City-owned facilities use zero-carbon intensity electricity under Scenario 2, independent of the deployment of additional solar PV and/or BES systems. Additionally, while 1521 University Avenue is a leased facility, it’s also an EBCE Brilliant 100 customer. Table 41 summarizes the assumed fraction of electricity supplied as zero-carbon electricity at each facility. Only electricity supplied to take-home vehicles that are charged at staff residences are assumed to use grid-average electricity.

Table 40. Carbon Intensity Factors (gCO2e/MJ)

Year	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
CNG	79.21	79.21	79.21	79.21	79.21	79.21	79.21	79.21	79.21	79.21	79.21
Gasoline	99.44	99.44	99.44	99.44	99.44	99.44	99.44	99.44	99.44	99.44	99.44
EV (Grid)	82.92	81.63	78.67	74.19	66.88	59.95	55.91	51.28	46.23	40.96	34.02
EV (Zero Carbon)	0	0	0	0	0	0	0	0	0	0	0

Table 41. Assumed Fraction of Electricity for EV Charging Supplied from Zero-carbon Electricity Sources by Facility

Facility Name	Location	% Zero-CI Electricity
Corporation Yard	1326 Allston Way	100%
Berkeley Transfer Station	1201 Second Street	100%
Berkeley Marina	125/127 University Avenue	100%
	201 University Avenue	100%
	841 Folger Avenue	100%
Adult Mental Health Clinic	1521 University Avenue	100%
Mental Health Clinic	1890 Alcatraz Avenue	100%
	3282 Adeline Street	100%
Center Street Garage	2025 Center Street	100%
Central Library Parking Lot	2031 Bancroft Way	100%
Public Safety Building	2100 Martin Luther King Jr. Way	100%
Civic Center	2180 Milvia Street	100%
Mental Health Clinic	2636 Martin Luther King Jr. Way	100%
South Berkeley Senior Center	2939 Ellis Street	100%
North Berkeley Senior Center	1901 Hearst Avenue	100%

Emissions Model Results

Emissions from each vehicle, as detailed in Appendix A, are aggregated to estimate annual GHG emissions for the light-duty fleet considered for EV transition. As shown in Figure 14, emissions under Scenario 1 (Baseline) decline from 56.6 to 43.6 MT CO2e/year by 2030. The 23% decrease in emissions largely comes from increasing fuel efficiency of gasoline and hybrid ICE vehicles. Under Scenario 2 (EV transition), emissions decline from 56.6 to 2.1 MT CO2e/year, **or 95% by 2030**. The significant reduction in annual emissions between 2025 and 2026 are associated with a substantial number of vehicles slated

East Bay Community Energy Fleet Electrification

for replacement in 2026 that would transition from gasoline or gasoline hybrid ICE vehicles to BEVs. This includes the parking enforcement scooters.

Figure 14: Annual GHG Emissions Projections for the City's Light-duty Fleet

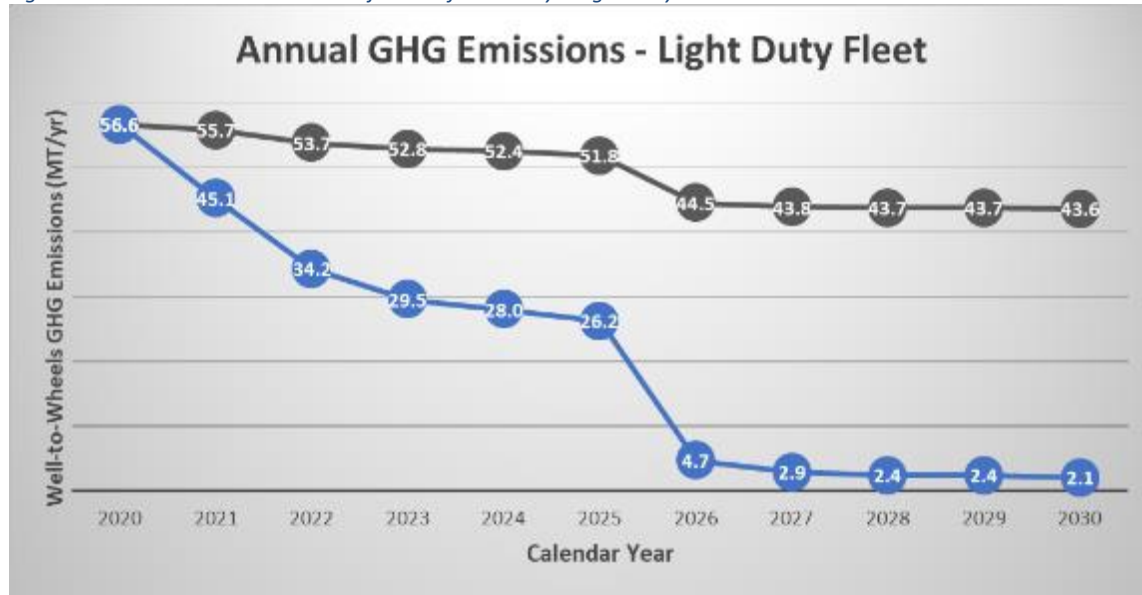


Table 42 and Table 43 summarize mileage, energy consumption, and fleet average emissions for each scenario and the estimated percentage change from Scenario 1 (Baseline) to Scenario 2 (EV Transition). Under Scenario 2 (EV Transition), gasoline and CNG ICE vehicle mileage would decrease by 59% relative to Scenario 1 (Baseline) as it transitions to EV mileage over the 2020-2030 analysis period. In 2030, the annual gasoline and CNG ICE vehicle mileage would be reduced 96% relative to Scenario 1 (Baseline) as most of the miles travelled by these vehicles transition to EV.

Fleet average fuel economy, in miles per gasoline-gallon equivalent (MPGe), increases 38% over the 2020-2030 period and increases by 79% in 2030 relative to the Scenario 1 (Baseline). The few remaining GHG emissions are associated with seven PHEV SUVs that have a portion of their daily mileage powered by gasoline. By 2030, it is likely that SUV BEVs that meet the City’s duty cycles will be available, effectively allowing the City to achieve a 100% reduction in the GHG emissions for the light-duty fleet considered in this analysis.

Table 42. Emissions and Energy Consumption Metrics for the City Fleet from 2020 to 2030

Metric	2020-2030		
	Baseline	EV Transition	% Change
Gasoline/CNG ICE Mileage	4,155,346	1,696,465	-59%
EV Mileage	518,992	2,977,873	474%
Gasoline/CNG Consumption (GGE)	160,362	68,529	-57%
Electricity Consumption (GGE)	8,128	53,439	557%
Fleet Avg MPGe	27.7	38.3	38%
Fleet GHG Emissions (MTCO2e)	542.2	234.1	-57%
Fleet GHG Emissions Rate (gCO2e/mi)	116.0	50.1	-57%

Table 43. Emissions and Energy Consumption Metrics for the City Fleet in 2030

Metric	2030		% Change
	Baseline	EV Transition	
Gasoline/CNG ICE Mileage	374,407	22,713	-94%
EV Mileage	50,533	402,227	696%
Gasoline/CNG Consumption (GGE)	12,888	573	-96%
Electricity Consumption (GGE)	676	7,017	939%
Fleet Avg MPGe	31.3	56.0	79%
Fleet GHG Emissions (MTCO _{2e})	43.6	2.1	-95%
Fleet GHG Emissions Rate (gCO _{2e} /mi)	102.5	4.9	-95%

Appendix E: Recommendations by Domicile: Charging, Solar PV, BES for Light-Duty Fleet EVs

Site #1 Corp Yard

Recommended: Charging stations, solar PV, BES, electrical upgrades

Additional: Structural upgrade to canopy to support solar PV

Site Description

The Corporation Yard (Corp Yard) at 1326 Allston Way is the City of Berkeley’s largest fleet parking facility in terms of number of vehicles domiciled. A total of 137 vehicles including light-, medium-, and heavy-duty vehicles are based here, including most of the City’s specialty vehicles like sweepers, vactors, and mowers. The facility has a gasoline and diesel fueling station and maintenance garage for all fleet vehicle Figure 15 details the different areas of operations within the Corp Yard. Because the focus of this project is to provide charging for the exclusive use of City-owned fleet vehicles, charging station recommendations exclude the employee/visitor parking lot.

Figure 15: Corp Yard Maintenance Building facility details



The main electrical distribution panel is located on the northwest corner of the yard and the sub-panel is located on the north side of the repair workshop. City staff explained that the sub-panel for the repair shop will be upgraded and will accommodate the load for planned EV chargers.

The Corp Yard site has several constraints for DER (chargers, solar PV, BES) design:

- Temporary/portable buildings not suitable for solar PV due to structural concerns.
- Main Barn is a historic structure and not suitable for solar PV due to structural strength of rafters.

East Bay Community Energy Fleet Electrification

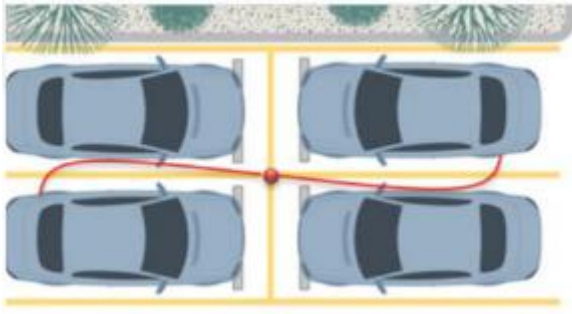
- The parking stalls in the Corp Yard are limited in relation to the number of vehicles domiciled or serviced at this site.
- The vehicle maintenance facility is in the middle of the site, potentially impacting charging infrastructure installation costs.
- Designs for charging, solar PV, and BES need to consider the amount of space that trucks require when navigating the parking lot.
- City staff prefer all conduit to be underground.

Recommendations

The Corp Yard will need multiple types of chargers and charging strategies. To meet the immediate need of replacing all light-duty vehicles with EVs:

- Four dual-head (eight connectors) pedestal-mounted, low-power (7.2 kW) Level 2 chargers in a central location between Buildings A and G, installing the chargers in the center of a block of parking spots as illustrated in Figure 16.
- One DC Fast Charger to accommodate the charging needs for the vehicles that come in for repair and provide flexibility for a broader range of EVs that will be serviced in the future.
- New electrical service will be required to support this charging equipment. The total demand on each circuit is 3,328 V using a 40A breaker that outputs 6,656 VA per charger using a 40A 2-pole breaker. There is also 50 VA added for gateway. The total Level 2 charger load is: $6,656 * 8 + 50 = 53.3$ kVA which requires 148A (200 A) of ampacity. DCFCs need 63.5 kVA which requires 156A (200 A breaker). The total DCFC load is 116.8 kVA, which requires 141A. The main breaker should be 300A. A step-down transformer rated 75kVA (480-208/120) will be required for the Level 2 chargers.

Figure 16: Conceptual Charger Layout (Source: VELOZ)



- The Corp Yard is suitable for up seven rooftop solar PV arrays and two parking lot arrays, which would produce 358 kWh/day, which exceeds the estimated energy demand to charge light-duty vehicles. Extra capacity could be available to serve the charging needs of medium- and heavy-duty equipment as they are added to the fleet.
- A 112 kWh BES to provide resiliency for fleet charging and help avoid demand charges.

East Bay Community Energy Fleet Electrification

Figure 17 shows potential locations for solar arrays. The suggested combinations to meet fleet EV needs are Arrays D + E + Yard Parking totaling 52.7 kW. Array D will replace the existing 19 kW system that is approximately 15 years old, which will improve the generation potential of this location.⁵⁹

Array E is the canopy of the existing gasoline and diesel fuel island and a new canopy will need to be constructed to support the weight of the PV array. Cost estimates do not include the fuel island canopy construction, or structural components. Constructing this canopy may present an opportunity to add DC Fast Charging or a charger dedicated to medium- and heavy-duty vehicles to the fueling island.

Figure 17: Potential locations for Solar PV Arrays



Solar PV Siting and Generation Potential - Corp Yard

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
A	2,252	804	45	13.5	11.2	18,564
B	1,512	465	26	7.8	6.5	8,753
C	2,631	858	48	14.3	11.9	19,727

⁵⁹ This replacement scope of work proposed to the City in January 2020 by Sun Light & Power.

East Bay Community Energy Fleet Electrification

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
D	3,360	1,519	85	30.6	25.4	41,399
E	2,400	965	54	16.1	13.4	21,782
Public Parking	6,480	1,430	80	23.9	19.1	32,334
Yard Parking	1,620	358	20	6.0	5.0	8,117
Total	20,276	5,809	325	97.2	77.8	130,768

Recommended Solar PV Arrays to Meet EV Charging Needs - Corp Yard

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
D	3,360	1,519	85	30.6	25.4	41,399
E	2,400	965	54	16.1	13.4	21,782
Yard Parking	1,620	358	20	6.0	5.0	8,117
Total	7,380	2,842	159	52.7	43.8	71,298

Value of Solar PV to Battery Energy Storage for EV Charging: B-10SX- Brilliant 100 Rate - Corp Yard

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	14.3	1,648	\$192	\$252	\$444	\$0.27
2	17.5	2,043	\$235	\$307	\$543	\$0.27
3	20.5	3,375	\$276	\$414	\$690	\$0.20
4	22.3	4,304	\$299	\$527	\$826	\$0.19
5	23.7	5,050	\$318	\$606	\$924	\$0.18
6	23.8	5,392	\$320	\$1,029	\$1,348	\$0.25
7	23.3	5,062	\$313	\$967	\$1,280	\$0.25
8	22.1	4,453	\$296	\$848	\$1,144	\$0.26
9	20.5	3,686	\$275	\$686	\$961	\$0.26
10	18.2	2,819	\$244	\$429	\$673	\$0.24
11	14.9	1,856	\$200	\$287	\$487	\$0.26
12	12.5	1,461	\$167	\$227	\$394	\$0.27
Total		41,149			\$9,715	\$0.24

East Bay Community Energy Fleet Electrification

Value of Solar PV to Building: B-10SX- Brilliant 100 Rate - Corp Yard

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	10.5	1,207	\$141	\$185	\$326	\$0.27
2	12.8	1,497	\$172	\$225	\$398	\$0.27
3	15.1	2,473	\$202	\$304	\$505	\$0.20
4	16.3	3,154	\$219	\$386	\$605	\$0.19
5	17.4	3,700	\$233	\$444	\$677	\$0.18
6	17.5	3,950	\$234	\$754	\$988	\$0.25
7	17.1	3,709	\$229	\$708	\$938	\$0.25
8	16.2	3,263	\$217	\$622	\$838	\$0.26
9	15.0	2,701	\$201	\$503	\$704	\$0.26
10	13.3	2,065	\$179	\$314	\$493	\$0.24
11	10.9	1,360	\$146	\$211	\$357	\$0.26
12	9.1	1,070	\$123	\$166	\$289	\$0.27
Total		30,149			\$7,118	\$0.24

Cost of EV Charging: B-10SX- Brilliant 100 Rate - Corp Yard

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	13.9	3,495	\$0	\$464	\$464	\$0.13
2	13.9	3,157	\$0	\$419	\$419	\$0.13
3	13.9	3,495	\$0	\$464	\$464	\$0.13
4	13.9	3,382	\$0	\$449	\$449	\$0.13
5	13.9	3,495	\$0	\$464	\$464	\$0.13
6	13.9	3,382	\$0	\$648	\$648	\$0.19
7	13.9	3,495	\$0	\$670	\$670	\$0.19
8	13.9	3,495	\$0	\$670	\$670	\$0.19
9	13.9	3,382	\$0	\$648	\$648	\$0.19
10	13.9	3,495	\$0	\$464	\$464	\$0.13
11	13.9	3,382	\$0	\$449	\$449	\$0.13
12	13.9	3,495	\$0	\$464	\$464	\$0.13
Total		41,149			\$6,272	\$0.15

Site #2 Berkeley Transfer Station

Recommended: Charging stations for light-duty fleet; solar PV during 2026 rehabilitation

Additional: Charging for BEV refuse trucks when those trucks are viable for City needs

Site Description

The Berkeley Transfer Station is at 1201 Second St., shown in Figure 18 is being redeveloped with construction is expected to start mid-2026. The Solid Waste & Recycling Transfer Station Feasibility Study concepts⁶⁰ for facility replacement included infrastructure to support the electrification of the Zero Waste collection fleet as that technology becomes viable.

In the nearer term, five light-duty vehicles domicile at the Berkeley Transfer Station. A sub-panel rated at 100A will be available to EV chargers once the existing trailer on the facility is removed, however 60A of the capacity is reserved for an electric forklift.

Figure 18: Berkeley Transfer Station Facility Details



⁶⁰ presented at a November 2019 City Council Work Session

Recommendations

To meet the immediate need of transitioning light-duty vehicles to EVs and consideration that the site will be redeveloped:

- Two dual-head (two connectors) wall- or pedestal-mounted, low-power (7.2 kW) Level 2 chargers
- A third-party load management system to share the 40A of electrical capacity among the four connectors.
- Solar PV during rehabilitation in 2026.

Table 33. Cost of EV Charging on B-10SX-Brilliant 100 Rate - Berkeley Transfer Station

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	11.5	1,539	\$0	\$234	\$234	\$0.23
2	11.5	1,390	\$0	\$211	\$211	\$0.23
3	11.5	1,539	\$0	\$234	\$234	\$0.23
4	11.5	1,489	\$0	\$226	\$226	\$0.23
5	11.5	1,539	\$0	\$234	\$234	\$0.23
6	11.5	1,489	\$0	\$264	\$264	\$0.27
7	11.5	1,539	\$0	\$273	\$273	\$0.27
8	11.5	1,539	\$0	\$273	\$273	\$0.27
9	11.5	1,489	\$0	\$264	\$264	\$0.27
10	11.5	1,539	\$0	\$234	\$234	\$0.23
11	11.5	1,489	\$0	\$226	\$226	\$0.23
12	11.5	1,539	\$0	\$234	\$234	\$0.23
Total		18,119			\$2,906	\$0.25

East Bay Community Energy Fleet Electrification

Site #3 Berkeley Marina (125/127 University Avenue)

Recommended: Charging stations for light-duty fleet and BES

Additional: Solar PV is already planned for this location

Site Description

This facility is being reconfigured into two different zones: one for public parking and one for fleet vehicles with dedicated parking stalls for vehicles used for traffic and parking control, Police Department, and marina maintenance. Figure 19 shows the aerial view of the facility with the fenced/hatched area on the drawing indicating the dedicated fleet parking stalls and areas identified probable for solar PV arrays. An existing dual-head charger for public use is installed on the east end of the 125/127 University building. Combined solar PV generation capacity of 58 kW AC is higher than the building peak demand; however, all the energy is directed to vehicle charging. No energy from the solar PV and BES remains for building use

As a conservative measure, daily energy needs were calculated for BEVs instead of 33 BEV parking scooters. If the City procures BEV scooters, the recommended chargers can charge the scooters and have additional capacity for other fleet vehicles.

Figure 19: Berkeley Marian Ariel View



Recommendations

To meet the near-term needs of light-duty, non-emergency vehicles and parking enforcement vehicles:

- Four dual-head (eight connectors) Level 2 chargers. Most vehicles will likely not need to charge every day, but staff will need to reposition vehicles during charging sessions.
 - A portion of the EVs could be charged using a mobile charger, which would avoid the need to reposition vehicles for charging and eliminate the costs of upgrading the electrical service.
- New electrical service with a 200A main breaker to accommodate the estimated charging loads and capacity for an additional single-head charger. The total demand on each circuit is 3,328 V using a 40A breaker which outputs 6,656 VA for a charger using a 40A two-pole breaker. With 50 VA added for gateway, the total Level 2 charger load is: $6,656 \times 8 + 50 = 53.3\text{kVA}$, which requires 148A.
- One 75 kW/300 kWh BES to offset the long-term needs of vehicle charging and maximize the solar PV already planned for this location.

East Bay Community Energy Fleet Electrification

Solar PV Siting and Generation Potential – Berkeley Marina

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
A	7,200	3,218	180	53.8	44.7	83,172
Parking	4,536	1,001	56	16.7	13.4	25,449
Total	11,736	4,219	236	70.5	58.0	108,571

Value of Solar PV to Battery Electric Storage for EV Charging on B-1X- Brilliant 100 Rate - Berkeley Marina

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	47.1	5,532	\$0	\$1,279	\$1,279	\$0.23
2	53.0	6,436	\$0	\$1,489	\$1,489	\$0.23
3	57.3	9,421	\$0	\$2,087	\$2,087	\$0.22
4	58.7	10,811	\$0	\$2,400	\$2,400	\$0.22
5	58.2	11,823	\$0	\$2,632	\$2,632	\$0.22
6	57.6	12,299	\$0	\$3,234	\$3,234	\$0.26
7	56.7	11,786	\$0	\$3,101	\$3,101	\$0.26
8	56.6	10,954	\$0	\$2,882	\$2,882	\$0.26
9	54.4	9,593	\$0	\$2,500	\$2,500	\$0.26
10	52.2	8,760	\$0	\$2,026	\$2,026	\$0.23
11	47.5	6,247	\$0	\$1,443	\$1,443	\$0.23
12	43.9	4,960	\$0	\$1,146	\$1,146	\$0.23
Total		108,571			\$26,219	\$0.24

Value of Solar PV to Building: B-1X- Brilliant 100 Rate - Berkeley Marina

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
No additional value to the building						

Cost of EV Charging: B-1X- Brilliant 100 Rate - Berkeley Marina

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	25.8	9,267	\$0	\$2,175	\$2,175	\$0.23
2	25.8	8,370	\$0	\$1,964	\$1,964	\$0.23
3	25.8	9,267	\$0	\$2,175	\$2,175	\$0.23
4	25.8	8,968	\$0	\$2,105	\$2,105	\$0.23
5	25.8	9,267	\$0	\$2,175	\$2,175	\$0.23
6	25.8	8,968	\$0	\$2,446	\$2,446	\$0.27
7	25.8	9,267	\$0	\$2,527	\$2,527	\$0.27
8	25.8	9,267	\$0	\$2,527	\$2,527	\$0.27
9	25.8	8,968	\$0	\$2,446	\$2,446	\$0.27
10	25.8	9,267	\$0	\$2,175	\$2,175	\$0.23

East Bay Community Energy Fleet Electrification

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
11	25.8	8,968	\$0	\$2,105	\$2,105	\$0.23
12	25.8	9,267	\$0	\$2,175	\$2,175	\$0.23
Total		109,109			\$26,994	\$0.25

East Bay Community Energy Fleet Electrification

Site #4 Adult Mental Health Clinic

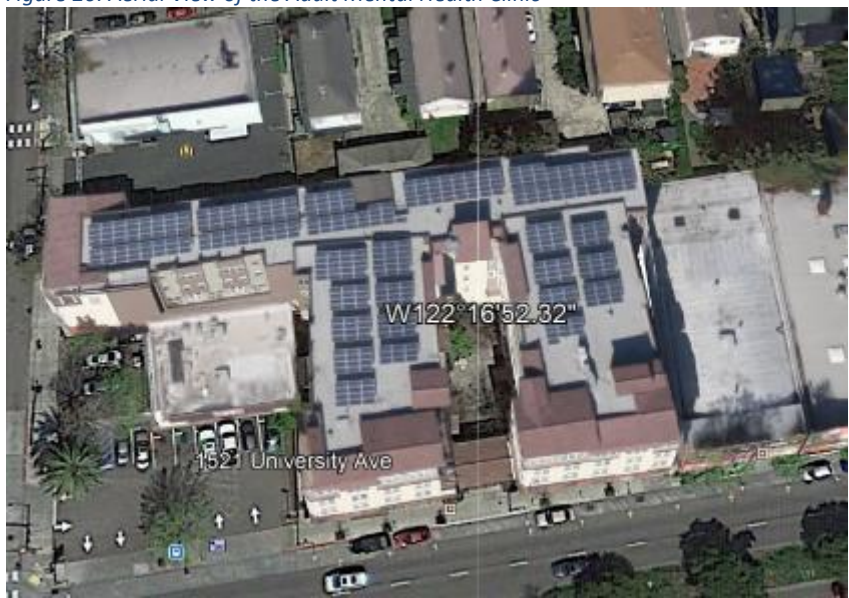
Recommended: Charging stations or mobile charging for light-duty fleet

Additional: Solar PV is already installed at this leased location

Site Description

The Adult Mental Health Clinic is located at 1521 University Avenue and shown in Figure 20. Currently, 13 light-duty vehicles are domiciled at this location.

Figure 20: Aerial View of the Adult Mental Health Clinic



Recommendations

This site is not owned by the City and requires an upgrade to the electrical service. If the landlord agrees to EV charging at this facility, the recommendation is:

- Three dual-head Level 2 chargers (six connectors) to be shared by all vehicles.
- A new electrical service with a main breaker rated at a minimum of 200A to accommodate the current charging loads and a future single-head charger can be installed, if needed.
 - A back-up option would be to use three mobile chargers.

This site has no future solar PV potential and does not have physical area for a BES system.

Cost of EV Charging on B-1X Rate - Adult Mental Health Clinic

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	15.2	4,859	\$0	\$1,138	\$1,138	\$0.23
2	15.2	4,389	\$0	\$1,028	\$1,028	\$0.23
3	15.2	4,859	\$0	\$1,138	\$1,138	\$0.23
4	15.2	4,702	\$0	\$1,102	\$1,102	\$0.23
5	15.2	4,859	\$0	\$1,138	\$1,138	\$0.23
6	15.2	4,702	\$0	\$1,272	\$1,272	\$0.27

East Bay Community Energy Fleet Electrification

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
7	15.2	4,859	\$0	\$1,315	\$1,315	\$0.27
8	15.2	4,859	\$0	\$1,315	\$1,315	\$0.27
9	15.2	4,702	\$0	\$1,272	\$1,272	\$0.27
10	15.2	4,859	\$0	\$1,138	\$1,138	\$0.23
11	15.2	4,702	\$0	\$1,102	\$1,102	\$0.23
12	15.2	4,859	\$0	\$1,138	\$1,138	\$0.23
Total		57,212			\$14,098	\$0.25

Site #5 Mental Health Clinic

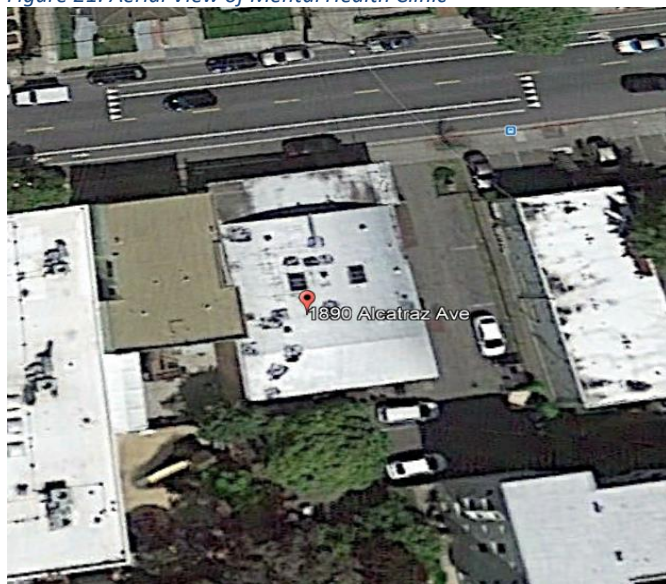
Recommended: Charging stations light-duty fleet

Additional: Relocate vehicles domiciles at Drop-in Center to Mental Health Clinic

Site Description

The mental health clinic is located at 1890 Alcatraz Ave, shown in Figure 21, and a Drop-in Center is located nearby at 3282 Adeline St. Currently, three light-duty vehicles are domiciled at each location, for a total of six vehicles. 3282 Adeline is a leased facility and is not suitable for investment in charging infrastructure. The building has a domed roof that will not accommodate solar PV and does not have enough physical space for a BES system.

Figure 21: Aerial View of Mental Health Clinic



Recommendations

To meet the near-term needs of fleet EVs:

- One dual-head Level 2 charger at 1890 Alcatraz that all six light-duty vehicles share
- New electrical service with a main breaker rated at a minimum of 60A.
 - A new service with 100A main would accommodate the charging loads, and a potential additional dual-head Level 2 charger could be installed in the future, if needed.
 - This site could also be served with a portable charging option, as described for the Adult Mental Health Clinic site.

Cost of EV Charging: B-1X- Brilliant 100 Rate - Adult Mental Health Clinic

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	3.0	1,032	\$0	\$242	\$242	\$0.23
2	3.0	932	\$0	\$218	\$218	\$0.23
3	3.0	1,032	\$0	\$242	\$242	\$0.23

East Bay Community Energy Fleet Electrification

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
4	3.0	999	\$0	\$234	\$234	\$0.23
5	3.0	1,032	\$0	\$242	\$242	\$0.23
6	3.0	999	\$0	\$270	\$270	\$0.27
7	3.0	1,032	\$0	\$279	\$279	\$0.27
8	3.0	1,032	\$0	\$279	\$279	\$0.27
9	3.0	999	\$0	\$270	\$270	\$0.27
10	3.0	1,032	\$0	\$242	\$242	\$0.23
11	3.0	999	\$0	\$234	\$234	\$0.23
12	3.0	1,032	\$0	\$242	\$242	\$0.23
Total		12,149			\$2,993	\$0.25

East Bay Community Energy Fleet Electrification

Site #6 Center Street Garage

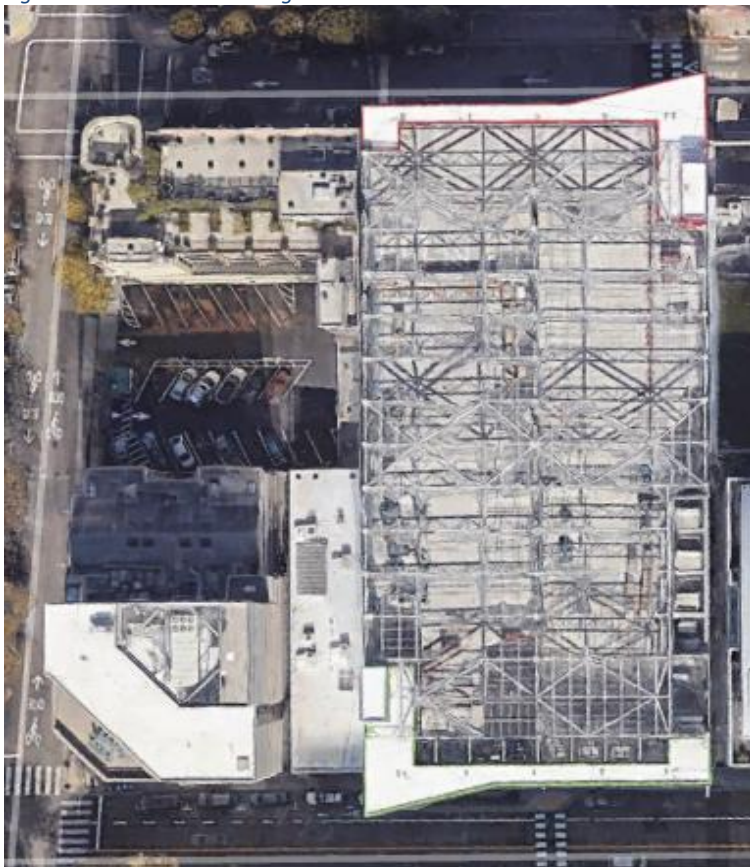
Recommended: BES

Additional: Load management system for existing charging stations

Site Description

The Center Street Garage an eight-level public parking garage at 2025 Center St. Thirty-seven light-duty fleet vehicles are domiciled here and it is the main parking facility for City Hall employees and visitors and is used daily by the general public. Currently, 29 EV chargers with a total of 57 connectors are installed and accessible to City employees and the public in addition to fleet vehicles. The main distribution assembly panel for this facility is located on the ground floor. The roof of the garage has an existing solar PV array that is owned by the City. Figure 22 is an aerial view of the Center Street Garage.

Figure 22 Center Street Garage aerial view



Recommendations

The Center Street Garage has existing charger capacity for current and anticipated charging demand. Load management could be used to satisfy future electrical load growth if charging demand exceeds the facility's electrical capacity in the future.

One 63 kW / 250 kWh BES system will increase resiliency and help to avoid peak demand changes from EV charging.

East Bay Community Energy Fleet Electrification

Solar PV Siting and Generation Potential - Center Street Garage

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
Existing	n/a	n/a	414	113.9	91.1	172,153
Total	0	0	414	113.9	91.1	172,153

Note: Performance calculated assuming 275 W DC/panel, and performance assumptions from other modeling results.

Value of Solar PV to Battery Electric Storage for EV Charging: B-19S-Bright Choice Rate – Center Street Garage

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	38.6	4,541	\$847	\$524	\$1,371	\$0.30
2	45.1	5,200	\$995	\$601	\$1,596	\$0.31
3	47.2	8,045	\$1,046	\$1,100	\$2,146	\$0.27
4	47.3	9,037	\$1,050	\$1,231	\$2,280	\$0.25
5	47.6	9,706	\$1,059	\$1,316	\$2,375	\$0.24
6	47.6	10,260	\$1,813	\$1,263	\$3,076	\$0.30
7	45.6	9,918	\$1,756	\$1,225	\$2,981	\$0.30
8	46.1	9,383	\$1,744	\$1,156	\$2,899	\$0.31
9	46.2	8,007	\$1,655	\$970	\$2,625	\$0.33
10	41.3	7,053	\$906	\$814	\$1,720	\$0.24
11	38.2	5,340	\$828	\$614	\$1,442	\$0.27
12	36.2	3,960	\$785	\$455	\$1,240	\$0.31
Total		90,451			\$25,752	\$0.28

Value of Solar PV to Building: B-19S-Bright Choice Rate – Center Street Garage

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	75.4	8,880	\$1,656	\$1,024	\$2,681	\$0.30
2	88.1	10,168	\$1,945	\$1,176	\$3,121	\$0.31
3	92.4	15,733	\$2,045	\$2,151	\$4,196	\$0.27
4	92.5	17,672	\$2,053	\$2,407	\$4,460	\$0.25
5	93.1	18,981	\$2,070	\$2,574	\$4,644	\$0.24
6	93.1	20,064	\$3,545	\$2,471	\$6,016	\$0.30
7	89.2	19,395	\$3,435	\$2,396	\$5,830	\$0.30
8	90.2	18,349	\$3,410	\$2,260	\$5,670	\$0.31
9	90.3	15,658	\$3,237	\$1,897	\$5,134	\$0.33
10	80.7	13,793	\$1,772	\$1,591	\$3,363	\$0.24
11	74.7	10,443	\$1,619	\$1,200	\$2,819	\$0.27
12	70.8	7,745	\$1,536	\$889	\$2,425	\$0.31
Total		176,880			\$50,358	\$0.28

East Bay Community Energy Fleet Electrification

Cost of EV Charging: B-19S-Bright Choice Rate – Center Street Garage

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	24.5	7,682	\$552	\$923	\$1,475	\$0.19
2	24.5	6,939	\$552	\$834	\$1,386	\$0.20
3	24.5	7,682	\$552	\$923	\$1,475	\$0.19
4	24.5	7,434	\$552	\$894	\$1,445	\$0.19
5	24.5	7,682	\$552	\$923	\$1,475	\$0.19
6	24.5	7,434	\$995	\$938	\$1,934	\$0.26
7	24.5	7,682	\$995	\$970	\$1,965	\$0.26
8	24.5	7,682	\$995	\$970	\$1,965	\$0.26
9	24.5	7,434	\$995	\$938	\$1,934	\$0.26
10	24.5	7,682	\$552	\$923	\$1,475	\$0.19
11	24.5	7,434	\$552	\$894	\$1,445	\$0.19
12	24.5	7,682	\$552	\$923	\$1,475	\$0.19
Total		90,451			\$19,449	\$0.22

Site #7 Central Library Parking Lot

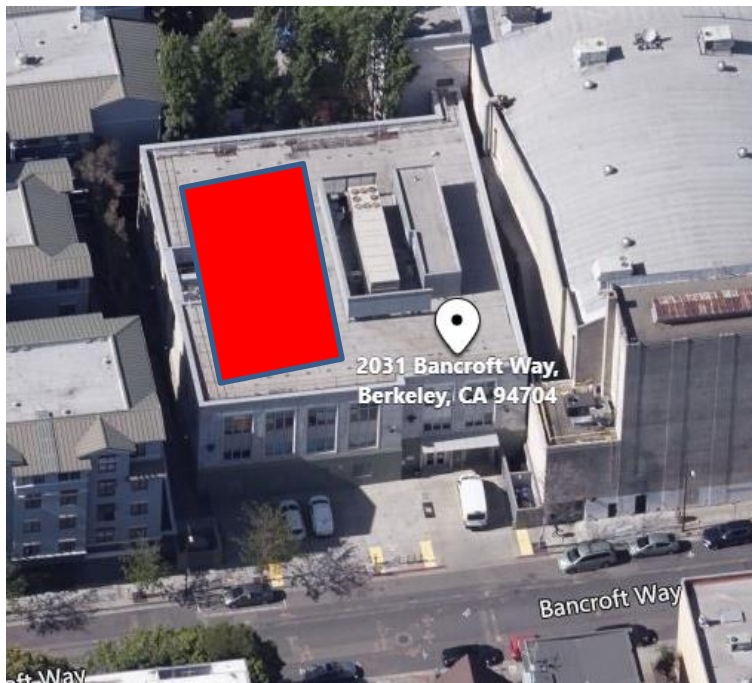
Recommended: Charging, solar PV

Additional: Potential for assigned vehicles to use other charging stations or plug in to a wall outlet

Site Description

The Central Library is located at 2031 Bancroft Way, as shown in Figure 23. Only one light-duty vehicle is parked at this location. No public EV parking is planned for this site. Available area provides substantially more solar PV potential required to offset EV fleet charging needs. If solar PV is deployed for fleet support only, BES is not recommended due to small system size.

Figure 23: Aerial View of the Central Library



Recommendations

To meet the near-term needs of light-duty fleet vehicles:

- One dual-head Level 2 charger is recommended at this facility.
- New electrical service with a main breaker rated minimum of 60A.
 - A 100A main would accommodate a potential future additional charger (one dual-head Level 2), if needed.

Optionally, the single vehicle at this site could charge using the DCFC recommended for the Corp Yard, at available Level 2 chargers at other City facilities or at nearby public charging or charge onsite using an outdoor wall outlet (Level 1 charging), or a combination of these options. Solar PV would not be needed for EV charging but could provide benefit to the building electrical load.

East Bay Community Energy Fleet Electrification

Solar PV Siting and Generation Potential – Central Library Parking

Array Location	Gross Area Identified (SF)	Array Area (SF)	Number of PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
A	3,060	1,126	63	18.8	15.0	25,908
Total	3,060	1,126	63	18.8	15.0	25,908

Value of Solar PV to Battery Electric Storage for EV Charging: B-10SX-Brilliant 100 Rate - Central Library Parking Lot

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	0.4	49	\$6	\$7	\$13	\$0.27
2	0.5	62	\$7	\$9	\$17	\$0.27
3	0.6	105	\$8	\$13	\$21	\$0.20
4	0.7	126	\$9	\$15	\$24	\$0.19
5	0.7	145	\$9	\$18	\$27	\$0.18
6	0.7	163	\$10	\$31	\$41	\$0.25
7	0.7	156	\$9	\$30	\$39	\$0.25
8	0.7	138	\$9	\$26	\$35	\$0.25
9	0.6	109	\$8	\$20	\$29	\$0.26
10	0.5	83	\$7	\$13	\$20	\$0.24
11	0.4	55	\$6	\$9	\$14	\$0.26
12	0.4	42	\$5	\$7	\$12	\$0.27
Total		1,234			\$291	\$0.24

Value of Solar PV to Building: A-10SX-Brilliant 100 Rate - Central Library Parking Lot

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	8.4	975	\$113	\$149	\$262	\$0.27
2	11.0	1,235	\$147	\$186	\$333	\$0.27
3	12.1	2,108	\$163	\$259	\$422	\$0.20
4	13.4	2,523	\$179	\$309	\$488	\$0.19
5	13.8	2,906	\$185	\$352	\$537	\$0.18
6	14.2	3,253	\$191	\$621	\$812	\$0.25
7	14.0	3,126	\$188	\$599	\$787	\$0.25
8	13.2	2,753	\$178	\$523	\$701	\$0.25
9	12.5	2,184	\$168	\$405	\$573	\$0.26
10	10.8	1,653	\$146	\$252	\$397	\$0.24
11	8.4	1,109	\$113	\$172	\$284	\$0.26
12	7.4	848	\$100	\$132	\$231	\$0.27
Total		24,674			\$5,828	\$0.24

East Bay Community Energy Fleet Electrification

Cost of EV Charging: B-10SX-Brilliant 100 Rate - Central Library Parking Lot

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	0.8	105	\$0	\$16	\$16	\$0.16
2	0.8	95	\$0	\$15	\$15	\$0.16
3	0.8	105	\$0	\$16	\$16	\$0.16
4	0.8	101	\$0	\$16	\$16	\$0.16
5	0.8	105	\$0	\$16	\$16	\$0.16
6	0.8	101	\$0	\$18	\$18	\$0.17
7	0.8	105	\$0	\$18	\$18	\$0.17
8	0.8	105	\$0	\$18	\$18	\$0.17
9	0.8	101	\$0	\$18	\$18	\$0.17
10	0.8	105	\$0	\$16	\$16	\$0.16
11	0.8	101	\$0	\$16	\$16	\$0.16
12	0.8	105	\$0	\$16	\$16	\$0.16
Total		1,234			\$200	\$0.16

East Bay Community Energy Fleet Electrification

Site #8 Public Safety Building

Site Description

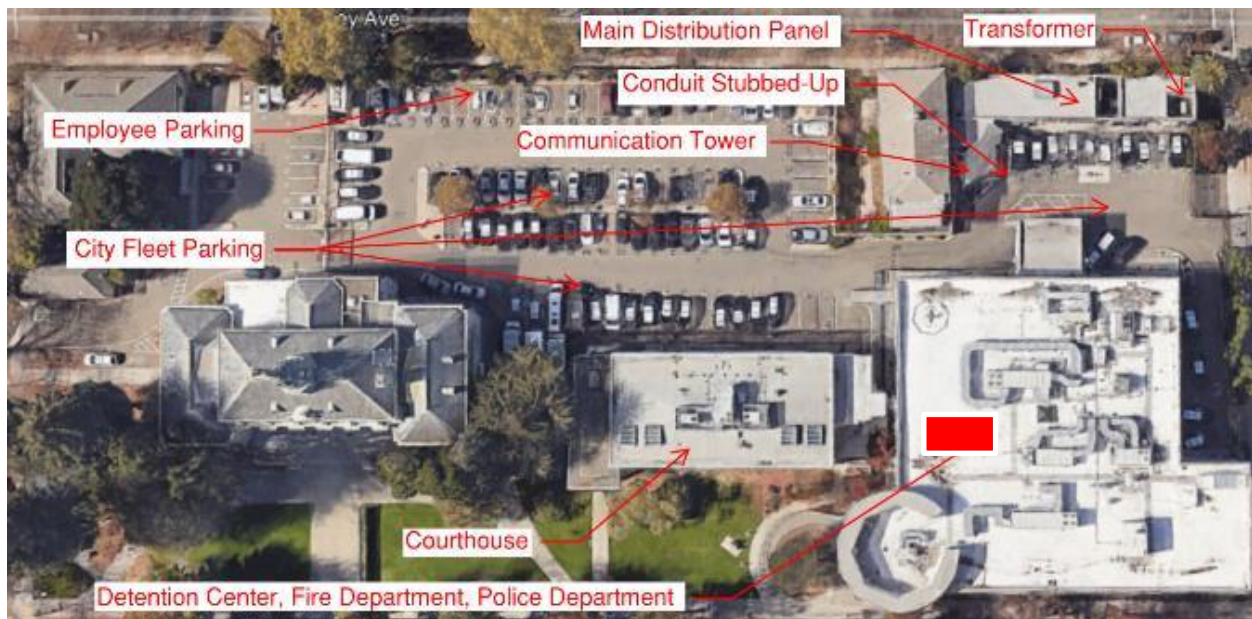
Recommended: Charging, solar PV

Additional: Additional charging potentially needed as police patrol/pursuit vehicles become available near the end of the decade.

The Public Safety Building is located on 2100 Martin Luther King Jr Way. The main fleet parking is in the center of the facility. The westernmost row is assigned to employee parking. Parking stalls in the middle are assigned to the Police Department and other City fleets for a total of 79 vehicles, many of which are emergency vehicles and are unlikely to transition to EVs before 2030. An additional 12 parking stalls are on the north side of the Communication Tower building. Currently, two non-emergency light-duty vehicles domicile here.

Figure 24 Public Safety Building facility details shows the different areas of operations and locations of electrical power infrastructure within the Public Safety Building site. Space for solar PV arrays is limited; location A is still available, but other mechanical equipment has been added to roof since this photo. The parking lot is highly shaded and not effective for solar PV.

Figure 24 Public Safety Building facility details



This facility is equipped with a spare 70-Amp, 3-pole 480Y/277V breaker and in-ground junction boxes for future EV charging. Access to the underground boring, trenching, and repaving could be a concern as other buried conduit essential for public safety operations could be in the vicinity.

Recommendations

To meet the near-term needs of light-duty, non-emergency vehicles:

- One dual-head higher-power Level 2 charger is appropriate to charge the existing vehicles and be prepared for anticipated expansion of the EV fleet.

East Bay Community Energy Fleet Electrification

Solar PV Siting and Generation Potential - Public Safety Building

Solar PV Array Location	Gross Area Identified (SF)	Array Area (SF)	Number of PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
A	1,925	644	36	10.8	8.6	14,883
Total	1,925	644	36	10.8	8.6	14,883

Value of Solar PV to Battery Electric Storage for EV Charging on B-19S-Brilliant 100 Rate – Public Safety Building

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	2.2	249	\$47	\$29	\$76	\$0.30
2	2.8	316	\$62	\$36	\$98	\$0.31
3	3.1	539	\$69	\$74	\$142	\$0.26
4	3.4	645	\$76	\$88	\$164	\$0.25
5	3.5	743	\$79	\$100	\$179	\$0.24
6	3.6	831	\$145	\$103	\$248	\$0.30
7	3.6	799	\$144	\$99	\$244	\$0.31
8	3.4	704	\$134	\$87	\$221	\$0.31
9	3.2	558	\$116	\$68	\$184	\$0.33
10	2.8	423	\$61	\$49	\$109	\$0.26
11	2.1	283	\$46	\$32	\$79	\$0.28
12	1.9	217	\$41	\$25	\$66	\$0.30
Total		6,306			\$1,809	\$0.29

Value of Solar PV to Building: B-19S-Brilliant 100 Rate – Public Safety Building

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	2.9	339	\$64	\$39	\$103	\$0.30
2	3.8	429	\$84	\$50	\$133	\$0.31
3	4.2	733	\$94	\$100	\$194	\$0.26
4	4.6	877	\$103	\$119	\$223	\$0.25
5	4.8	1,010	\$107	\$136	\$244	\$0.24
6	4.9	1,131	\$197	\$140	\$337	\$0.30
7	4.9	1,087	\$196	\$135	\$332	\$0.31
8	4.6	957	\$182	\$118	\$300	\$0.31
9	4.4	759	\$158	\$92	\$250	\$0.33
10	3.8	575	\$82	\$66	\$149	\$0.26
11	2.9	385	\$63	\$44	\$107	\$0.28
12	2.6	295	\$56	\$34	\$89	\$0.30
Total		8,577			\$2,460	\$0.29

East Bay Community Energy Fleet Electrification

Cost of EV Charging on B-19S-Brilliant 100 Rate – Public Safety Building

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	4.1	513	\$0	\$59	\$59	\$0.11
2	4.1	463	\$0	\$53	\$53	\$0.11
3	4.1	513	\$0	\$59	\$59	\$0.11
4	4.1	496	\$0	\$57	\$57	\$0.11
5	4.1	513	\$0	\$59	\$59	\$0.11
6	4.1	496	\$0	\$57	\$57	\$0.11
7	4.1	513	\$0	\$59	\$59	\$0.11
8	4.1	513	\$0	\$59	\$59	\$0.11
9	4.1	496	\$0	\$57	\$57	\$0.11
10	4.1	513	\$0	\$59	\$59	\$0.11
11	4.1	496	\$0	\$57	\$57	\$0.11
12	4.1	513	\$0	\$59	\$59	\$0.11
Total		6,036			\$690	\$0.11

East Bay Community Energy Fleet Electrification

Site #9 Civic Center (City Hall)

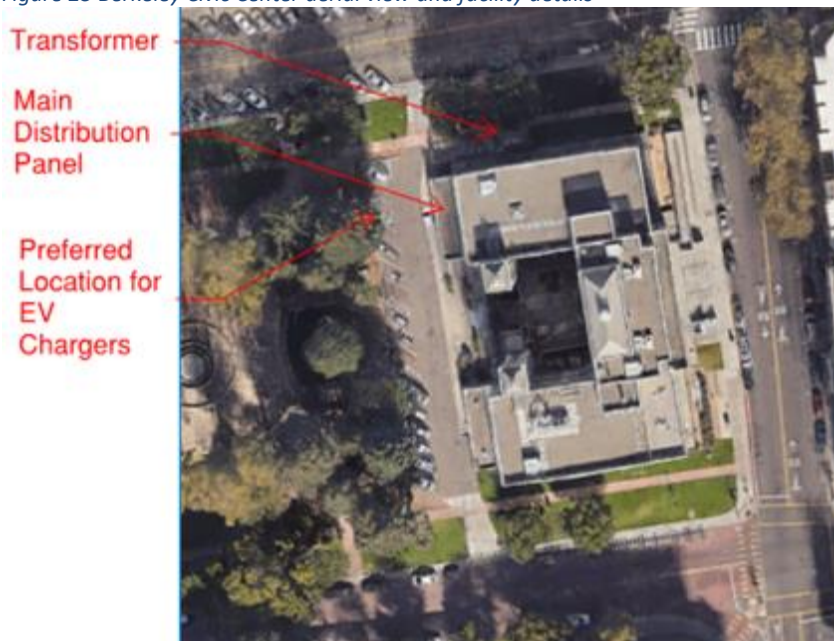
Recommended: Charging

Additional: Additional charging potentially needed as police patrol/pursuit vehicles become available near the end of the decade.

Site Description

The Civic Center is located at 2180 Milvia St. in the heart of downtown Berkeley. Sixteen parking stalls are assigned to City staff with a signpost in the front of each parking stall. A total of 25 light-duty vehicles are assigned to Civic Center Hall, although most park at the City's Center Street Garage (Site #6). Figure 25 shows the aerial view of the Civic Center facility. The building's roof is unsuitable for solar PV based on age and condition.

Figure 25 Berkeley Civic Center aerial view and facility details



The main distribution panel is in the basement of the building across from the parking stalls. The transformer is located on the north side of the building close to the enclosed bicycle parking area. The main distribution panel is about 55 feet from the first parking stall located on the NW corner of Civic Center.

Recommendations

To meet the near-term needs of light-duty vehicles:

- One dual-head Level 2 charger installed at the ends of the angled parking stalls opposite the existing main distribution panel will accommodate the existing vehicles those that are planned to be relocated to this domicile.

East Bay Community Energy Fleet Electrification

Cost of EV Charging: B-19S- Brilliant 100 Rate – Civic Center

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	0.5	223	\$1	\$27	\$28	\$0.13
2	0.5	201	\$1	\$24	\$25	\$0.13
3	0.5	223	\$1	\$27	\$28	\$0.13
4	0.5	216	\$1	\$26	\$27	\$0.13
5	0.5	223	\$1	\$27	\$28	\$0.13
6	0.5	216	\$16	\$28	\$44	\$0.20
7	0.5	223	\$16	\$29	\$45	\$0.20
8	0.5	223	\$16	\$29	\$45	\$0.20
9	0.5	216	\$16	\$28	\$44	\$0.20
10	0.5	223	\$1	\$27	\$28	\$0.13
11	0.5	216	\$1	\$26	\$27	\$0.13
12	0.5	223	\$1	\$27	\$28	\$0.13
Total		2,626			\$396	\$0.15

Site #10 Mental Health Clinic (2636/2640 Martin Luther King Jr Way)

Recommended: Charging, solar PV

Additional: Both are already under construction as part of a building remodel.

Site Description

The City of Berkeley Mental Health and Human Services is located at 2636/2640 Martin Luther King Jr. Way, as shown in Figure 26. A total of eight vehicles assigned to this location share five assigned on-street parking spaces. The main distribution panel is rated as 600 A ampacity according to drawings received from the City.

Figure 26 City of Berkeley Mental Health and Human Services parking facility details



Recommendations

Plans received from the City indicate two dual-head Level 2 chargers are planned at this site as curbside charging. One will be installed in 2020 and the other installed later, if needed. Based on the vehicle inventory and use data, sharing these chargers should accommodate the needs of the eight EVs. A 60.1 kW solar PV array that will cover the entire roof is under construction.

Solar PV Location and Generation Potential - Mental Health Clinic

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
Planned				60.1	48.1	94,430
Total				12.6	10.1	94,430

East Bay Community Energy Fleet Electrification

Value of Solar PV to Battery Electric Storage for EV Charging: B-10SX-Brilliant 100 Rate – Mental Health Clinic

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	10.1	1,189	\$135	\$181	\$316	\$0.27
2	11.8	1,315	\$158	\$198	\$356	\$0.27
3	12.0	2,061	\$162	\$255	\$417	\$0.20
4	12.6	2,330	\$169	\$289	\$458	\$0.20
5	12.5	2,513	\$168	\$311	\$479	\$0.19
6	12.6	2,637	\$169	\$496	\$665	\$0.25
7	12.4	2,627	\$166	\$496	\$662	\$0.25
8	12.0	2,451	\$162	\$461	\$622	\$0.25
9	12.1	2,146	\$163	\$396	\$559	\$0.26
10	11.4	1,848	\$153	\$281	\$435	\$0.24
11	10.1	1,410	\$136	\$217	\$353	\$0.25
12	9.7	1,176	\$130	\$181	\$312	\$0.27
Total		23,702			\$5,634	\$0.24

Value of Solar PV to Building: B-10SX-Brilliant 100 Rate – Mental Health Clinic

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	30.1	3,548	\$404	\$540	\$943	\$0.27
2	35.2	3,924	\$472	\$591	\$1,063	\$0.27
3	35.9	6,149	\$482	\$762	\$1,244	\$0.20
4	37.5	6,954	\$503	\$863	\$1,367	\$0.20
5	37.3	7,499	\$501	\$928	\$1,429	\$0.19
6	37.5	7,870	\$503	\$1,480	\$1,984	\$0.25
7	36.9	7,838	\$495	\$1,480	\$1,976	\$0.25
8	35.9	7,313	\$482	\$1,375	\$1,857	\$0.25
9	36.2	6,403	\$486	\$1,181	\$1,667	\$0.26
10	34.1	5,514	\$458	\$840	\$1,297	\$0.24
11	30.2	4,207	\$405	\$649	\$1,054	\$0.25
12	28.9	3,509	\$389	\$542	\$930	\$0.27
Total		70,728			\$16,812	\$0.24

East Bay Community Energy Fleet Electrification

Cost of EV Charging: B-10SX-Brilliant 100 Rate – Mental Health Clinic

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	4.6	2,013	\$0	\$248	\$248	\$0.12
2	4.6	1,818	\$0	\$224	\$224	\$0.12
3	4.6	2,013	\$0	\$248	\$248	\$0.12
4	4.6	1,948	\$0	\$240	\$240	\$0.12
5	4.6	2,013	\$0	\$248	\$248	\$0.12
6	4.6	1,948	\$0	\$387	\$387	\$0.20
7	4.6	2,013	\$0	\$400	\$400	\$0.20
8	4.6	2,013	\$0	\$400	\$400	\$0.20
9	4.6	1,948	\$0	\$387	\$387	\$0.20
10	4.6	2,013	\$0	\$248	\$248	\$0.12
11	4.6	1,948	\$0	\$240	\$240	\$0.12
12	4.6	2,013	\$0	\$248	\$248	\$0.12
Total		23,702			\$3,516	\$0.15

East Bay Community Energy Fleet Electrification

Site #11 South Berkeley Senior Center

Recommended: Charging, solar PV

Additional: Charging should anticipate procurement of BEV passenger vans.

Site Description

The South Berkeley Senior Center is located at 2939 Ellis St., as shown in Figure 27. Two light-duty vehicles and three passenger vans are assigned to this facility. A strip of open ground on the north side of the property between the parking lot and the property line of the facility could be used to run the underground conduit system from the new service enclosure to the parking stalls where EV chargers can be installed. The multifaceted roof makes a solar PV installation difficult at this site; the solar PV array is sized for largest available southern exposure roof area

Figure 27 South Berkeley Senior Center facility aerial view



Recommendations

To meet the near-term needs of light-duty vehicles and potential near-term procurement of EV passenger vans or shuttle:

- A dual-head, high-power Level 2 charger.
- New electrical with a main breaker rated a minimum of 60A.
 - A 100A main will allow for future load of an additional dual-head charger, if needed.

Solar PV Location and Generation Potential – South Berkeley Senior Center

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
A	1,509	465	26	7.8	6.2	12,265
Total	1,509	465	26	7.8	6.2	12,265

East Bay Community Energy Fleet Electrification

Value of Solar PV to Battery Electric Storage for EV Charging on B-6-Brilliant 100 Rate – South Berkeley Senior Center

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	1.2	139	\$0	\$30	\$30	\$0.22
2	1.4	152	\$0	\$33	\$33	\$0.22
3	1.4	234	\$0	\$51	\$51	\$0.22
4	1.4	260	\$0	\$57	\$57	\$0.22
5	1.4	277	\$0	\$61	\$61	\$0.22
6	1.4	289	\$0	\$71	\$71	\$0.25
7	1.4	289	\$0	\$72	\$72	\$0.25
8	1.3	273	\$0	\$67	\$67	\$0.25
9	1.4	242	\$0	\$59	\$59	\$0.24
10	1.3	213	\$0	\$46	\$46	\$0.22
11	1.2	166	\$0	\$36	\$36	\$0.22
12	1.1	139	\$0	\$30	\$30	\$0.22
Total		2,675			\$614	\$0.23

Value of Solar PV to Building on B-6-Brilliant 100 Rate – South Berkeley Senior Center

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	4.2	500	\$0	\$108	\$108	\$0.22
2	4.8	545	\$0	\$118	\$118	\$0.22
3	4.9	839	\$0	\$183	\$183	\$0.22
4	5.1	934	\$0	\$204	\$204	\$0.22
5	5.0	993	\$0	\$218	\$218	\$0.22
6	5.0	1,036	\$0	\$256	\$256	\$0.25
7	4.9	1,037	\$0	\$257	\$257	\$0.25
8	4.8	979	\$0	\$241	\$241	\$0.25
9	4.9	869	\$0	\$211	\$211	\$0.24
10	4.7	764	\$0	\$166	\$166	\$0.22
11	4.2	594	\$0	\$128	\$128	\$0.22
12	4.1	500	\$0	\$108	\$108	\$0.22
Total		9,590			\$2,201	\$0.23

Cost of EV Charging on B-6-Brilliant 100 Rate – South Berkeley Senior Center

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	1.4	227	\$0	\$52	\$52	\$0.23
2	1.4	205	\$0	\$47	\$47	\$0.23
3	1.4	227	\$0	\$52	\$52	\$0.23
4	1.4	220	\$0	\$50	\$50	\$0.23
5	1.4	227	\$0	\$52	\$52	\$0.23
6	1.4	220	\$0	\$54	\$54	\$0.25
7	1.4	227	\$0	\$56	\$56	\$0.25

East Bay Community Energy Fleet Electrification

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
8	1.4	227	\$0	\$56	\$56	\$0.25
9	1.4	220	\$0	\$54	\$54	\$0.25
10	1.4	227	\$0	\$52	\$52	\$0.23
11	1.4	220	\$0	\$50	\$50	\$0.23
12	1.4	227	\$0	\$52	\$52	\$0.23
Total		2,675			\$627	\$0.23

Site #12 North Berkeley Senior Center

Recommended: Charging, solar PV

Additional: Both are already under construction as part of a building remodel.

Site Description

The North Berkeley Senior Center is located at 1901 Hearst Ave., as shown in Figure 21. This site was under construction at the time of the site visits. City staff stated that a new load distribution panel, spare breakers, and conduits stubbed-up will be installed as part of the ongoing construction at this facility. Drawings received from the City show a dual-head Level 2 charger to be installed and a solar PV array will be added to the area shown in the figure.

Figure 28 North Berkeley Senior Center aerial view



Recommendations

The planned (or under construction) Level 2 charger and solar PV array will accommodate the charging needs of the two light-duty vehicles domiciled at this location.

Solar PV Siting and Generation Potential – North Berkeley Senior Center

Solar PV Array Location	Gross Area Identified (SF)	Solar PV Array Area (SF)	Number of Solar PV Modules (-)	DC Power (kW)	Peak AC Output (kW)	Total Generation (kWh)
Proposed				29.6	23.7	46,665
Total				29.6	23.7	46,665

East Bay Community Energy Fleet Electrification

Value of Solar PV to Battery Electric Storage for EV Charging on B-10SX-Brilliant 100 Rate – North Berkeley Senior Center

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Value of Demand (\$)	Value of Energy (\$)	Total Value (\$)	Average Value of Solar PV Energy (\$/kWh)
1	1.8	217	\$25	\$33	\$58	\$0.27
2	2.2	240	\$29	\$36	\$65	\$0.27
3	2.2	376	\$29	\$47	\$76	\$0.20
4	2.3	432	\$30	\$53	\$84	\$0.19
5	2.3	477	\$31	\$59	\$89	\$0.19
6	2.3	481	\$31	\$90	\$121	\$0.25
7	2.2	474	\$29	\$89	\$119	\$0.25
8	2.2	445	\$30	\$84	\$113	\$0.25
9	2.2	393	\$30	\$72	\$102	\$0.26
10	2.0	329	\$27	\$50	\$77	\$0.23
11	1.8	257	\$25	\$40	\$64	\$0.25
12	1.7	199	\$23	\$31	\$54	\$0.27
Total		4,319			\$1,022	\$0.24

Value of Solar PV to Building: B-10SX-Brilliant 100 Rate – North Berkeley Senior Center

Month	Peak Solar PV Power Generated (kW)	Total Solar PV Generation (kWh)	Demand Costs Avoided (\$)	Energy Costs Avoided (\$)	Total Costs Avoided (\$)	Average Value of Solar PV Energy (\$/kWh)
1	18.0	2,125	\$242	\$323	\$565	\$0.27
2	21.1	2,352	\$283	\$354	\$637	\$0.27
3	21.5	3,687	\$289	\$457	\$746	\$0.20
4	22.3	4,230	\$299	\$524	\$823	\$0.19
5	22.4	4,673	\$300	\$575	\$876	\$0.19
6	22.4	4,712	\$300	\$886	\$1,187	\$0.25
7	21.4	4,648	\$287	\$875	\$1,162	\$0.25
8	21.6	4,358	\$290	\$819	\$1,108	\$0.25
9	21.7	3,851	\$291	\$711	\$1,002	\$0.26
10	19.5	3,226	\$261	\$491	\$752	\$0.23
11	18.1	2,522	\$243	\$389	\$632	\$0.25
12	17.1	1,952	\$229	\$302	\$531	\$0.27
Total		42,336			\$10,021	\$0.24

Cost of EV Charging: A-10SX-Brilliant 100 Rate – North Berkeley Senior Center

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
1	1.7	367	\$0	\$48	\$48	\$0.13
2	1.7	331	\$0	\$43	\$43	\$0.13
3	1.7	367	\$0	\$48	\$48	\$0.13
4	1.7	355	\$0	\$46	\$46	\$0.13
5	1.7	367	\$0	\$48	\$48	\$0.13
6	1.7	355	\$0	\$69	\$69	\$0.19
7	1.7	367	\$0	\$71	\$71	\$0.19

East Bay Community Energy Fleet Electrification

Month	EV Charging Demand Impact (kW)	EV Charging Load (kWh)	EV Charging Demand Costs (\$)	EV Charging Energy Costs (\$)	Total EV Charging Costs (\$)	Average Cost of EV Energy (\$/kWh)
8	1.7	367	\$0	\$71	\$71	\$0.19
9	1.7	355	\$0	\$69	\$69	\$0.19
10	1.7	367	\$0	\$48	\$48	\$0.13
11	1.7	355	\$0	\$46	\$46	\$0.13
12	1.7	367	\$0	\$48	\$48	\$0.13
Total		4,320			\$655	\$0.15



Kate Harrison
Councilmember District 4
Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
June 25, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison, Vice Mayor Wengraf, Councilmember Robinson and Mayor Arreguin

Subject: An Action Plan for Greening the City of Berkeley Fleet of Vehicles

RECOMMENDATION

Request the City Manager and Department of Public Works collaborate to create an Action Plan ("plan"), by June 2020, to aggressively accelerate the implementation of the electrification of the City's municipal fleet and phase out fossil fuel use in municipal vehicles by 2030 with consideration of an earlier transition for light-duty passenger vehicles. The Plan should include an evaluation of the City's current fleet and an analysis of opportunities for transitioning to a fleet of fossil fuel free vehicles, as soon as the technology can safely meet operational needs. An update on our progress should be reported to City Council as an information item every six months.

In the interim, the City Manager is asked to explain criteria used to purchase fossil fuel vehicles in all future staff items related to vehicle purchases with Council.

FINANCIAL IMPLICATIONS

Consultant fees, if deemed desirable by the City Manager, and staff time.

BACKGROUND

The City Council declared a climate emergency on June 12, 2018. In light of this emergency and the City of Berkeley's ongoing commitment to and investment in electric charging technology and facilities, we request that the City develop an action plan to significantly reduce the city's contribution to carbon pollution and to evaluate when electric vehicles can safely and operationally replace the vehicles in the current municipal fleet.¹

Berkeley has demonstrated its commitment to reducing its vehicle emissions; The Energy Commission's Recommendations for a Fossil Free Berkeley were articulated in the Fossil Free Berkeley Report (1/23/2019):

¹ In 2017, San Francisco passed an ordinance mandating that all new light-duty additions to the passenger vehicle fleet, subject to certain exemptions and waivers, be zero-emission. In addition, the ordinance specifies December 31, 2022 as a deadline for transitioning San Francisco's entire light-duty fleet.

- *Requiring all future city government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles.*
- *Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.*
- *Assessing the city's transportation vehicle needs and develop an aggressive timeline for transitioning to all electric. This assessment would include consideration of 1) Switching to lower carbon transport options such as electric cars or bicycles where possible and 2) the timing of technology development and commercialization for car batteries*

Additionally, on September 25, 2018, the City Council approved a contract with Cadmus Group LLC to develop a Berkeley Electric Vehicle Roadmap, a comprehensive action-based EV roadmap to speed the transition from fossil fuels to EV's in the community. The recommendation we are proposing here would focus specifically on the COB fleet of vehicles, complementing the work of Cadmus.

The City is investing in charging stations across Berkeley such as the Center Street Garage and the North Berkeley Senior Center. At the May 14, 2019 City Council meeting, the Director of Public Works confirmed that the City has set aside \$600,000 for new electric vehicle charging stations. In addition, East Bay Community Energy is working with City staff to expand charging infrastructure. Thus, we are poised to significantly expand our electric fleet.

The transportation sector accounts for over 60 percent² of Berkeley's core greenhouse gas emissions, which are the main driver of climate change. Transitioning our city fleet of vehicles from fossil fuels to clean electricity is an important and vital component of achieving our climate goals that will significantly reduce greenhouse gas emissions and improve air quality, and represent further commitment to the City's decarbonization obligations. A zero emissions municipal fleet will also help to inspire residents and businesses to transition to zero emissions vehicles.

The following actions are proposed to accelerate Berkeley's transition to a clean and green municipal fleet:

The City Manager in collaboration with the Department of Public Works shall create an Action Plan ("plan") to aggressively accelerate the electrification of the City's municipal fleet and phase out fossil fuel use in municipal vehicles by 2030.

The plan should consider:

- Criteria, safety and operational needs.
- Current available technologies.

² Office of Energy & Sustainable Development (OESD) 2016 Community Inventory. Dec 6, 2018 Climate Action Plan Update

- Current fleet right sizing/retirement opportunities.
- A strategy for infrastructure deployment to support the electrification of the municipal fleet. This strategy should take into consideration a long-term funding approach for EV charging infrastructure, including potential partnerships with publicly accessible charging networks and state and regional funding sources.
- Consideration of the possibilities of leasing gas-powered when electric vehicles are not feasible in order to avoid obsolescence.
- A strategy to rapidly electrify the city’s fleet and to provide for the use of fossil fuel-free liquid fuels when electric vehicles are not a viable option.
- Plug-in vehicles should be purchased for the municipal fleet when a cost effective, market-ready vehicle is available which matches the planned operations for that vehicle.
- Recognizing the unique needs of emergency management and first response vehicles, the plan should include a strategy to provide emergency management services with electric and fossil fuel-free vehicles wherever possible.
- An assessment of the challenges or opportunities presented by different vehicle fuel types on emergency management and response and allow for exemptions where alternative vehicles are not readily available.

The Action Plan should be completed no later than June, 2020 and presented to City Council in time for the FY 2021 budget process.

ENVIRONMENTAL SUSTAINABILITY

Supports the goals of the COB Climate Action Plan, and Fossil Free Berkeley Report

“Driving an electric car in the Bay Area reduces about 70% of the greenhouse gases produced by a conventional car.” *Berkeley Office of Energy & Sustainable Development (OESD)*

CONTACT PERSON

Councilmember Harrison	Council District 4	510-981-7140
Councilmember Wengraf	Council District 6	510-981-7160



CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Budget Referral: West Berkeley Park Ambassadors

RECOMMENDATION

That the City Council refer to the FY2023-24 budget process the funding for Park Ambassadors at San Pablo Park, Strawberry Creek Park, and Aquatic Park.

FISCAL IMPACTS

An estimated \$300,000 for 2-3 part time positions for one year at each park, seven days a week, 12 hours a day, with pricing for park ambassadors estimated at \$22/hour.

RATIONALE FOR RECOMMENDATION

West Berkeley is home to some of the finest public parks in Berkeley and all of the East Bay. San Pablo Park, Strawberry Creek Park, and Aquatic Park attract a wide array of local residents as well as residents of nearby cities coming to Berkeley to enjoy the wonderful facilities and atmospheres that each of these parks have to offer.

Unfortunately, recent years have brought an increase in shootings, vehicle break-ins, the harassment of park visitors, and the release of uncontrolled, sometimes violent dogs in on-leash park areas. The funding of Park Ambassadors at each of these parks will support the enforcement of park rules and enhance the safety of all visitors.

CONTACT

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



CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council
 From: Councilmember Taplin, Councilmember Harrison, and Councilmember Hahn
 Subject: Support for AB-1608 (Angelo Quinto Act of 2022)

RECOMMENDATION

Send a letter to the state legislature in Support of Assembly Bill 1608: Independent Coroner's Offices (Gipson).

BACKGROUND

California law currently does not require a sheriff to have any medical background or certification to assume the duties of a coroner, in contrast to independent medical examiners, who are required to be a licensed physician and surgeon duly qualified as a specialist in pathology. California is also currently one of only three states that actually allows counties to combine the offices of coroner and sheriff. All 58 counties in California have a sheriff's department but not all have a separate coroner or medical examiner's office. The duties of the coroner are currently combined with the sheriff's department in 48 counties.

When the Contra Costa County Coroner's Office ruled that the death of Angelo in December 2020 was the result of "excited delirium" – a controversial explanation typically applied when people die in police custody – it sparked a renewed debate over the validity of a medical diagnosis that is increasingly being rejected by the medical profession.

In July of 2021, the American Medical Association adopted a new policy opposing the "excited delirium" diagnosis.¹ The AMA's stated position is that the "current evidence does not support 'excited delirium' as an official diagnosis." Additionally, neither the World Health Organization, nor the American Psychiatric Association, recognize this term.

AB 1608 stems from two bills, AB 1196 (Gipson) and AB 490 (Gipson), which Governor Newsom signed in light of the tragic deaths of George Floyd and Angelo Quinto. Specifically, this bill would separate the duties of the coroner from the duties of the sheriff.

¹ Cristina Mutchler, *New AMA policy opposes "excited delirium" diagnosis*, American Medical Association (Jun. 14, 2021), <https://www.ama-assn.org/press-center/press-releases/new-ama-policy-opposes-excited-delirium-diagnosis>.

AB-1608

CONSENT CALENDAR
April 12, 2022

The Berkeley City Council voted to submit a letter in support of AB 490 in 2021, prior to its passage.

AB-1608 is co-sponsored by ACLU California Action, California Faculty Association, California Families United For Justice, Justice for Angelo Quinto, The Miles Hall Foundation, Secure Justice, and the Union of American Physicians and Dentists AFSCME Local 206.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CONTACT PERSON

Councilmember Taplin Council District 2 510-981-7120

Attachments:

1: Letter

The Honorable Mike Gipson
California State Capitol
P.O. Box 942849
Sacramento, CA 94249-0064

**RE: AB 1608 (Gipson) The Angelo Quinto Act of 2022: Independent Coroner's Offices –
SUPPORT**

Dear Assemblymember Gipson,

The City Council of the City of Berkeley is proud to write in support of AB 1608, The Angelo Quinto Act of 2022: Independent Coroner's Offices, which will separate the duties of the Coroner's Office from the duties of the Sheriff's Office across all counties in California. This division will strengthen the medical examination process, thereby increasing accountability and transparency by providing independent, quality, cause of death investigations.

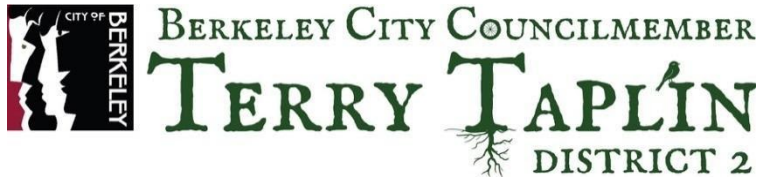
We were also proud to support your previous bill, AB-490 (2021), to prohibit law enforcement use of restraint techniques that cause positional asphyxia, which led to the tragic killing of Antioch resident Angelo Quinto in December 2020. Quinto's death has also led to increased scrutiny on diagnoses such as "excited delirium" that hinder accountability for law enforcement officers. Medical professionals and groups such as the American Medical Association have consistently rejected the validity of this vague diagnosis.

However, state law currently does not require a sheriff to have any medical background or certification to assume the duties of a coroner. California is also only one of three states that allow the combination of the offices of the coroner and sheriff, which perpetuates the potential for conflicts of interest in law enforcement handling the duties of the coroner. Counties like Los Angeles, San Diego, and San Francisco have already separated the duties of the coroner from the sheriff, and they are required to be licensed physicians and surgeons duly qualified as a specialist in pathology.

This bill would help ensure that all local death investigations are conducted independently and objectively by an independent Medical Examiner's Office that is separate from the Sheriff's Office. We are proud to support this bill and grateful for your efforts.

Sincerely,

The Berkeley City Council,
2180 Milvia St
Berkeley, CA 94704

CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Native and Drought Resistant Plants and Landscaping Policy Update

RECOMMENDATION

Adopt a Resolution amending the Native Species/Bay-Friendly Landscaping Policy to require, when appropriate, the prioritization of native, non-invasive, and pollinator friendly plantings on City property.

POLICY COMMITTEE RECOMMENDATION

On March 9, 2022, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee adopted the following action: M/S/C (Robinson/Taplin) to forward the item to Council with a positive recommendation. Vote: Ayes – Taplin, Robinson; Noes – None; Abstain – None; Absent – Harrison.

BACKGROUND

As of the summer of 2021, the City of Berkeley and most of California are facing exceptional drought conditions.¹ The region's drought conditions have varied annually in the past decade, but the projects for our future under climate change are clear: California's drought will as much as triple in severity by 2050.² Drought conditions have escalated so radically that the East Bay Municipal Utility District asked residents to cut back on their water consumption.³ The City must plan for a future in which it operates successfully with significantly reduced water use and should begin using water more efficiently as soon as possible.

To plan for a long-term urban infrastructure that consumes water in a manner that reflects the drought conditions that we are certain to face in the next century, Berkeley can pursue a policy of only using native and drought-resistant plant materials in all City landscaping and public areas. While a relatively less significant consumer of water than residential and commercial buildings, the opportunity to save water by switching all City

¹ <https://www.drought.gov/states/california/county/Alameda>

² <https://statesatrisk.org/california/all>

³ <https://www.berkeleyside.org/2021/04/27/east-bay-area-water-officials-declare-drought-ask-residents-to-conserve-water>

landscaping to native and drought resistant plants is immense. In addition to requiring less watering, native plant landscaping has been shown to have higher infiltration rates of water runoff, taking in water that would otherwise be discharged into sewers and filtering toxic materials before they reach the waterfront. Native plants also provide critical food and habitat for local birds and pollinators.⁴ While the use of native plants would already be helpful for supporting pollinators, special consideration should also be given to the most pollinator-friendly plants. Supporting pollinators has shown to result in stronger local biodiversity.⁵ Furthermore, native plants that are already adapted to our local environment are more resistant to extreme weather and often do not require pesticide and fertilizer use.⁶

In 2008 and 2009, the City Council partnered with the Parks and Recreation Commission to develop the “Bee Habitats and Pollinator-Friendly Vegetation Policy” by way of Resolution No. 64,376-N.S. as well as the “Bay-Friendly Landscaping Policy for City Projects” policy in Resolution No. 64,507-N.S. These policies encouraged the use of native, pollinator-friendly vegetation in city projects and plantings that reduce waste and maintenance costs, respectively. While these policies have been useful in the decade-plus that they’ve been in effect, it is time for Berkeley to update its planting policies to renew our commitment to creating a drought-resistant and pollinator-friendly urban ecology that uses native plants as much as reasonably possible.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Increased use of native, drought resistant, and pollinator-friendly plants on City property will make major strides towards increased urban biodiversity, reduced water usage in the maintenance of public lands, and increased resiliency of plantings on City property to extreme weather conditions.⁷

FINANCIAL IMPLICATIONS

Staff time and cost differences related to the exclusive use of native and drought-resistant plantings in City landscaping work. Increased use of native and drought resistant plants may lead to reduced landscaping maintenance work related to a reduced need for pesticides, fertilizers, and extra watering that non-native plants often require.⁸ Furthermore, the overall reduced maintenance requirements of native plantings will save the City on landscaping labor costs.

CONTACT

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

ATTACHMENTS

1. Resolution
2. Resolution No. 64,376-N.S.

⁴ <https://law.pace.edu/sites/default/files/Team%20%233%20Brief.pdf>

⁵ https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/plantsanimals/pollinate/?cid=NRCS143_022326

⁶ <https://perma.cc/FK54-B7L7>

⁷ <https://sustainablecitycode.org/brief/require-use-of-native-plants/>

⁸ <https://sustainablecitycode.org/brief/require-use-of-native-plants/>

3. Resolution No. 64,507-N.S
4. Easy to Grow East Bay Native Plant List
5. California Pollinator Plants

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

REQUIRING NATIVE & DROUGHT RESISTANT PLANTS IN ALL CITY
LANDSCAPING

WHEREAS, the City of Berkeley and the State of California are facing historic drought conditions that are projected to worsen over the course of the next half century or more, and

WHEREAS, the City of Berkeley must adapt its operations to future climate conditions characterized by excessive dryness, extreme weather, and declining populations of pollinators and other local wildlife, and

WHEREAS, the use of native plants in City landscaping offers an opportunity for less water-intensive landscaping throughout Berkeley, and

WHEREAS, native plants intake and filter toxic water runoff more easily than non-native landscaping, and

WHEREAS, native plants provide critical food and habitat for native animals and pollinators that are at risk under future climate conditions, and

WHEREAS, pollinator-friendly plants provide a natural boost to local biodiversity, and

WHEREAS, the costs of native plant landscaping may reduce overall landscaping costs due to a decreased need for pesticides and fertilizers, and

WHEREAS, Resolution No. 64,376-N.S. can be updated with biodiversity goals.

NOW THEREFORE, BE IT RESOLVED that the guidelines for Native Species/Bay-Friendly Landscaping Policy For Enhanced Biodiversity on City Property described in Exhibit A are hereby be adopted, and Resolution No. 64,376-N.S. is rescinded.

EXHIBIT A

GUIDELINES FOR NATIVE SPECIES/BAY-FRIENDLY
LANDSCAPING POLICY FOR ENHANCED BIODIVERSITY ON CITY PROPERTY

Policy Statement: To combat the critical loss of biodiversity in Berkeley and globally due to modern development and climate change, the City shall use the following guidelines for planning and implementing native plant and Bay-Friendly landscape maintenance and vegetation planting improvements on City property (City parks, open spaces, and Right-of-Way planting strips) in order to enhance biodiversity.

1. Use of native plant species that support bees and other lifeforms and are appropriate to our environment when possible; use a diversity of the flowering shrubs, perennials, herbs, grasses, and small trees that bloom successively to produce the leaves, pollens and nectars that attract bees, other pollinators, insects, birds, and leaf-chewing creatures with an emphasis on those that support local species and ecosystem; and to the greatest extent possible, use plants and trees that are low to moderate in their allergenic properties, low water use and drought-tolerant, and higher in insect and bird habitat potential. No species that are invasive in the Berkeley climate shall be used.
1. Control non-native plants and weeds that crowd out native plants that provide higher habitat value for biodiversity.
2. Strive to plant pollinator-friendly vegetation in areas of lower user density away from children's play area, restrooms, picnic tables, barbeques, refuse containers, and other park facilities where bee sting risk is greater due to normal visitor use patterns.
3. For street trees, the City seeks to plant Bay Area and California native tree species that support other life forms where available growing space and/or native conditions exist, including streets, open space, parks, and Right-of-Way planting areas. In both dense urban areas and park spaces with irrigated turf, where very little native soil and water conditions remain, a diverse range of appropriate tree species shall be used that meet the following requirements: that perform successfully in small planting sites with poor soils and above and below ground constraints; that attain appropriate sizes at maturity; that exhibit safe and manageable growth patterns; that enhance biodiversity; that are drought tolerant; that build climate resilience into the urban forest; and that contribute to the City's Climate Action Goals.

RESOLUTION NO. 64,376-N.S.

POLICY: BEE HABITATS AND POLLINATOR-FRIENDLY VEGETATION

WHEREAS, on July 22, 2008, the Berkeley City Council referred to the Parks and Recreation Commission the research and development of policies and practices that promote bee habitats and pollinator-friendly vegetation in appropriate parks and open spaces and requested that they return with specific recommendations; and

WHEREAS, on February 23, 2009 at the Parks and Recreation Commission meeting, it was motioned, seconded, and carried (Huang/Chavez/unanimous) to recommend that Berkeley City Council adopt the attached Bee Habitats and Pollinator-friendly Vegetation Policy for use in planning and implementing landscape improvements in City parks and open spaces. Ayes: Becker, Gross, Gray, Huang, Chavez, Collier; Abstain: 0; Absent: Stephens; and

WHEREAS, planning and implementing landscape improvements in City parks and open spaces should also include parks that do not include Bee Habitats; and

WHEREAS, there are no fiscal impacts related to the proposed policy.

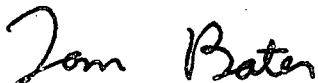
NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley adopts the attached Bee Habitats and Pollinator-friendly Vegetation Policy for use in planning and implementing landscape improvements in City parks and open spaces.

The foregoing Resolution was adopted by the Berkeley City Council on March 24, 2009 by the following vote:


Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.



Tom Bates, Mayor

Attest: 

Deanna Despain, Acting City Clerk

BEE HABITATS AND POLLINATOR-FRIENDLY VEGETATION POLICY

Policy Statement: for Use In Planning and Implementing Landscape Improvements at City Parks and Open Spaces

To support habitat preservation and development for bees and other pollinators, the Parks & Recreation Commission recommends the following guidelines in planning and implementing landscape maintenance and vegetation planting improvements in City parks and open spaces.

1. Use native plants where appropriate; use a diversity of the flowering shrubs, herbs, grasses, and small trees that bloom successively to produce the pollens and nectars that attract bees and other pollinators; and to the greatest extent possible, use plants and trees that are low to moderate in their allergenic properties.
2. Control the non-native plants and weeds that crowd out the native plants that provide habitat for bees and other pollinators.
3. Focus the planting of pollinator-friendly vegetation in lower density usage areas at least 30' away from children's play areas, restrooms, picnic tables, barbeques, refuse containers, and other park facilities where bee sting risk is greater due to normal visitor use patterns.
4. Use the Parks, Recreation & Waterfront webpage on the City of Berkeley website and temporary signage in parks to explain to the public how landscape maintenance and vegetation improvements in City parks and open spaces are planned to support habitat preservation and development for bees and other pollinators.
5. Consider the following park and open space sites for pollinator-friendly vegetation improvements due to existing native plantings and larger areas available for new plantings of flowering native plants. This is a suggested list only.

Cesar Chavez Park
 Live Oak Park
 Codornices Park/Rose Garden
 Ohlone Park

Aquatic Park
 Indian Rock Park
 John Hinkel Park
 Grotto Rock Park

RESOLUTION NO. 64,507-N.S.

BAY-FRIENDLY LANDSCAPING POLICY FOR CITY PROJECTS

WHEREAS, the City finds that conventional landscaping within the City can contribute to environmental degradation, excessive consumption of fossil fuels, landfill waste and pollution; and

WHEREAS, the City finds that green landscaping is a whole-systems approach that seeks to conserve natural resources, reduce waste, minimize water and pesticide use, storm water runoff and watershed pollution; and

WHEREAS, the City finds that the benefit of green landscaping include minimized maintenance, the creation of wildlife habitat, protection of local ecosystems though the use of native plant species, and the protection of the San Francisco Bay watershed; and

WHEREAS, in Alameda County, the organization StopWaste.Org has taken the lead in defining and promoting environmentally friendly landscaping for the commercial, institutional and residential sectors and has developed Bay-Friendly Landscape Guidelines for professional landscapers and the Bay-Friendly Gardening Guide for residents that promotes green landscaping; and

WHEREAS, the City finds that requiring new City landscapes and City projects to incorporate Bay-Friendly Landscape Guidelines is necessary and appropriate to achieving the benefits of green landscaping in the City; and

WHEREAS, the Alameda County Waste Management Authority requires cities to adopt a Bay-Friendly Landscape Policy for new municipal landscape and major landscape renovations as a condition of receiving grants and services valuable to the City.

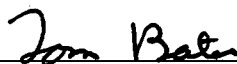
NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to implement a Bay-Friendly Landscaping (BFL) Policy (Exhibit A) for City Projects, and for the Director of Public Works to designate a BFL Compliance Official.

The foregoing Resolution was adopted by the Berkeley City Council on June 23, 2009 by the following vote:


Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.



Tom Bates, Mayor

Attest: 

Deanna Despain, CMC, City Clerk

EXHIBIT A

BAY-FRIENDLY LANDSCAPING POLICY

PURPOSE AND INTENT

To promote economic and environmental health in the City, it is essential that the City itself, through the design, construction, and maintenance of its own projects, provide leadership to both the private and public sectors by incorporating Bay-Friendly landscaping practices. One immediate and meaningful way to do this is to require the integration of Bay-Friendly landscaping strategies in City projects.

DEFINITIONS

"Bay-Friendly Landscape Guidelines" means the most recent version of guidelines developed by StopWaste.Org for use in the professional design, construction and maintenance of Landscapes. City staff shall maintain the most recent version of the Bay-Friendly Guidelines at all times.

"Bay-Friendly Landscaping Scorecard" means the most recent version of the Bay-Friendly Landscaping points system developed by StopWaste.Org. City staff shall maintain the most recent version of the Bay-Friendly Landscaping Scorecard at all times.

"City Landscape Project" means any new construction or renovation of a Landscape owned or maintained by a City Department or Agency.

"Covered Project" means all new or redevelopment or Renovation projects that include Landscapes that equal or exceed 10,000 square feet, and are owned or maintained by a City Department or Agency

"Bay-Friendly Landscaping Compliance Official" means the designated staff person(s) authorized and responsible for implementing this Policy.

"Initiated" means officially identified and substantially funded to offset the costs associated with the project.

"Landscape" means the parcel area less the building pad and includes all planted areas and hardscapes (i.e. driveway, parking, paths and other paved areas).

"Renovation" means any change, addition, or modification to an existing Landscape.

"Traditional Public Works Projects" means heavy construction projects such as pump stations, flood control improvements, roads, and bridges, as well as traffic lights, sidewalks, bike paths, bus stops, and associated infrastructure on City owned and maintained property.

STANDARD FOR COMPLIANCE

1. All Covered Projects with landscapes initiated on or after August 1, 2009 shall meet the most recent minimum Bay Friendly Landscape Scorecard points as recommended and verified by StopWaste.Org or its designee.

2. For the purposes of reducing operation and maintenance costs in all City facilities, Covered Projects that do not meet the threshold that triggers compliance with the requirements of this Policy are required to meet as many Bay-Friendly Landscaping Scorecard points as practicable and are required to complete and submit the Bay-Friendly Landscaping Scorecard to StopWaste.Org as a way of documenting the green building practices that have been incorporated into the project.
3. The Public Works Department shall regularly review the project specifications used in bidding Traditional Public Works Projects and building or facilities projects to include environmentally friendly practices and Bay-Friendly landscape practices applicable.
4. Bay-Friendly landscaping requirements will be incorporated into the appropriate design, construction, maintenance and development agreement documents prepared for the applicable Covered Projects
5. The Director of Public Works shall designate an appropriate Bay-Friendly Landscaping Compliance Official(s) who shall have the responsibility to administer and monitor compliance with the Bay-Friendly landscaping requirements set forth in this Policy, and to grant waivers or exemptions from the requirements.
6. The Bay-Friendly Landscaping Compliance Official will coordinate activities with the person(s) responsible for implementation of the City's Environmental Purchasing Policy

UNUSUAL CIRCUMSTANCES

Compliance with the provisions of this Policy may be waived in unusual circumstances where the City Council has, by resolution, found and determined that the public interest would not be served by complying with such provisions.

Easy to Grow East Bay Native Plant List (by Habitat)

Developed by Glen Schneider and Lyn Talkovsky
Permission to use provided by The Watershed Project

Grassland Plants (plants for sunny sites with clay or silty soils)

Trees and Shrubs

Baccharis pilularis
Quercus agrifolia

Coyote Bush
Coast Live Oak

Perennials, Bulbs and Grasses

Achillea millefolium
Artemisia douglasiana
Aster sp.
Astragalus sp.
Bromus carinatus
Camissonia ovata
Chloragalum pomeridianum
Dichelostemma capitatum
Epilobium canum
Festuca idahoensis
Deschampsia caespitosa
Danthonia californica
Elymus glaucus
Grindelia hirsutula
Iris douglasiana
Melica californica
Nassella lepida
Nassella pulchra
Phacelia californica
Perideridia kelloggii
Ranunculus californicus
Sisyrinchium bellum
Triteleia laxa
Wyethia augustifolia

Yarrow
Mugwort
Native Aster
Native Vetch(es)
California Brome
Sun Cups
Soap Lily
Blue Dicks
California Fuschia
Idaho Fescue
Coastal Hair Grass
Wild Oat Grass
Blue Wild Rye
Gum Plant
Douglas Iris
Melic Grass
Foothill Needlegrass
Purple Needlegrass
California Coast Phacelia
Kellogg's Yampah
Buttercup
Blue-eyed Grass
Ithuriel's Spear
Mule's Ears

Annuals

Clarkia amoena
Eschscholzia californica
Hemizonia sp.

Farewell to Spring
California Poppy
Tarweed(s)

Scrubland Plants (plants for sites with hot sun and well-drained soils)Trees and Shrubs

<i>Adenostema fascicularis</i>	Greasewood or Chamise
<i>Arctostaphylos glandulosa</i> ssp. <i>glandulosa</i>	Eastwood Manzanita
<i>Arctostaphylos manzanita</i> ssp. <i>manzanita</i>	Manzanita
<i>Arctostaphylos tomentosa</i> ssp. <i>crustacea</i>	Manzanita
<i>Artemisia californica</i>	Coastal Sagebrush
<i>Baccharis pilularis</i>	Coyote Bush
<i>Ceanothus thyrsiflorus</i>	California Lilac/Blue Blossom
<i>Heteromeles arbutifolia</i>	Toyon
<i>Rhamnus californica</i>	Coffeeberry

Perennials and Grasses

<i>Epilobium canum</i>	California Fuchsia
<i>Eriogonum roseum</i>	Rosy Buckwheat
<i>Eriogonum nudum</i>	Buckwheat
<i>Eriophyllum confertiflorum</i>	Golden Yarrow
<i>Festuca idahoensis</i>	Idaho Fescue
<i>Mimulus aurantiacus</i>	Sticky Monkeyflower

Woodland Plants (plants for sites with part sun to full shade)Trees

<i>Acer macrophyllum</i>	Big Leaf Maple
<i>Aesculus californica</i>	California Buckeye
<i>Quercus kelloggii</i>	Black Oak
<i>Quercus lobata</i>	Valley Oak
<i>Umbellularis californica</i>	California Bay

Shrubs

<i>Corylus cornuta californica</i>	California Hazelnut
<i>Heteromeles arbutifolia</i>	Toyon
<i>Holodiscus discolor</i>	Ocean Spray
<i>Physocarpus capitatus</i>	Ninebark
<i>Ribes sanguineum</i> var. <i>glutinosum</i>	Pink Flowering Currant
<i>Rhamnus californica</i>	Coffeeberry
<i>Rosa gymnocarpa</i>	Wood Rose
<i>Symphoricarpos albus</i>	Snowberry

<i>Symphoricarpos mollis</i>	Creeping Snowberry
<i>Sambucus mexicana</i>	Blue Elderberry
<u>Perennials and Grasses</u>	
<i>Aquilegia formosa</i>	Red Columbine
<i>Aristolochia californica</i>	Dutchman's Pipe
<i>Artemisia douglasiana</i>	Mugwort
<i>Aster</i> sp.	Native Aster
<i>Bromus carinatus</i>	California Brome
<i>Chlorogalum pomeridianum</i>	Soap Lily
<i>Clematis lasiantha</i>	Pipestems
<i>Cynoglossum grande</i>	Hound's Tongue
<i>Dryopteris arguta</i>	Coastal Wood Fern (deep shade)
<i>Iris douglasiana</i>	Douglas Iris
<i>Festuca californica</i>	California Fescue
<i>Fragaria vesca</i>	Woodland Strawberry
<i>Heracleum lanatum</i>	Western Lace Plant
<i>Lonicera hispidula</i>	Honeysuckle
<i>Melica torreyana</i>	Torrey Melic Grass
<i>Polystichum munitum</i>	Western Sword Fern
<i>Polypodium glycyrrhiza</i>	Licorice Fern
<i>Rubus ursinus</i>	Western Blackberry
<i>Sanicula crassicaulis</i>	Pacific Sanicle
<i>Scrophularia californica</i>	Bee Plant
<i>Stachys</i> sp.	Hedge Nettle
<i>Urtica urens</i>	Dwarf Nettle

Riparian Plants (plants for sites with year-round moisture in the soil):

Trees

<i>Acer macrophyllum</i>	Big Leaf Maple
<i>Aesculus californica</i>	California Buckeye
<i>Alnus rhombifolia</i>	White Alder
<i>Platanus racemosa</i>	Western Sycamore
<i>Sequoia sempervirens</i>	Coastal Redwood
<i>Umbellularium californica</i>	California Bay

Shrubs

<i>Cornus stolonifera</i>	Creek Dogwood
<i>Rosa californica</i>	California Rose
<i>Salix lasiolepis</i>	Arroyo Willow
<i>Symphoricarpos albus</i>	Snowberry

Perennials, Rushes, Sedges and Ferns

Aralia californica
Athyrium felix-femina
Carex tumulicola
(Perennials... cont'd)

Elk Clover
Lady Fern
Berkeley Sedge

Equisetum sp.
Helenium puberulum
Juncus effusus
Mimulus guttatus
Rubus parviflorus
Rubus ursinus
Vitis californica
Woodwardia fimbriata

Horsetail
Sneezeweed
Rush
Creek Monkeyflower
Thimble Berry
California Blackberry
California Grape
Giant Chain Fern

POLLINATOR PLANTS

California



Pollinator meadow, common sunflower, and baby blue eyes

California is one of the most floristically diverse regions in the world, with a high number of endemic species and many unique plant communities such as coastal prairie and scrub, valley grasslands, chaparral, oak woodlands, and giant sequoia groves. California's native plants support a corresponding diversity of pollinators, with an estimated 1,200–1,500 native bee species, including the imperiled Franklin's bumble bee (*Bombus franklini*) and the vulnerable western bumble bee (*B. occidentalis*), and over 200 butterfly species, including the iconic monarch butterfly (*Danaus plexippus*). As a group, these and other pollinators maintain healthy, productive plant communities, provide food that sustains wildlife, and play an essential role in crop production.

Providing wildflower-rich habitat is the most significant action you can take to support pollinators. Adult bees, butterflies, and other pollinators require nectar as their primary food source, and female bees collect pollen as food for their offspring. Native plants, which are adapted to local soils and climates, are usually the best sources of nectar and pollen for native pollinators. Incorporating native wildflowers, shrubs, and trees into any landscape promotes local biological diversity and provides shelter and food for a diversity of wildlife. Most natives require minimal irrigation, flourish without fertilizers, and are unlikely to become weedy.

This guide features California natives that are highly attractive to pollinators and are well-suited for small-scale plantings in gardens, urban greenspaces, and farm field

borders, and on business and school campuses. Beyond supporting native bees and honey bees, many of these plants attract nectar-seeking butterflies, moths, and hummingbirds, and some are hosts for butterfly and moth caterpillars. For example, California is an important breeding area for monarch butterflies, and planting milkweeds, their required host plants, will help sustain the declining western monarch population. With few exceptions, the listed species can be purchased as seed or transplants. They will be adaptable to growing conditions across most of the state, but may be less suitable for planting in the High Sierras, Modoc Plateau, and Eastern Interior Desert regions. Please consult Calflora (www.calflora.org), the Biota of North America's North American Plant Atlas (<http://bonap.net/napa>), or the USDA's PLANTS database (<http://plants.usda.gov>) for details on species's distributions in your area.

Our **Bring Back the Pollinators** campaign is based on four principles:

1. **Grow** a variety of pollinator-friendly flowers;
2. **Protect and provide** bee nest sites and caterpillar host plants;
3. **Avoid** using pesticides, especially insecticides; *and*
4. **Spread** the word!

You can participate by taking the **Pollinator Protection Pledge** and registering your habitat on our nationwide map at:

www.bringbackthepollinators.org.





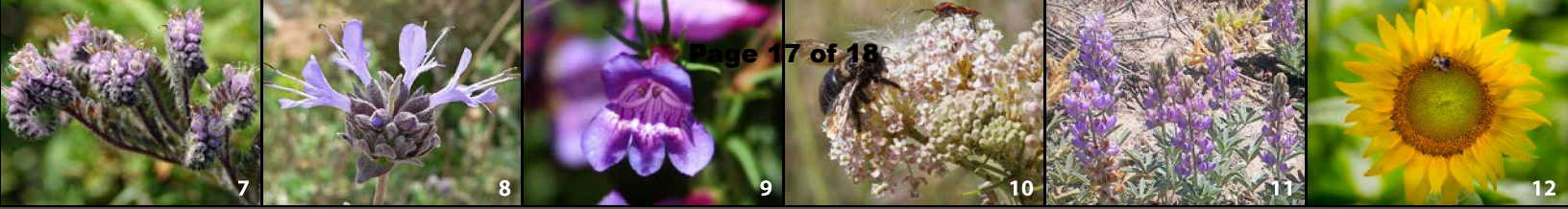
Bloom Period	Common Name	Scientific Name	Life Cycle*	Flower Color	Max. Height†	Water Needs
--------------	-------------	-----------------	-------------	--------------	--------------	-------------

		Forbs			(Feet)	L: low; M: medium; H: high	
Early	1	Baby blue eyes	<i>Nemophila menziesii</i>	A	blue	0.25	L
	2	Common tidytips	<i>Layia platyglossa</i>	A	yellow	0.25	L
	3	Lacy phacelia	<i>Phacelia tanacetifolia</i>	A	purple	3	L
Early–Mid	4	California poppy	<i>Eschscholzia californica</i>	A, P	orange	0.5	L
	5	Elegant clarkia	<i>Clarkia unguiculata</i>	A	pink	0.5	L
	6	Globe gilia	<i>Gilia capitata</i>	A, P	blue	1	M
Mid	7	California phacelia	<i>Phacelia californica</i>	P	purple	1	L
	8	Cleveland sage	<i>Salvia clevelandii</i>	P	purple	3	L
	9	Foothill penstemon	<i>Penstemon heterophyllus</i>	P	blue	3	L
	10	Narrowleaf milkweed	<i>Asclepias fascicularis</i>	P	pink/ white	1.5	M
	11	Summer lupine	<i>Lupinus formosus</i>	P	purple	1.5	L
Mid–Late	12	Common sunflower	<i>Helianthus annuus</i>	A	yellow	5	M
	13	Gumplant	<i>Grindelia camporum</i>	P	yellow	4	L
Late	14	California aster	<i>Symphyotrichum chilense</i>	P	purple	5	L
	15	California fuchsia	<i>Epilobium canum</i>	P	orange/ red	3	L
	16	California goldenrod	<i>Solidago velutina</i> ssp. <i>californica</i>	P	yellow	3	M

Shrubs and Trees

Early	21	California lilac	<i>Ceanothus</i> ‘Concha’	P	purple	4	L
	22	McMinn manzanita	<i>Arctostaphylos</i> ‘McMinn’	P	white	5	L
	23	Oregon grape	<i>Berberis aquifolium</i>	P	yellow	5	L
		Redbud	<i>Cercis occidentalis</i>	P	pink/red	15	M
		California buckthorn	<i>Rhamnus californica</i>	P	white	5	L
Early–Mid		California flannelbush	<i>Fremontodendron californicum</i>	P	yellow	15	L
		Silver bush lupine	<i>Lupinus albifrons</i>	P	purple	3	L
Mid	24	California buckwheat	<i>Eriogonum fasciculatum</i>	P	white	2.5	L





Notes

This list of pollinator plants for California was produced by the Xerces® Society. For more information about pollinator conservation, please visit www.xerces.org.



*Life Cycle abbreviations: A: annual; P: perennial; B: biennial. †Max. Height is an average, individual plants may vary.

- Stunning sky blue flowers attract native bees, including mason bees (*Osmia* spp.); tolerates moderate shade and moisture
- Sunny yellow and white flowers are very attractive to butterflies and native bees; tolerates clay soils
- Easy to establish, with prolific, showy blooms; tolerates clay soils
- Easy to establish and long blooming; attracts a diversity of bees, bumble bees in particular
- Strikingly unique flowers attract bees and butterflies; larval host for Clark's sphinx moth
- Globe-shaped, periwinkle-blue flower clusters attract a diversity of bees and butterflies
- Tightly coiled flower heads are very attractive to bumble bees and other native bees; tolerates clay soils
- Showy flowers attract bees, butterflies, and hummingbirds; extremely fragrant foliage; requires good drainage
- Iridescent violet flowers attract bees, butterflies, and hummingbirds; requires good drainage; heat and drought tolerant
- Monarch butterfly host plant; high-quality nectar source for many bees; easier to establish from transplants than from seed
- This and other lupines are highly attractive to bumble bees and visited by many other native bees
- Sunflowers are a favorite of many bee species; easy to establish and tolerant of clay soils
- Long-lasting flowers; attracts small, native bees; tolerates clay soils and wet or dry conditions
- One of the latest fall blooming plants; important for pre-hibernation bumble bee queens; tolerates clay soils
- Abundant scarlet-colored flowers; critical late-season nectar source for hummingbirds and bees
- Important late-season forage for bees, butterflies, beneficial solitary wasps, pollen-eating soldier beetles, and more

- Attracts bees and butterflies with a profusion of bright violet-blue flowers; tolerates clay soils
- Clusters of small, bell-shaped flowers provide early season forage for bumble bees and other spring bees; tolerates clay soils
- Attracts honey bees and native bees, including mason bees (*Osmia* spp.); tolerates shade and wet or dry conditions
- Rose-colored blooms clustered on bare branches; tolerates some shade and moisture; can be pruned to a shrub or small tree
- Attractive, evergreen shrub that attracts small, native bees; its berries are a favorite of birds; tolerates some shade
- Prolific bloomer with large, bell-shaped yellow flowers; does not need summer water
- Showy, deep purple flowers with contrasting silver foliage; attracts numerous bee species; requires good drainage
- Favored nectar source of many blue and hairstreak butterflies, also very attractive to native bees; drought tolerant



Planting for Success

Sun Exposure

Most pollinator-friendly plants prefer sites that receive full sun throughout most of the day and are mostly open, with few large trees. A southern exposure can provide the warmest habitat, but is not required.

Plant Diversity

Choosing a variety of plants with overlapping and sequential bloom periods will provide food for pollinators throughout the seasons.

Habitat Size and Shape

Habitat patches that are bigger and closer to other patches are generally better than those that are smaller and more isolated from one another. However, even a small container garden can attract and support pollinators!

Planting Layout

Flowers clustered into clumps of one species will attract more pollinators than individual plants scattered through a habitat patch. Where space allows, plant clumps of the same species within a few feet of one another.

Seeds or Transplants

It is usually cheaper to establish large habitat areas from seed; however, seeding native wildflowers on a large-scale is an art unto itself. For step-by-step instructions, see *Establishing Pollinator Meadows from Seed* and the Pollinator Habitat Installation Guides listed in the Additional Resources section. For smaller areas like gardens, transplants are usually easier to use and will bloom faster than plants started from seed.

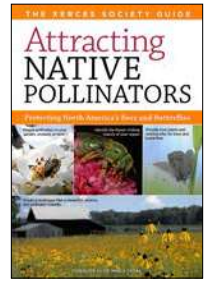
Protect Pollinators from Insecticides

Although dependent on timing, rate, and method of application, all insecticides have the potential to poison or kill pollinators. Systemic insecticides in particular have received significant attention for their potential role in pollinator declines (imidacloprid, dinotefuran, clothianidin, and thiamethoxam are examples of systemic insecticides now found in various farm and garden products). Because plants absorb systemic insecticides as they grow, the chemicals become distributed throughout plant tissues and are sometimes present in pollen and nectar. You can help protect pollinators by avoiding the use of these and other insecticides. Before purchasing plants from nurseries and garden centers, be sure to ask whether they have been treated with insecticides. To read more about threats to pollinators from pesticides, please visit: www.xerces.org/pesticides.

Additional Resources

Attracting Native Pollinators

Our best-selling book highlights the role of native pollinators in natural ecosystems, gardens, and farms. This comprehensive guide includes information about pollinator ecology, detailed profiles of over 30 common bee genera, and habitat designs for multiple landscapes with over 50 pages of fully illustrated regional plant lists. Available in bookstores everywhere, and through www.xerces.org/books.



The Xerces Pollinator Conservation Resource Center

Our Pollinator Conservation Resource Center includes regional information on pollinator plants, habitat conservation guides, nest management instructions, bee identification and monitoring resources, and directories of native pollinator plant nurseries. www.xerces.org/pollinator-resource-center

Lady Bird Johnson Wildflower Center

The Xerces Society has collaborated with the Lady Bird Johnson Wildflower Center to create lists of plants that are attractive to native bees, bumble bees, honey bees, and other beneficial insects, as well as plant lists with value as nesting materials for native bees. These lists can be narrowed down with additional criteria such as state, soil moisture, bloom time, and sunlight requirements. The Center's website also features image galleries, how-to articles on native plant gardening, and more. www.wildflower.org/conservation_pollinators

Establishing Pollinator Meadows from Seed

These guidelines provide step-by-step instructions for establishing pollinator meadows from seed in areas that range in size from a small backyard garden up to an acre. Topics include: site selection, site preparation, plant selection, planting techniques, and ongoing management. www.xerces.org/establishing-pollinator-meadows-from-seed

Pollinator Habitat Installation Guides

These regional guidelines, developed in collaboration with the USDA's Natural Resources Conservation Service, provide in-depth practical guidance on how to install nectar and pollen habitat for bees in the form of wildflower meadow plantings or linear rows of native flowering shrubs. Region-specific seed mixes and plant recommendations are included in the appendices of each guide. www.xerces.org/pollinator-habitat-installation-guides

Acknowledgments

Support, background information, and other contributions to this publication were generously provided by Neal Williams' lab at University of California, Davis; Claire Kremen's lab at University of California, Berkeley; the California Association of Resource Conservation Districts, the USDA-NRCS Lockeford Plant Materials Center, Tom Moore with the NRCS, Hedgerow Farms, The Ceres Foundation, CS Fund, Disney Worldwide Conservation Fund, Gaia Fund, Turner Foundation, Inc., Western Sustainable Agriculture Research and Education, and the USDA's Natural Resources Conservation Service.

Written by Nancy Lee Adamson, Brianna Borders, Jessa Kay Cruz, Sarah Foltz Jordan, Kelly Gill, Jennifer Hopwood, Eric Lee-Mäder, Ashley Minnerath, and Mace Vaughan. Designed by Kaitlyn Rich. Formatted by Sara Morris. **PHOTO CREDITS:** The Xerces Society/Jessa Cruz: Pollinator meadow (cover), 1 (cover), 11; The Xerces Society/Mace Vaughan: 1 (inside), 2, 4; John Anderson, Hedgerow Farms, Inc: 3, 13, 14; John Kehoe (JKEHoe_Photos): 5, 6, 10, 16, 20; David A. Hofmann*: 7, 9, 21, 23; Stan Shebs/Wikimedia Commons: 8, 24; Preston Keres/USDA*: 12 (inside and cover); T.J. Gehling*: 15; Jane Shelby Richardson/Wikimedia Commons: 17; USDA-NRCS Lockeford Plant Materials Center: 18; Tom Brandt*: 19; Don Davis (californianativeplants): 22. Photographs remain under the copyright of the photographer.

The Xerces Society is an equal opportunity employer and provider. © 2017 by The Xerces Society for Invertebrate Conservation. Xerces® is a trademark registered in the U.S. Patent and Trademark Office.



CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Councilmember Wengraf, Councilmember Kesarwani, and Councilmember Droste

Subject: Community Policing: Flex Team for Problem-Oriented Policing Under the Scanning, Analysis, Response, and Assessment (SARA) Model and Other Applicable Community Engagement Models

RECOMMENDATION

Refer to the City Manager the establishment of a Flexible Team for Problem-Oriented Policing in the Berkeley Police Department, following the SARA model and other applicable community engagement models, including Berkeley Ceasefire.

POLICY COMMITTEE RECOMMENDATION

On March 7, 2022, the Public Safety Committee adopted the following action: M/S/C (Wengraf/Kesarwani) to send the item, with a positive recommendation, to council to be considered as part of the reimagining public safety process. Vote: All Ayes

FINANCIAL IMPLICATIONS

Staff time.

CURRENT SITUATION AND ITS EFFECTS

Establishing a Flexible Team for Problem-Oriented Policing is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city.

By November 31, 2021, there were 47 confirmed reports of gunfire in Berkeley, with 19 solved cases. By the same time in 2020, there had been 37 confirmed gunfire reports with 23 solved cases. This represents a 22% Year-To-Date decline in the clearance rate for gun-related criminal investigations, from 62% in 2020 to 40% in 2021.

According to the City's 2020/First Half of 2021 Crime Report, there were:

- 40 confirmed shooting incidents in 2020 versus 28 in 2019.
- 38 confirmed shooting incidents in the first nine months of 2021 versus 26 incidents in the same timeframe in 2020.
- Auto Thefts increased 64% from 492 cases in 2019 to 805 in 2020. Auto Thefts increased 52% from 339 cases in 2020 to 514 during the same timeframe in 2021.

[Flex Team]

CONSENT CALENDAR

April 12, 2022

- Aggravated Assaults increased 20% in 2020, with 210 reports, compared to 175 in 2019. Aggravated Assaults decreased 13% in 2021, with 96 reports, compared to 111 in the same timeframe in 2020.
- Burglaries increased by 3% in 2020, with 797 reports as compared to 771 reports in 2019. Residential burglaries increased by 8% while commercial burglaries decreased by 7%.

While Part One Violent Crime decreased by 13% (81 crimes) and Part One Property Crimes decreased by 11% (738 crimes), the aforementioned categories of crimes saw marked increases.¹ Despite these trends, 87% of all reported uses of force in 2021 resulted in neither injury nor complaint of pain. From October 2020 to September 2021, searches conducted by BPD saw a 44.23% yield rate, recovering 135 weapons and 31 firearms.

According to the Berkeley Police Department, Berkeley had 34 accidental deaths in 2020, of which 10 were from fentanyl (29.4%) whereas in Alameda County there were 732 accidental deaths, of which 138 were from fentanyl (18.8%). These deaths do not include poly drug incidents where fentanyl was present with other drugs.

In October 2021, the Berkeley Police Department had 149 officers on the roster, not including officers out due to injury or other types of leave. This is a lower level than in 2017-2018, when the department experienced a “staffing crisis.”² In 2017, the Department was forced to disband its Special Enforcement Unit (known elsewhere as a Crime Suppression Unit) due to insufficient staffing.

In response to an increase in gun violence and certain categories of property crimes, the Berkeley City Council voted unanimously in June 2021 to fund a Bike Patrol for South and West Berkeley in the Fiscal Year 2022 budget. In November 2021, the City Council voted unanimously to fund the establishment of a Berkeley Ceasefire program in the Annual Appropriations Ordinance (AAO #1). The SARA model can be used to supplement bike patrols and a future Ceasefire program with long-term investigations, flexible interventions, and community engagement to solve serious crimes and improve community relations.

BACKGROUND

According to a quasi-experimental study in Boston conducted by Cook et al (2019), the higher clearance rate for gun homicides (43%) relative to nonfatal shootings (19%) was “primarily a result of sustained investigative effort in homicide cases made after the first

¹ https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-19_Item_01_BPD_Annual_Report_pdf.aspx

² Raguso, E. (2021, Oct. 20). Officials vow to increase police staffing, with available officers at historic low. *Berkeleyside*. Retrieved Nov. 1, 2021 from <https://www.berkeleyside.org/2021/10/20/berkeley-police-staffing-increase-city-council-crime-report>.

[Flex Team]

CONSENT CALENDAR
April 12, 2022

2 days.”³ This suggests that long-term investigations can improve the clearance rate for solving violent crimes.

Contemporary proposals for police reform include best practices for law enforcement officers focused on solving crimes. The National Institute for Criminal Justice Reform (NICJR)’s New and Emerging Models of Community Safety and Policing Report, submitted to the Reimagining Public Safety Task Force,⁴ includes the following description of the SARA model for Problem Oriented Policing (Scanning, Analysis, Response, Assessment):

The Scanning, Analysis, Response, and Assessment (SARA) model was created in Virginia in 1987 to facilitate the problem-oriented policing procedure. The cornerstone of this model is a priority on outcomes; the model outlines four steps that are necessary for a proper police response to problems within their jurisdictions. To ensure proper implementation, a significant facet of this method is that officers must be ready to build trust between the community and the police department through the establishment of interpersonal relationships.

Scanning. This step consists of pinpointing and then triaging repeated issues that necessitate a response from the police department. Frequent problems that occur in the community are given priority. Relevant outcomes of the problem are matched to their corresponding cause. For example, examining which properties in a given area have the highest number of calls for service in a year or given time period is an important initial step in the SARA model.

Analysis. Here, law enforcement officers examine the root causes of the issue, community sentiment regarding the problem, and gather needed contextual data. This step also involves assessing the status quo response to the problem and identifying the shortcomings of that strategy. Ultimately, the cause of the problem and potential solutions are determined during this phase.

Response. Officers utilize collected data to ascertain potential intervention strategies. When determining strategies, a thorough review of implemented interventions in different areas with comparable issues is critical. Once a strategy is selected, clear goals must also be established. Execution of the chosen plan is the last part of this step.

Assess. After a plan is implemented and officers have attempted to address a problem, the police department must analyze the efficacy of their strategy. Continued evaluation of the intervention is necessary to guarantee lasting success. Alternatives or additions to the strategy are considered as well.

Many police departments have incorporated the SARA model into their interventions. In San Diego, the police department reported that a trolley station was the location of gang fights, violent crimes, and narcotic activity. A squad of officers collected information to show the local transit board that the design of the station contributed to crime. Based on

³ Cook, P. J., Braga, A. A., Turchan, B. S., & Barao, L. M. (2019). Why do gun murders have a higher clearance rate than gunshot assaults?. *Criminology & Public Policy*, 18(3), 525-551.

⁴ <https://berkeley-rps.org/wp-content/uploads/2021/10/New-and-Emerging-Report-10.29.21-FNL-2.0.pdf>

[Flex Team]

CONSENT CALENDAR

April 12, 2022

the information provided by the officers, the transit board agreed to provide funds to redesign the station.

The Berkeley Police Department has a long history of targeting high-level crimes with a Special Investigations Bureau (SIB) and Special Enforcement Unit (SEU). The Special Investigations Bureau dates back to the early 1960s, when the unit was only staffed with 2 officers. The operations and community partnerships of the Special Investigations Bureau evolved over the years in response to local concerns and regional trends. At its peak in 1989, the SEU was staffed with 25 officers, including a Drug Task Force (DTF). The DTF was disbanded in 2016. In the 1960s, the Special Investigations Bureau was responsible for coordinating investigations into gambling, prostitution, alcoholic beverage, and narcotic offenses that were prevalent in the community in that era. In 1968, the BPD Special Investigations Bureau logged over 2,000 narcotics arrests. This was a year that saw collaboration with the State Bureau of Narcotics Enforcement (Formerly known as Bureau of Narcotics Enforcement, which disbanded in 2012), and the Federal Bureau of Narcotics and Dangerous Drug Control (the predecessor agency to the Drug Enforcement Agency).

In the 1970s, the Special Investigations Bureau quantified their successes by the street value of narcotics seized. In the early 70's nearly every year the Bureau would seize roughly a million dollars in illicit narcotics. In 1983, Annual Crime Reports begin to highlight the growing presence of open-air drug markets with individuals congregated on street corners selling narcotics. In 1987 the Annual Report mentions the rapid increase in the use and sales of crack cocaine, most notably in South and West Berkeley. In April of 1987, the Berkeley Police Department's Drug Task Force (DTF) was created. During this time, nearly all of the actions taken by DTF were based on calls from citizens. The Special Investigations Bureau augmented DTF by serving over 110 search warrants. In 1989, the department completed a reorganization, which now included the Special Enforcement Unit, which contained a SEU commander, Special Investigations Bureau which had a Sergeant and six detectives, a Narcotics Admin Unit which contained an Inspector (supervisor) and two detectives, and two DTF teams, both containing a Sergeant and six officers. This unit was fully staffed with 25 Berkeley Police Officers.

In the early 1990s, the SEU began to focus on drug "hot spots" wherein their approach was more narrowly focused. The Unit also now moved more towards a community-based response with the creation of the Citizens Against Rock Sales (C.A.R.S) which was a successful partnership with community members seeking an improved quality of life. In 1993 SEU members partnered with Community and Merchant Associations to help take back their communities, this included cleaning up the streets, and graffiti abatement. This effort helped mobilize and unify the community and police efforts to confront these challenging times.

In the 2000s, the Special Investigations Bureau (SIB) detectives began relying on confidential reliable informants to further narcotic investigations. By 2001, the SEU was staffed with one Lieutenant, one administrative Sergeant, three field Sergeants, and nine officers for a total of 14 BPD Officers, down from the 25 officers in 1989.

[Flex Team]

CONSENT CALENDAR
April 12, 2022

After 2010, the SEU further reduced staffing to a Lieutenant, one officer in Narcotics Admin, SIB Sergeant and three detectives, DTF Sergeant, and four officers for a total of 11 officers. During the next seven years, the SIB would continue to target the drug dealers, and work to disrupt the supply of narcotics that were feeding Berkeley drug users. However, detectives quickly adapted to the reality that drug dealers would often be involved in other crimes that would further exploit unsuspecting victims, often in various types of fraud. By 2015, the DTF only had one Sergeant and two officers, and the narcotics admin was staffed with one officer. Eventually the DTF was disbanded in 2016. In 2017 the last SIB Sergeant and two detectives were loaned to robbery, property crimes, and sex crimes as SIB was completely disbanded. After this, the entire SEU was no longer in existence.

The Berkeley Police Department currently does not have staffing resources to conduct special investigations to address violent crime and drug trafficking as it did before, despite shootings and drug overdoses rising. By using problem-oriented policing models in NICJR’s New and Emerging Models of Community Safety and Policing Report, including the SARA model and a Ceasefire program, the City of Berkeley can increase its capacity to address violent crime with compassionate and data-driven best practices that are responsive to the manifold needs of a diverse community in the 21st Century.

Pursuant to Article VII Section 28(c) of the Charter of the City of Berkeley, the City Manager has the authority to establish a Flex Team for Problem-Oriented Policing in the Berkeley Police Department.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CONTACT PERSON

Councilmember Taplin Council District 2 510-981-7120



Kate Harrison
Vice Mayor, District 4

CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council
From: Vice Mayor Harrison
Subject: Budget Referral to Fund Mayoral Budgetary Analyses Pursuant to Charter Article VI. Section 24

RECOMMENDATION

Refer to the FY 23 and FY 24 Bi-annual Budget Process \$100,000 to provide the Mayor, on behalf of the Budget Committee and Council, the means to hire a certified public accountant throughout both fiscal years to provide supplemental assistance in fulfilling budgetary obligations pursuant to the Charter.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

Neighboring cities such as San Francisco and Oakland have adopted the budgeting best practice of employing independent authorities or agencies to prepare budgets, including estimating revenues. Such services, whether provided by the Budget and Legislative Analyst in San Francisco, or outside consultants such as Harvey Rose in cities like Oakland, are not designed to undermine city administrative estimates and budgets, but rather provide supplemental information that empowers the legislative body to make well-informed decisions.

The Berkeley City Council currently lacks such a tool while at the same time its engagement with the budget process has increased significantly due to the establishment of the Budget and Finance Policy Committee in 2018. The Council's budgetary obligations are set forth in Charter Article X.

Fortunately, the City Charter already explicitly provides the Mayor with the authority and duty to employ accounting services to perform such functions and duties pursuant to Article VI. Section 24. While the Mayor already conducts an annual audit using a certified public accountant, the Council has not yet provided the resources to conduct more detailed independent budget analyses. This budget referral expands funding for this Charter section.

BACKGROUND

Independent fiscal institutions, also known as independent budget offices, are considered a best practice by the Organisation for Economic Co-operation and

Development “promote greater fiscal transparency and accountability; and raise the quality of public debate on fiscal policy.”¹

Independent budget analysis is a fundamental principle across federal, state, and local legislative bodies. Since 1975, the U.S. Congressional Budget Office has supported the Congressional budget process through “independent analyses of budgetary and economic issues” and in support of the principles of objectivity and transparency. Similarly, for 75 years the California Legislative Analyst's Office (LAO) has provided fiscal and policy advice to the Legislature. Specifically, the LAO provides budget control, special reporting, and revenue and expenditure forecasting support services to the legislature.

The City and County of San Francisco Charter provides for a Budget Analyst, and since 1971, the Office has been managed by Harvey M. Rose, CPA. The Office is a joint venture partnership between Harvey M. Rose Associates, Debra A. Newman and Associates, Louie & Wong LLP Certified Public Accountants.²

The Budget Analyst's responsibilities include reviewing proposed annual budgets and report recommendations to the Board of Supervisors Finance and Labor Committee, and performing special fiscal analyses as requested.

In 2021, Oakland City Council also retained Harvey Rose to assist with budget preparation and analysis, including:

- Overview of General Purpose Fund revenues and expenditures, including multi-year budget-to-actual analysis of all General Purpose Fund departments;
- Review of the Non-Departmental budget;
- Detailed review of the proposed Police and Fire Department's budgets, including a review of overtime. Additionally, seek out and report on best practices to control overtime expenditures;
- Analysis of major areas of budget year increases, including increases in the number of FTEs over the past three years;
- Analysis of positions, vacancies, and salary savings;
- Analysis of potential assistance from federal and state sources of COVID-19 related economic relief;
- Review of key non-General Purpose funds and the allowable uses of unspent monies, including, but not necessarily limited to the Development Services Fund, Measure BB, and Measure Z funds;
- Review of the City Administrator's revenue projections for the upcoming two-year budget;
- Review and comparative analysis of the City's Finance Department structure;
- Analysis of contract contingencies, administrative projects, and other unspecified accounts;
- Analysis of encumbrance and reserve amounts; and
- Analysis of multi-year projects.

¹ “Recommendation of the Council on Principles for Independent Fiscal Institutions, Public Governance and Territorial Development Directorate OECD Senior Budget Officials, February 2014, <https://www.oecd.org/gov/budgeting/OECD-Recommendation-on-Principles-for-Independent-Fiscal-Institutions.pdf>.

² Budget & Legislative Analyst, San Francisco Board of Supervisors, <https://sfbos.org/budget-legislative-analyst>.

- Review the City's Five Year Financial Forecast and provide revenue estimates for two proposed ballot measures (an expansion of the Transient Occupancy Tax and the establishment of a tax on transportation network companies and delivery network companies).³

Such analyses bolster confidence in budgeting and legislative decision-making processes.

The Berkeley City Charter Article VI. Section 24 explicitly provides the following obligation to the Mayor and Council to examine and report on the city's books, records and reports related to the Auditor, revenues, and expenditures. The Mayor already employs a certified public accountant to audit the City's books, records, and reports, but existing Council funding does not include a more detailed budgetary analysis akin to those completed in San Francisco and Oakland:

Section 24. Mayor to have City's books examined

The Mayor shall employ, for a stipulated compensation, at the beginning of each fiscal year, a certified public accountant, who shall examine, at least once during the year, the books, records and reports of the Auditor and of all officers and employees who receive or disburse City moneys, and the books, records and reports of such other officers and departments as the Mayor may direct, and annually, after the close of each fiscal year, make a report of such examination. Such report shall be presented to the Mayor and copies thereof shall be filed with the Auditor, City Manager and City Clerk. Such accountant shall have unlimited privilege of investigation, to examine under oath or otherwise all officers, clerks and employees of the City, and every such officer, clerk and employee shall give all required assistance and information to such accountant, and submit to them for examination such books and papers of their office as may be requested, and failure to do so shall be deemed and held to be a forfeiture and abandonment of their office. The Council shall provide for the payment of the services of such accountant.

Currently, in preparing the budget, the Council relies on revenue forecasts and other budget information from the Finance Department, which may be appropriately conservative for administrative functions, but which may not always provide the Council with the full range of budgetary and legislative responsibilities vested to it by the City Charter.

Even though the Council is already obligated by the Charter to budget Mayoral office or other funds for such purposes, given that such analyses are an issue of citywide concern it is in the public interest to consider to consider this matter, at least initially, through a referral to the budget process.

FISCAL IMPACTS OF RECOMMENDATION

Impact on General Fund of \$100,000. However, the benefit of multiple budgetary analyses could generate budgetary efficiencies.

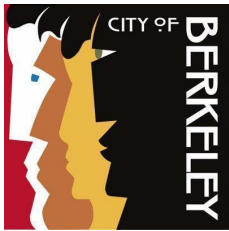
³ "Report On Independent Budget And Finance Analysis From: Council President Fortunato Bas Recommendation: Receive A Special Presentation And Report By Harvey M. Rose Associates, LLC On Their Independent Budget And Finance Analysis Of The Proposed Fiscal Year 2021-2023 Budget For The City Of Oakland," Oakland City Council, May 5, 2021, <https://oakland.legistar.com/LegislationDetail.aspx?ID=4937156&GUID=43F7BF0F-E398-425F-B634-DB8D9DD7FFE7&Options=&Search=>.

ENVIRONMENTAL SUSTAINABILITY

No discernable impact.

CONTACT PERSON

Vice Mayor Kate Harrison, (510) 981-7140



Councilmember Sophie Hahn
City of Berkeley, District 5

CONSENT CALENDAR

April 12, 2022

To: Honorable Members of the City Council
From: Councilmember Sophie Hahn (Author), Mayor Arreguín and Councilmembers Wengraf and Taplin (Co-Sponsors)
Subject: Berkeley Public Library Foundation's 19th Annual Authors Dinner Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a resolution approving the expenditure of an amount not to exceed \$600 per Councilmember, including \$500 from Councilmember Wengraf, \$200 from Mayor Arreguín, and \$200 from Councilmember Hahn, to the Berkeley Public Library Foundation's 19th Annual Authors Dinner event with funds relinquished to the City's general fund for this purpose from the discretionary Council office budget of Councilmember Hahn, and additional funds from Councilmembers who would like to contribute. The Berkeley Public Library Foundation raises funds to support and enhance facilities, programs, and services of the Berkeley Public Library. Recent gifts to the Foundation helped the library redesign its services during the pandemic, outfit a culinary tool lending library, and complete needed capital improvements to the downtown Central Library.

BACKGROUND

Two and a half decades ago, the Berkeley Public Library Foundation incorporated as a nonprofit dedicated to raising private funds necessary to turn the Berkeley Public Library into the library our community envisioned. In 2003, The Library Foundation hosted its first Authors Dinner, created in part to showcase completion of the expansion and renovation of the Central Library. Since that time, the Authors Dinner has been one of Berkeley's marquee annual fundraising events, featuring up to 30 prominent and diverse local authors.

On Saturday, May 21, 2022, the Berkeley Public Library Foundation will host its first in-person Authors Dinner since the start of the pandemic. The Authors Dinner is part of the Foundation's yearlong 25th Anniversary Campaign which was launched earlier this year with the video Library Love Letters 25th Anniversary Edition, featuring BPL librarian Michael Kwende, authors Robert B. Reich, R.C. Barnes, Annie Barrows, and Berkeley High School alumnus musicians Owen Storey & Max Nierlich. Additional information can be found at: <https://bplf.org> and <https://app.mobilecause.com/e/l3ffqQ?vid=qgkby>.

FISCAL IMPACTS OF RECOMMENDATION

A total of up to \$5,400 from the Mayor and Councilmembers' discretionary budgets.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE CHANGE

This item is consistent with the City's vision on sustainability. The Berkeley Public Library is the locus of the original "share economy," lending books, media, computers, and tools that might otherwise be purchased for one-time or occasional private use. BPL also provides green, energy efficient, modern neighborhood spaces for the Berkeley community to gather and find education, resources, and enjoyment.

CONTACT PERSON

Councilmember Sophie Hahn, (510) 981-7150

Attachments:

1: Resolution

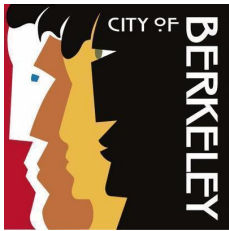
RESOLUTION #####-N.S.

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE
EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT
TO PROVIDE PUBLIC SERVICES FOR MUNICIPAL PUBLIC PURPOSE

WHEREAS, the Berkeley Public Library Foundation, a nonprofit organization dedicated to amplifying public investment in the Berkeley Public Library to make a great public library extraordinary, through its 2022 Authors Dinner event, seeks funds to subsidize library services for the City of Berkeley; and

WHEREAS, the provision of such services would fulfill the following municipal public purpose: The Berkeley Public Library Foundation raises funds to ensure the excellence of the buildings, services, collections, and programs at all five locations of Berkeley Public Library;

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$600 per office shall be granted to the Berkeley Public Library Foundation, through its 2022 Authors Dinner Event, to support the Berkeley Public Library and its programs.



Councilmember Sophie Hahn
City of Berkeley, District 5

CONSENT CALENDAR

April 12, 2022

To: Honorable Members of the City Council
From: Councilmember Sophie Hahn (Author), Councilmember Terry Taplin (Co-Sponsor), Mayor Jesse Arreguín (Co-Sponsor), Councilmember Kate Harrison (Co-Sponsor)
Subject: Kala Art Institute 2022 Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$500 from Councilmember Taplin, \$250 from Councilmember Hahn and \$250 from Mayor Arreguín, to the Kala Art Institute, a 501(c)(3) non-profit organization, to support Art Kala 2022, an exhibition, auction, and benefit to support Kala's artistic, cultural, and educational programs, with funds relinquished to the City's general fund for this purpose from the discretionary Council office budget of Councilmembers Hahn and Taplin, Mayor Arreguín, and any other Councilmembers who would like to contribute.

BACKGROUND

Founded in 1974, by Archana Horsting and Yuzo Nakano, as an international residency program rooted in the local community and a forum for ideas, Kala Art Institute encourages artistic experimentation. Over four decades -- from a garage studio with one etching press and a single hot plate to a 15,200 sq. ft. facility in the historic West Berkeley Heinz building -- Kala has grown steadily in the breadth of its offerings and in the size of its operation, yet remains true to its mission to be a workshop of ideas and to engage the community through exhibitions, education, and public programs.

In 2009, Kala dynamically expanded its facility providing new opportunities for artists and the community. With improved studios, project rooms, classrooms, and a 2,200 sq. ft. light-filled gallery with an accessible street level location, Kala is working to maximize its capacity to serve the community as a vital center for artistic experimentation. Kala serves 35,000 individuals yearly through artist residencies, exhibitions, and community workshops. In addition, Kala's Artists-in-Schools program provides curriculum-based visual arts education to children in neighboring public schools in Berkeley, Emeryville, and Oakland. Overall, their constituents range from 5 to 95 years old and represent a diverse group of participants including local residents, visiting artists from all state, country, and abroad – representing an international spectrum of

backgrounds and experience. Bay Area artists represent 85% of participants in Kala's artist residencies.

Kala Art Institute's mission is to help artists sustain their creative work over time through its Artist-in-Residence and Fellowship Programs, and to engage the community through exhibitions, public programs, and education.

The heart of Kala's mission as a vital, California art-making hub is supporting artists and engaging the community. Kala offers professional facilities to those working in and across print and digital media, new media, and performance. Artists at Kala are encouraged to work across disciplines, produce innovative artwork of the highest quality, and are given total freedom to realize their artistic vision using media that span the Gutenberg to digital eras. Kala offers access to equipment, time, and space to cultivate creative projects. Kala's studios provide tools for printmaking, photography, video, installation, and digital media. Kala fosters a fresh approach to experimentation, as artists investigate the interface of digital work, work made by hand, work made in the studio, performance-based work that engages the community and everything in between. A spirit of exchange and education is nurtured through all Kala's community programs.

Kala's creative community builds bridges between the intense art-making environment of the Kala studios, located in the historic Heinz ketchup factory in Berkeley and life outside the studio in Kala's immediate neighborhood and far beyond. Additionally, Kala is committed to offering quality art education to the general public and public school children through its on-site and online program of classes and workshops, summer programs and its Artists-in-Schools program, established in 1991, providing multipleweek artist-led instruction to students in neighboring East Bay public schools.

Celebrating Kala's 48th year, Art Kala 2022 brings together Kala's creative community and features the inventive and meaningful art being made in the Bay Area. Art Kala 2022 with Honorary Auction Chairs Donna Westerman and Russ McClure will take place April 7th - May 22nd 2022, honoring Leah Rosenberg; VIP Print by Christine Wong Yap. Art Kala will take place at: Kala Gallery, 2990 San Pablo Avenue, Berkeley, California 94702.

More information can be found at: <http://www.kala.org/gallery/spring-gala-and-auction/>.

FISCAL IMPACTS OF RECOMMENDATION

A total of up to \$4,500 from Councilmembers' discretionary budgets.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE CHANGE

This item is consistent with the City's vision on sustainability.

CONTACT PERSON

Councilmember Sophie Hahn, (510) 981-7150

Attachments:
1: Resolution

RESOLUTION #####-N.S.

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM
THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS
FOR A GRANT TO PROVIDE SUPPORT FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Kala Art Institute is a nonprofit organization dedicated to helping artists sustain their creative work over time through its Artist-in-Residence and Fellowship Programs, and to engaging the community through exhibitions, public programs, and education; and

WHEREAS, since 1974, Kala has grown steadily in the breadth of its offerings and in the size of its operation, yet remains true to its mission to be a workshop of ideas and to engage the community through exhibitions, education, and public programs; and

WHEREAS, Kala serves 35,000 individuals yearly through artist residencies, exhibitions, and community workshops, and through its Artists-in-Schools program provides curriculum-based visual arts education to children in neighboring public schools in Berkeley, Emeryville, and Oakland; and

WHEREAS, Kala's constituents range from 5 to 95 years old and represent a diverse group of participants including local residents, visiting artists from all state, country, and abroad – representing an international spectrum of backgrounds and experience – with Bay Area artists representing 85% of participants in Kala's artist residencies; and

WHEREAS, Art Kala 2022 brings together Kala's creative community and features the inventive and meaningful art being made in the Bay Area, honoring Leah Rosenberg; VIP Print by Christine Wong Yap; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by \$500 from Councilmember Taplin, \$250 from Councilmember Hahn and \$250 from Mayor Arreguín and any funds, up to \$500 per Council Office Budget, from the Mayor and other Councilmembers shall be granted to the Kala Art Institute to support Art Kala 2022 and to celebrate Kala's 48th year helping artists sustain their creative work in Berkeley and beyond.



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmembers Susan Wengraf & Sophie Hahn (authors) Mayor Arreguin and Councilmember Bartlett (co-sponsors)

Subject: Proclamation in Honor of Holocaust Remembrance Day

RECOMMENDATION

Adopt the Holocaust Remembrance Day Proclamation for the 19th Annual Holocaust Remembrance Day program to be held virtually Thursday, April 28th from 2:00 – 3:00 PM.

FINANCIAL IMPLICATIONS

None.

BACKGROUND

The City of Berkeley has sponsored the Annual Holocaust Remembrance Day program since 2002 to honor Holocaust survivors and their families. It reminds all of us of the terrible consequences when hate goes unchecked. The program nourishes, strengthens and renews our belief in the strength of the human spirit. All community members are welcome to attend.

This year's program honors Survivor Adela Mayer who will speak about her experiences as a young child in Czechoslovakia. The Soprano, Heather Klein and Pianist, Jason Manlapaz will perform. Poet, Peter Dale Scott and Tessa Rudnick, granddaughter of Survivor Jean Greenstein will also contribute. A candle lighting by Survivors, in memory of lost family and friends, frames the hour-long program.

ENVIRONMENTAL SUSTAINABILITY

N/A

CONTACT PERSON

Councilmember Wengraf Council District 6 510-981-7160

Attachments:
1: Proclamation

BERKELEY'S 19TH ANNUAL HOLOCAUST REMEMBRANCE DAY

Whereas, The Holocaust was the state-sponsored, systematic genocide of more than six million European Jews by Nazi Germany and its collaborators between 1933 and 1945; and

Whereas, The Holocaust was a crime of shocking inhumanity, targeting for persecution and death, Jews and also Roma and Sinti people, those with mental illness and physical disabilities, homosexuals, Slavs, Poles, and members of anti-Nazi networks from throughout Europe; and

Whereas, This year's guiding Holocaust Remembrance theme of "*Memory, Dignity, and Justice*" emphasizes the importance of recording history and the act of remembering, which brings dignity and justice to those whom the perpetrators of the Holocaust intended to destroy; and

Whereas, False information on the Holocaust continues to deny and trivialize the truth of what took place during the Nazi regime and, for the benefit of past, present and future generations, we must never forget the appalling crimes of the Holocaust; and

Whereas, The purpose of Berkeley's Holocaust Remembrance Day is to join together as a community to remember the Holocaust, honoring survivors who chose to rebuild their lives in Berkeley and the Bay Area, and to reflect on the need to respect all people.

NOW THEREFORE, BE IT RESOLVED that Jesse Arreguín, Mayor of the City of Berkeley, does hereby proclaim April 28, 2022 as

Holocaust Remembrance Day

In the City of Berkeley, in memory of those who perished and in honor of the survivors as well as the rescuers and liberators.

BE IT FURTHER PROCLAIMED that the City of Berkeley is committed to never forgetting the events of the Holocaust and to working actively to combat anti-Semitism, racism, bigotry, and hatred in all forms, and to the promotion of human rights and dignity for all.



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Wengraf (author) Mayor Arreguín (co-sponsor)
Councilmember Hahn (co-sponsor)

Subject: Budget Referral: City of Berkeley Annual Holocaust Remembrance Day

RECOMMENDATION

Refer to the Fiscal Year 2023/2024 budget process a request for \$6,000 annually to fund the City of Berkeley's Annual Holocaust Remembrance Day Program.

FINANCIAL IMPLICATIONS

A total of \$12,000 over two years.

BACKGROUND

For the past 19 years, The City of Berkeley has sponsored a Holocaust Remembrance Day Program. Participation in this important annual program has exceeded expectation, with attendance at in-person events in excess of 200 people (room capacity) for the past several years. The event has historically been funded through private donations, volunteer labor and the generosity of council members who have given from their discretionary accounts, creating an unstable and unpredictable future for the program. This past year, the program was viewed virtually because the pandemic prevented in person assembly. The popularity of the program was clearly demonstrated by 750 viewers.

This budget recommendation is for continuing annual support of the City of Berkeley's Holocaust Remembrance Day Program in the modest amount of six thousand dollars each year for the next two years. Those funds will be leveraged by volunteer labor and donations, guaranteeing the continuance of the City's program through 2024. It is critical that this program continue, as the memory of the systematic genocide of Jews, political prisoners, homosexuals, and the disabled fades from our collective memory. The history of the Holocaust needs to be remembered in order to safeguard the future.

ENVIRONMENTAL SUSTAINABILITY

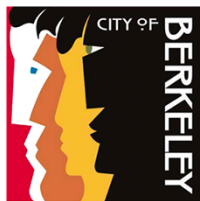
In compliance with City's environmental sustainability goals

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR
 April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson (Author) and Councilmember Kate Harrison (Co-Author), Mayor Jesse Arreguin (Co-Sponsor), Councilmember Lori Droste (Co-Sponsor)

Subject: Budget Referral: Downtown Berkeley BART Station Modernization Design

RECOMMENDATION

Refer \$250,000 to the June 2022 budget process to contribute to funding Bay Area Rapid Transit's preliminary design engineering work for the Downtown Berkeley BART Station Modernization project.

BACKGROUND

The Downtown Berkeley Station Modernization Plan creates a community-based vision for modernizing the station with a high standard of design excellence, functionality and cost effectiveness. It identifies and prioritizes long-term improvements to guide future investment in the station, including fixing and upgrading core existing station and system facilities to keep the station functioning well, and other proposed upgrades to improve station circulation, access and customer experience.

The plan recommends a set of comprehensive improvements developed through a collaborative planning process, including:

- **Placemaking, aesthetics, and customer experience:** Reopening the public restroom, adding new signage and public art, overhauling ceilings/walls/floors
- **ADA access and circulation:** Replacing elevators with accessible elevators, adding an additional escalator, upgrading handrails and guardrails, installing bicycle access channels and storage
- **Safety and security:** Improving lighting and sightlines, replacing fare gates
- **System and facility upgrades:** Repairing and replacing worn or outdated materials, improving the PA system and emergency/life safety systems

The Downtown Berkeley BART station serves not only as a transit hub for BART and AC Transit riders, bicyclists, and pedestrians, but also as the gateway to the City of Berkeley and UC Berkeley campus. It provides great benefits to the City by decreasing our transportation-related greenhouse gas emissions and bringing commuters, customers, and tourists into our downtown.



BART held two public in-station outreach events at the Downtown Berkeley BART Station to acquire riders' opinions on the modernization of the Downtown Berkeley station. They were held on September 30, 2015 during the evening commute (4-7 pm) and on October 1, 2015 during the morning commute (7-10 am). BART riders and members of the public could learn about the modernization study, fill out a survey, talk to BART planning staff and provide comments. In addition, between September 30 and October 19, 2015, BART collected feedback through an online survey. BART received 1,031 responses and 357 comments during this period. Based on the free-response comments, the top suggestions were 1) improving access with more entrances and fare gates, 2) increasing signage, 3) improving station cleanliness and smell, 4) adding more elevators, escalators, and stairs, and 5) increasing safety.¹

The Downtown Berkeley survey results conveyed that the majority of BART riders prioritize function, service, and cleanliness over aesthetics, and would like to see investment in improving these areas before other modernization occurs. Many BART riders who took the survey would like to see improvements in accessibility, which include adding more entrances, elevators, stairs, and escalators. In addition, many would like to see signs added at the ground level indicating train departure times. Many other additional comments were also taken into consideration, including requests for better bike accessibility and wheelchair access, and more public art in the station.

Significant development in the neighborhood and the renovations of the street-level station plaza and adjoining Shattuck Avenue all provide an impetus to modernize the station. Stakeholders provided consistent input that they want improvements that will "refresh" the station, creating a brighter and more functional environment that reflects the Berkeley community while retaining the station's unique architectural elements.

1

<https://www.bart.gov/sites/default/files/docs/DT%20Berkeley%20Station%20Mod%20Survey%20Results%20Final.pdf>

In April 2017, the Final Report of the Downtown Berkeley BART Station Design Concept and Modernization Plan was released.² The plan's strategy for the Downtown Berkeley BART Station establishes a long-term vision for station improvements. Its framework of priorities and improvements can be used as a guide for selection and implementation as BART's scheduling and available funding permit. Preliminary design work should begin on selected Phase 1 improvements in the near future to enable their implementation in a timely manner.

At present, the work is at approximately 15% design. The next step would bring the project to 35% design, which would include an updated total project cost estimate. Current estimates suggest that a complete preliminary design would cost \$2.5M. This budget referral recommends contributing \$250K towards that goal. Ultimately, BART will need to secure additional funding to achieve 100% design.

By providing funding to support preliminary design engineering work, the City of Berkeley can demonstrate to BART and to the Alameda County Transportation Commission our continued interest in seeing the project completed as soon as possible, and our eagerness to work with regional partners on our shared transportation goals.

FINANCIAL IMPLICATIONS

\$250,000 from the General Fund.

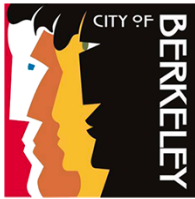
ENVIRONMENTAL SUSTAINABILITY

Encouraging public transit use is a critical strategy to reduce local greenhouse gas emissions. BART trains are 100% electric, with over 97% of that power coming from zero and low-carbon sources including solar and hydro energy. BART is increasing its use of low-carbon, zero-carbon and renewable energy sources, with the goal of transitioning to 100% carbon-free by 2035 and 100% renewable energy by 2045. Just one commuter using BART each weekday instead of driving saves over 360 gallons of gas and 7,000 pounds of CO₂ in a year. The Downtown Berkeley BART Station Modernization project is critical both to renew aging infrastructure in the BART Station and to attract new potential riders who may today be drivers.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Angie Chen, Legislative Assistant

² https://www.bart.gov/sites/default/files/docs/BART-DTB_FinalReport_April2017.pdf



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council
 From: Councilmember Rigel Robinson
 Subject: Relinquishment of Council Office Budget Funds to the General Fund and Grant of Such Funds for the Suitcase Clinic

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$500 from Councilmember Robinson, to the Suitcase Clinic to fund homeless outreach supplies and in-clinic expenses.

BACKGROUND

The Suitcase Clinic is a UC Berkeley student organization and volunteer community that offers free health and social services to underserved populations, including unhoused Berkeley residents. It also strives to educate students, engage in community organization, and support public policy efforts that address homelessness in the local community. Their volunteers provide weekly services such as haircutting, footwashing, wellness activities, and more while outside partners provide professional services such as medical, psychiatry, and chiropractic.

The Suitcase Clinic is raising funds to allow them to continue providing supplies and resources to the unhoused community, including:

- Street/encampment outreach supplies: solar panels and power banks, charging cables, hygiene supplies (floss, toothbrushes, toothpaste, deodorant, shampoo, etc.), sleeping pads, sleeping bags, tents, vitamins, over-the-counter medications such as ibuprofen, first aid supplies (band-aids, bandages, neosporin, antibacterial wipes, etc.), and clothing.
- In-clinic expenses: supplies to support our weekly Haircutting, Footwashing, Health Ed, Food Security, Housing/Legal, Massage, and Wellness services.

FINANCIAL IMPLICATIONS

No General Fund impact; \$500 is available from Councilmember Robinson's Office Budget discretionary account.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Angie Chen, Legislative Assistant

Attachments:

1: Resolution

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

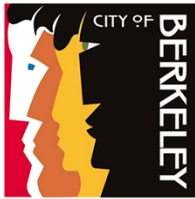
AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE
EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT
TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Rigel Robinson has surplus funds in his office expenditure account; and

WHEREAS, a California non-profit tax-exempt corporation, the Suitcase Clinic, seeks funds in the amount of \$500 to continue providing material supplies, services, and resources to the Berkeley unhoused community; and

WHEREAS, the provision of such funds would fulfill the municipal public purpose of allowing all Berkeley residents, regardless of their means, to have access to basic supplies and services that are fundamentally necessary for human dignity.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the \$500 relinquished by Councilmember Robinson from his Council Office Budget and any other Councilmember who wishes to contribute shall be granted to the Suitcase Clinic to fund their outreach work.



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson, Councilmember Kate Harrison, and Councilmember Sophie Hahn

Subject: Support for AB 2050: Ellis Act Reform

RECOMMENDATION

Send a letter to Assemblymember Alex Lee, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 2050, which would require five years of ownership before a rental property owner can proceed with an eviction pursuant to the Ellis Act, with exemptions for small landlords.

BACKGROUND

Assembly Bill 2050 aims to prevent speculator evictions by prohibiting rental property owners from invoking the Ellis Act to remove a building from the housing market, unless ownership has been established for at least five continuous years. This bill would additionally prohibit a building owner from proceeding with another Ellis Act eviction at a property acquired within 10 years of filing an Ellis Act notice at a different property. AB 2050 provides exemptions for “mom and pop” landlords.

The Ellis Act, passed in 1985, establishes a landlord’s unconditional right to remove their property from the rental market, evicting the tenants without just cause. Its original purpose was to protect small landlords who wanted to leave the rental market without selling their property. However, the legislation’s reach has been gradually expanded by a series of court decisions, ruling that owners could invoke the Act not only to keep the units vacant, but also to convert the units to ownership or demolish them altogether.¹ This has paved the way for increased housing speculation and displacement across California. One report found that 51 percent of Ellis Act evictions in San Francisco were filed within a year of ownership being established, suggesting that these property owners had no intent of being in the rental business in the first place.²

From 1986 to 2020, 457 units have been taken off the rental market in the City of Berkeley using the Ellis Act.³ Across California, the Ellis Act has resulted in the loss of tens of thousands of rent-controlled units — 5,400 in the Bay Area and 27,600 units in the City of Los Angeles alone.⁴

¹ <https://law.justia.com/cases/california/court-of-appeal/4th/59/1241.html>

² <https://www.sfexaminer.com/news/report-claims-speculators-are-behind-most-ellis-act-evictions-in-sf/>

³ https://drive.google.com/file/d/1XuB6da_XKg4QRiUtARLiQuAStGEdjMk/view

⁴ <http://www.cesinaction.org/MapofEllisActEvictions.aspx>

The City of Berkeley declared a local state of emergency and passed the COVID-19 Emergency Response Ordinance in March 2020, banning evictions except for those pursuant to the Ellis Act or necessary for the health and safety of the residents. An amendment prohibiting Ellis Act evictions will go into effect on April 1, 2022.⁵ Council also voted to endorse AB 854, a previous version of this bill.⁶

The City should reaffirm its support for Ellis Act reform by endorsing AB 2050 and sending the attached letter of support to Assemblymember Alex Lee, Senator Nancy Skinner, and Assemblymember Buffy Wicks.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Angie Chen, Legislative Assistant

Attachments:

- 1: Letter of support
- 2: Bill text

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2050

⁵ <https://www.cityofberkeley.info/rent/newlaws/>

⁶ https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-30_Supp_1_Reports_Item_28_Rev_Robinson_pdf.aspx

April 12, 2022

The Honorable Alex Lee
Assemblymember, 25th District
State Capitol, Room 6330
Sacramento, CA 95814

RE: City of Berkeley's Support for Assembly Bill 2050

Dear Assemblymember Alex Lee,

The Berkeley City Council would like to convey our full support for Assembly Bill 2050, which would take a critical step towards stopping speculator evictions and preserving California's dwindling stock of rent-controlled units.

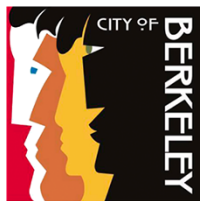
The Ellis Act has been exploited as a major loophole that allows property owners to evict tenants without just cause. It has paved the way for increasing levels of housing speculation, resulting in the loss of rent-controlled units and the displacement of our most vulnerable tenants. Here in Berkeley, the Ellis Act has been invoked to remove over 450 rent-controlled units from the market.

AB 2050 would close the speculator evictions loophole and ensure that the Ellis Act is used for its original purpose, not to evict for profit. Ellis Act reform is long overdue, and a crucial measure to protect our state's tenants from speculators. The Berkeley City Council supports AB 2050 and thanks you for taking the lead on this important issue.

Sincerely,

The Berkeley City Council

CC: Senator Nancy Skinner
Assemblymember Buffy Wicks



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR
 April 12, 2022

To: Honorable Mayor and Members of the City Council
 From: Councilmember Rigel Robinson, Councilmember Sophie Hahn
 Subject: Support for SB 649: Affordable Housing Local Tenant Preference

RECOMMENDATION

Send a letter to Senator Dave Cortese, Assemblymember Buffy Wicks, and Senator Nancy Skinner in support of Senate Bill 649, which would enable the creation of local tenant preferences policies for affordable housing.

BACKGROUND

Rising housing costs and scarcity of affordable housing in California have caused substantial displacement in low-income communities of color. Displacement has significantly impacted the City of Berkeley, especially our Black community. Between 2000 and 2015, Alameda County lost more than 1,900 low-income Black households, with losses concentrated in the flatlands of Oakland and Berkeley.¹ Between 1990 and 2018, Berkeley lost 49% of its Black population.²³ Large portions of South and Southwest Berkeley are vulnerable to displacement or are undergoing active gentrification, as higher income, largely white residents move into neighborhoods once occupied by low-income residents of color.⁴

Local tenant preference policies prioritize affordable housing for applicants with some connection to the affordable housing unit's location, helping to reduce displacement and enable previously displaced residents to return. Currently, these policies could be in violation of fair housing laws, disqualifying projects with tenant preferences from receiving funding through bonds, tax credits, or other public funds. SB 649 would allow local governments and developers to enact local tenant preferences for lower-income households at risk of displacement.

SB 649 can mitigate the housing and homelessness crisis by providing greater access to planned affordable housing to vulnerable community members, stabilizing gentrifying neighborhoods, and more efficiently allocating scarce resources. This law would enable the City of Berkeley to more directly combat future displacement and remedy past displacement, especially for the Black community in South and West Berkeley.

¹ UC Berkeley's Urban Displacement Project and California Housing Partnership, "Rising Housing Costs and Re-Segregation in Alameda County."

² Bay Area Census -- City of Berkeley -- 1970-1990 Census Data."

³ "U.S. Census Bureau QuickFacts."

⁴ "SF Bay Area – Gentrification and Displacement – Urban Displacement."

FINANCIAL IMPLICATIONS

No impact.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Valerie Nguyen, Intern

Attachment:

1: Letter of support

2: Bill text

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB649

April 12, 2022

Senator Dave Cortese
Senator, 15th District
State Capitol, Room 6640
Sacramento, CA 95814

RE: City of Berkeley's Support for Senate Bill 649

Dear Senator Dave Cortese,

The Berkeley City Council would like to convey our full support for SB 649 to allow for local tenant preferences in affordable housing.

Rising housing costs have caused significant displacement in low-income communities, particularly among residents of color. Between 2000 and 2015, Alameda County lost more than 1,900 low-income Black households, with losses concentrated in the flatlands of Oakland and Berkeley. Between 1990 and 2018, Berkeley lost 49% of its Black population. Large portions of our city are vulnerable to displacement or are undergoing active gentrification.

Current and previously displaced residents competing for scarce affordable housing can struggle to access units in their neighborhoods, undermining the efficacy of affordable housing in addressing gentrification and displacement. However, without state authorization, fear of violating fair housing laws can prevent local governments and housing developers from enacting local tenant preferences for those most at risk of displacement.

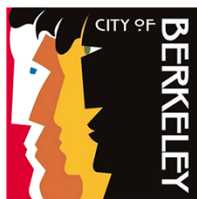
By authorizing local tenant preferences, SB 649 would be a valuable tool to mitigate gentrification and the displacement of vulnerable low-income households in our city and communities across California.

The Berkeley City Council supports SB 649 and thanks you for continuing to act on this important issue.

Sincerely,

The Berkeley City Council

CC: Senator Nancy Skinner
Assemblymember Buffy Wicks



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR
 April 12, 2022

To: Honorable Mayor and Members of the City Council
 From: Councilmember Rigel Robinson
 Subject: Support for AB 2147: Jaywalking Decriminalization

RECOMMENDATION

Send a letter to Assemblymember Phil Ting, Assemblymember Friedman, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of AB 2147, related to jaywalking enforcement.

BACKGROUND

Assembly Bill 2147 amends the California Vehicle Code to decriminalize certain actions taken by pedestrians when no immediate hazards are present. Specifically, this bill:

- Prohibits officers from stopping pedestrians for violating traffic signals (including crossing on red and yellow lights or on the incorrect turn signal) when no immediate hazard is present.
- Prohibits officers from stopping pedestrians for violating pedestrian crossing signals when no immediate hazard is present.
- Prohibits officers from stopping pedestrians for crossing outside of an intersection when no immediate hazard is present.
- Prohibits officers from stopping pedestrians for walking on the right-hand side of the road when no immediate hazard is present.
- Prohibits officers from stopping pedestrians for violating local jaywalking ordinances when no immediate hazard is present.
- Still requires pedestrians, bicyclists, and drivers to exercise due care for safety.

Jaywalking laws were originally created by auto industry-aligned special interest groups during the rise of mass automobile ownership. In response to an increasing number of pedestrian fatalities, many cities tried to impose built-in speed limits on automakers. Automakers fought back, lobbying for jaywalking regulations that would shift responsibility away from drivers and onto pedestrians, thus allowing cars to continue traveling at unsafe speeds.¹

Today, pedestrians in California can face fines up to \$250 for crossing the street outside of a crosswalk — a higher fine than most parking and traffic citations. Existing law operates under the false assumption that jaywalking is inherently dangerous, even when no vehicles are present, and unfairly and severely penalizes pedestrians.

¹ <https://www.vox.com/2015/1/15/7551873/jaywalking-history>

The prevalence of jaywalking is a reflection of the car-centric way in which we design our streets. Automobile traffic is consistently prioritized over bicyclist and pedestrian safety, resulting in a hostile walking environment with wide multi-lane streets, large distances between crosswalks, pedestrian beg buttons, and inadequate sidewalks. The lack of pedestrian-friendly infrastructure is even more apparent in low-income neighborhoods of color, which have suffered decades of neglect. Pedestrians should not be penalized for common behavior that is a direct result of cities' failure to consider the needs of non-drivers.

Furthermore, the enforcement of jaywalking laws is inequitable in many jurisdictions. Across California, police departments stop Black pedestrians at a significantly higher rate than white pedestrians. Black pedestrians are 4.3 times more likely to be cited for jaywalking in San Diego, 3.7 times more likely in Los Angeles, and 5 times more likely in Sacramento. This pattern held true in the City of Berkeley in 2019-2020 with the limited data available through RIPA, with Black residents being about 4.5 times more likely than white residents to be stopped. However, this past year, the rates of stops between white and Black residents were almost equivalent.

Assembly Bill 2147 adjusts AB 1238 from the previous legislative cycle, which was vetoed by Governor Newsom. In his veto message, the Governor acknowledged the issue with jaywalking offenses being used as a pretext to stop people of color, but refused to sign the bill out of fear that it would inadvertently increase the already high numbers of pedestrian deaths in California.²

In order to ensure that this bill does not jeopardize the safety of pedestrians, AB 2147 decriminalizes, rather than legalizes, jaywalking. The bill amends the current vehicle code to instruct police to not enforce jaywalking provisions, "*unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power*" rather than repealing the provisions entirely. AB 2147 also makes it clear that pedestrians must still exercise "due care for their safety." Thus, this bill prevents police from using jaywalking laws to make arbitrary citations while still ensuring the safety of pedestrians.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

² <https://www.gov.ca.gov/wp-content/uploads/2021/10/AB-1238-1082021.pdf>

Katie DaQuino, Intern

Attachments:

1: Letter of support

2: Bill text

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2147

April 12, 2022

The Honorable Phil Ting
Assemblymember, 19th District
State Capitol, Room 8230
Sacramento, CA 95814

RE: City of Berkeley's Support for Assembly Bill 2147

Dear Assemblymember Phil Ting,

The Berkeley City Council writes to express our support for Assembly Bill 2147, which would decriminalize safe walking patterns and decrease the use of pedestrian violations as a pretext for police to stop people of color. AB 2147 is a critical bill that maintains pedestrian safety while protecting minorities from a common form of preemptive police stop.

Jaywalking laws were put in place to shift blame from drivers to pedestrians during the proliferation of car ownership. These laws make it harder for pedestrians to navigate cities that are primarily built for cars, with inadequate crosswalks and other pedestrian infrastructure. There is no threat in crossing the street when no vehicles are approaching; yet, the enforcement against such violations continues to put pedestrians at risk of steep fines.

Moreover, police have often used jaywalking laws to discriminate against Black pedestrians, resulting in a pattern of Black pedestrians being stopped at higher rates than white pedestrians for these minor violations of the vehicle code.

The Berkeley City Council is in full support of AB 2147, as it will reduce discriminatory stops and make navigating cities as a pedestrian more accessible.

Sincerely,

The Berkeley City Council

CC: Senator Nancy Skinner
Assemblymember Buffy Wicks
Assemblymember Laura Friedman



CONSENT CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson (Author), Mayor Jesse Arreguin (Co-Sponsor), Councilmember Kate Harrison (Co-Sponsor), and Councilmember Lori Droste (Co-Sponsor)

Subject: Support for SCA 2: Article 34 Repeal

RECOMMENDATION

Adopt a Resolution supporting SCA 2 to repeal Article 34 of the California Constitution, eliminating the required city-wide vote for construction of publicly-funded low-income housing projects. Send copies of the Resolution to Senators Ben Allen, Scott Wiener, Nancy Skinner, and Assemblymember Buffy Wicks.

BACKGROUND

Senate Constitutional Amendment 2, introduced by Senators Ben Allen and Scott Wiener, would repeal Article 34 and enable local governments to expedite the process of developing or acquiring low-income housing projects without the delays of electorate approval. Given the drastic shortage of affordable housing in Berkeley and across California, SCA 2 would remove a major barrier to vital housing development. In 2019, the City of Berkeley endorsed SCA 1, a previous version of this bill.¹

Article 34 defines “low rent housing project’ as any development composed of urban or rural dwellings, apartments, or other living accommodations for persons of low income. Furthermore, Article 34 states that a “person of low income’ shall mean persons or families who lack the amount of income which is necessary (as determined by the state public body developing, constructing, or acquiring the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.”

Initially added to the California Constitution in 1950 through the Proposition 10 ballot initiative, Article 34 is a legislative relic of a racially discriminatory era. Today, it continues to serve as an institutional obstacle to the construction of new affordable public housing intended to benefit low-income individuals and reduce displacement.

The attached resolution reaffirms the City of Berkeley’s endorsement of the proposed constitutional amendment. Copies of the resolution shall be sent to Senator Nancy

¹ https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/2019-04-02_Item_11_Support_for_SCA-1.aspx

Skinner, Assemblymember Buffy Wicks, and the bill's authors, Senators Ben Allen and Scott Wiener.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

Consistent with the City's climate and environmental goals.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Jarrod Esteves, Intern

Attachments:

- 1: Resolution in support of SCA 2
- 2: Bill text

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SCA2

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

RESOLUTION IN SUPPORT OF SCA 2, THE REPEAL OF ARTICLE 34

WHEREAS, housing is a human right, and;

WHEREAS, development of publicly-funded affordable housing enables cities to further the public good by expanding access to this basic right, and;

WHEREAS, under current law, the cumbersome requirement of electoral approval impedes the capacity of municipalities to develop adequate numbers of affordable housing units, and;

WHEREAS, restrictions on affordable housing reinforce intergenerational income inequality and perpetuate systems of economic disenfranchisement which disproportionately impact minority communities, and;

WHEREAS, construction of new affordable housing empowers cities to both correct historic inequalities and address contemporary shortages when they arise, and;

WHEREAS, SCA 2 (Allen and Weiner) will repeal Article 34 of the California Constitution, thereby removing an antiquated procedural obstacle to progress.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley hereby endorses SCA 2 and the constitutional amendments which will result from its passage; and

BE IT FURTHER RESOLVED that the City of Berkeley may be listed as a supporter of said constitutional amendments by the official proponents of the measure; and

BE IT FURTHER RESOLVED that copies of this resolution will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, Senator Ben Allen, and Senator Scott Wiener.



Office of the City Manager

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: March 22, 2022

Item Number: 27

Item Description: [27. Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities](#)

Supplemental/Revision Submitted By: Berkeley City Auditor Jenny Wong

“Good of the City” Analysis:

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

During the March 22 City Council meeting, the Berkeley City Auditor shall present the key findings and recommendations from our most recent audit, *Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities*. The audit takes a historic look at BPD’s budget, and explores why BPD’s overtime costs have increased in recent years.

The attached supplemental item consolidates the audit findings for City Council’s consideration, including BPD’s reliance on overtime to achieve minimum staffing, how officers frequently exceed overtime limits, the growth of security work for outside parties, among other findings. Council leadership may consult the supplemental item as an abridged resource and summary of the 54-page audit in their discussions with the City Auditor.

Accepting the supplemental item is for the “good of the City” given notable interest from the public and press on police conduct and overtime, and given City leadership interest in accelerating the proposed audit recommendations. Additionally, the time-sensitivity of the supplemental item outweighs the lack of time for citizen review or evaluation, as it will complement and streamline communication about item number 27 which will be discussed during the March 22 City Council meeting.

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

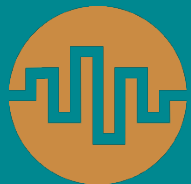
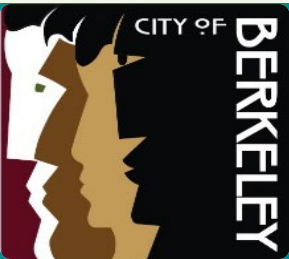
A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

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

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

Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

Berkeley City Council Meeting
March 22, 2022



BERKELEY CITY AUDITOR

Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

Overview

- Objectives
- Background and Findings
- Recommendations
- Police Department Response



Why we did this audit:

- In our 2021 Audit Plan, we identified the Berkeley Police Department (BPD) budget as an area needing objective and independent analysis of how limited City funds are allocated.
- Overtime is the biggest reason why BPD spent more general funds than budgeted four out of the past five years.
- Interest from the Berkeley community in Police Overtime.



This report does not assess the adequacy of BPD's staffing levels or service delivery model.



Objectives:

1. *What policing functions does BPD's use of overtime cover?*
2. *Does BPD regularly assess minimum staffing levels to meet community needs?*
3. *Is BPD's management of overtime sufficient to reduce excessive uses of overtime?*
4. *Are BPD's agreements to provide work for outside entities transparent and in accordance with the law?*



What we found

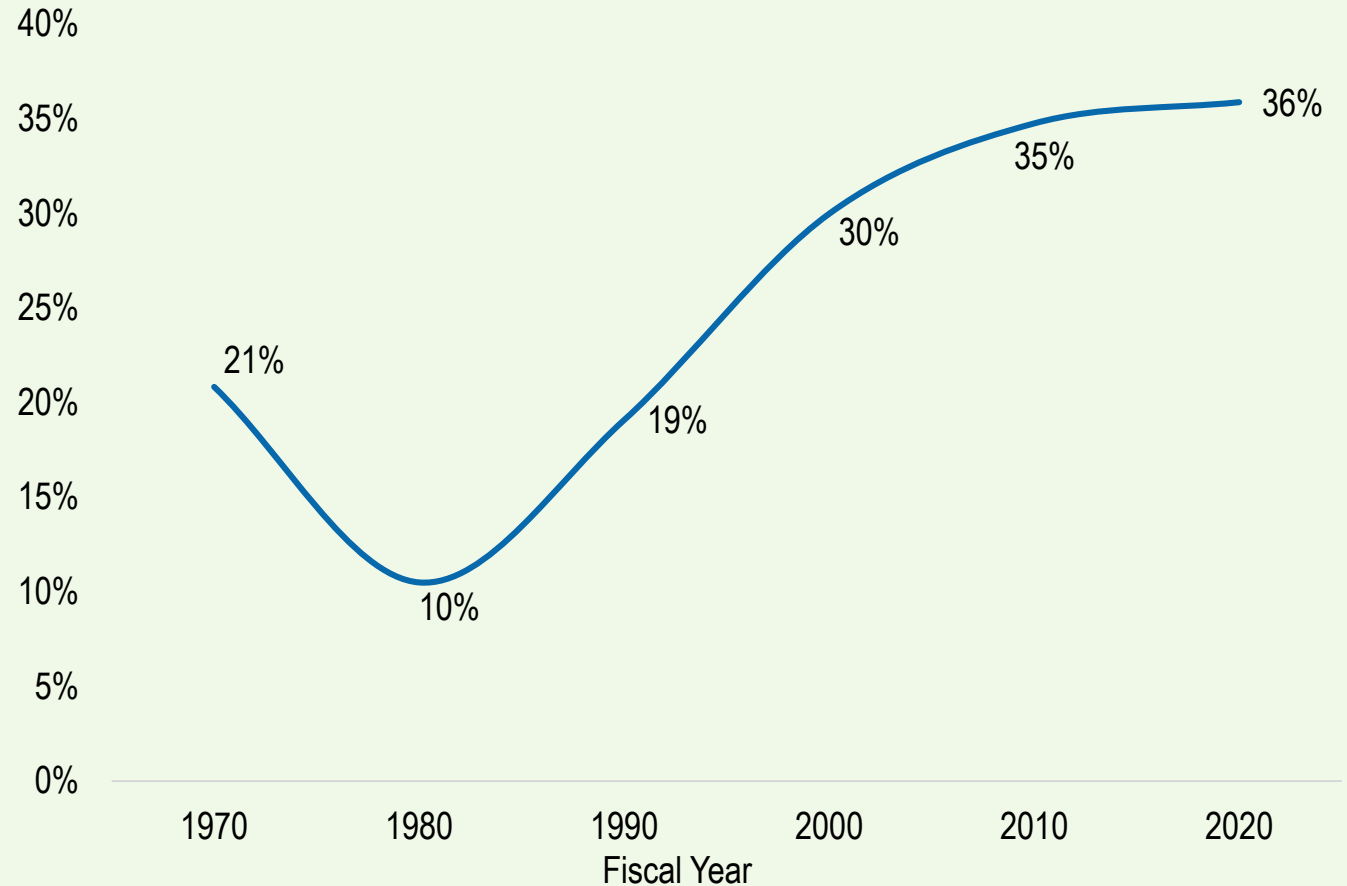
- Finding 1: Overtime is used to maintain minimum patrol staffing set by BPD.
- Finding 2: Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.
- Finding 3: Officers work excessive overtime, increasing health and safety risks.
- Finding 4: BPD has no contracts for overtime security with outside entities.

- **Background: Analysis of the BPD budget**
- Finding 1: Overtime is used to maintain minimum patrol staffing set by BPD.
- Finding 2: Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.
- Finding 3: Officers work excessive overtime, increasing health and safety risks.
- Finding 4: BPD has no contracts for overtime security with outside entities.

BPD receives more General Fund money than any other department in the City.

- In FY 2020, BPD Received **36 Percent** of the City's General Fund Budget.
- Police spending relative to total government expenditures remained at a relatively constant level.

BPD Budget as a Percent of General Fund Budget

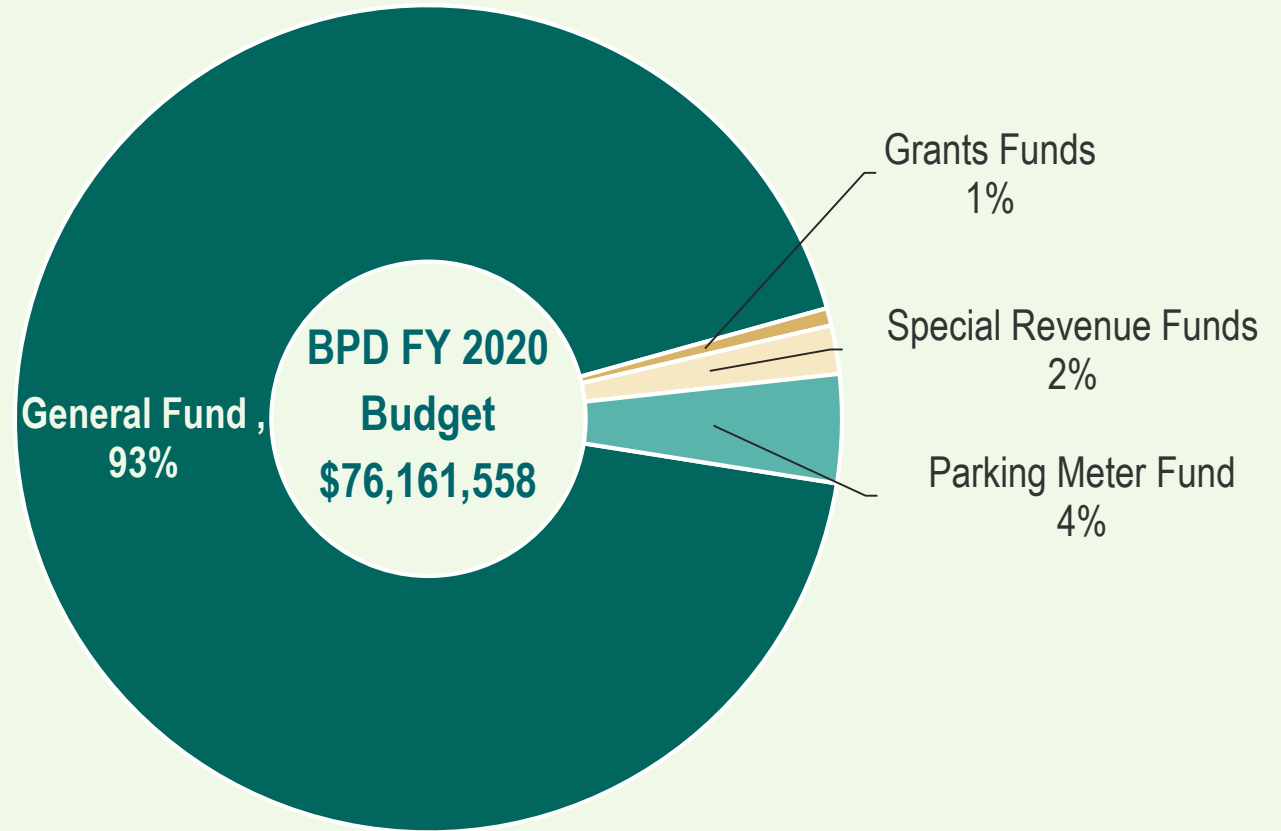


Source: FY 1970, 1980, 1990, 2000, 2010, and 2020 Adopted City Budgets
See page 6 of the report for details. Page 442

Most Of BPD's Budget Comes From The General Fund.

BPD Funding Sources, FY 2020

- The General Fund made up **93 percent** of the BPD Budget in FY 2020.



Source: FY 2020 Revised Budget Data.
See Page 6 and Appendix I of the report for details.

BPD’s budget grew significantly, from \$21.9 million in 1970* to \$75 million in 2020.

- With a fringe benefit rate at **105.6%** of an officer’s salary, it is always cheaper to have an officer work overtime rather than hire a new officer.

Police and Fire Composite Fringe Benefit Rates, 2016 and 2020

Year	Sworn Police	Sworn Fire
2016	89.68%	77.86%
2020	105.6%	88.28%

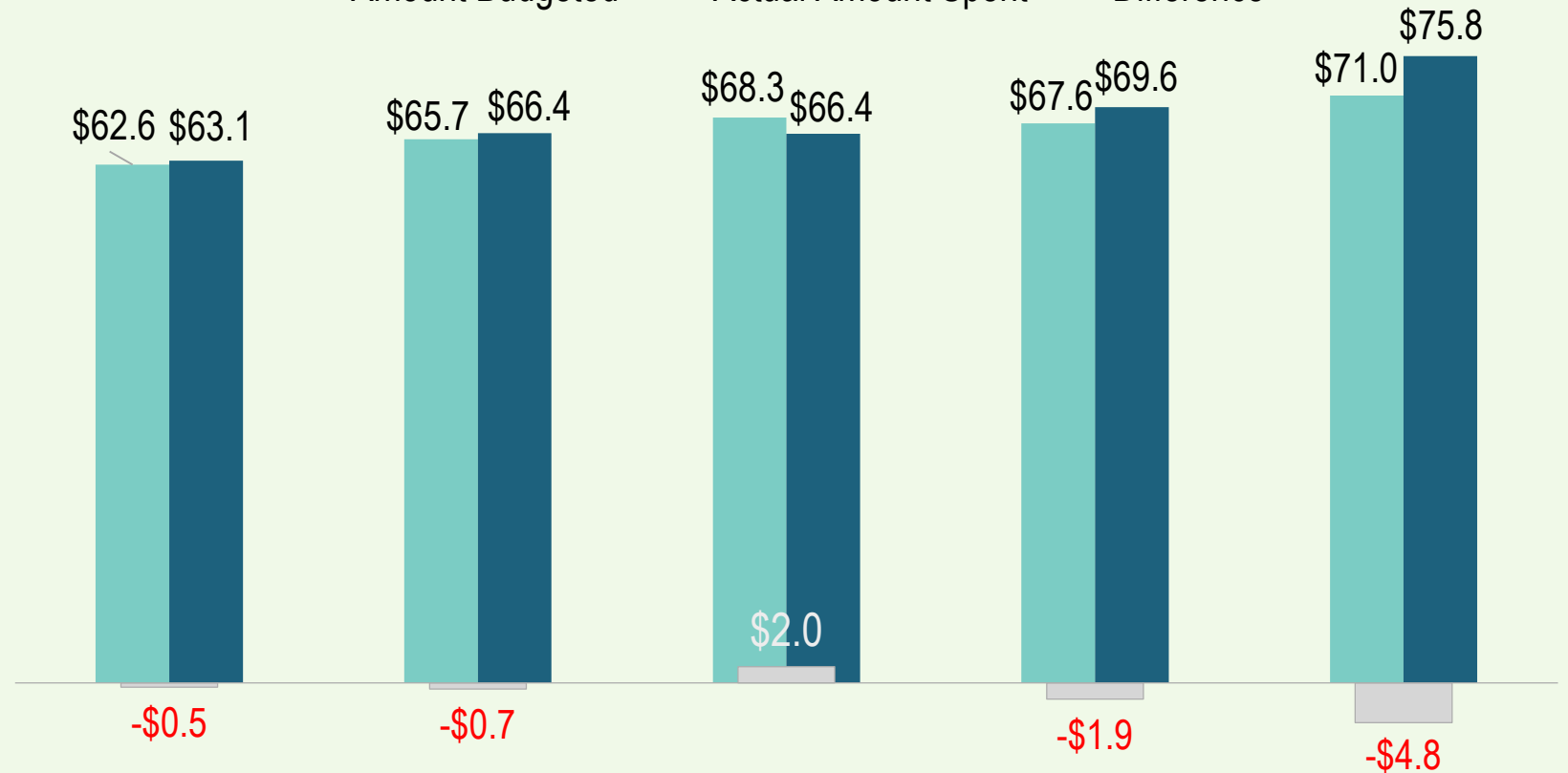
Source: City of Berkeley compensation matrices
See page 7 of the report for details.

**Adjusted to 2020 purchasing power*

BPD has exceeded its General Fund budget four out of the last five years.

BPD General Fund Budget and Actual Expenditures
FY 2016-2020 in Millions of Dollars

■ Amount Budgeted ■ Actual Amount Spent ■ Difference

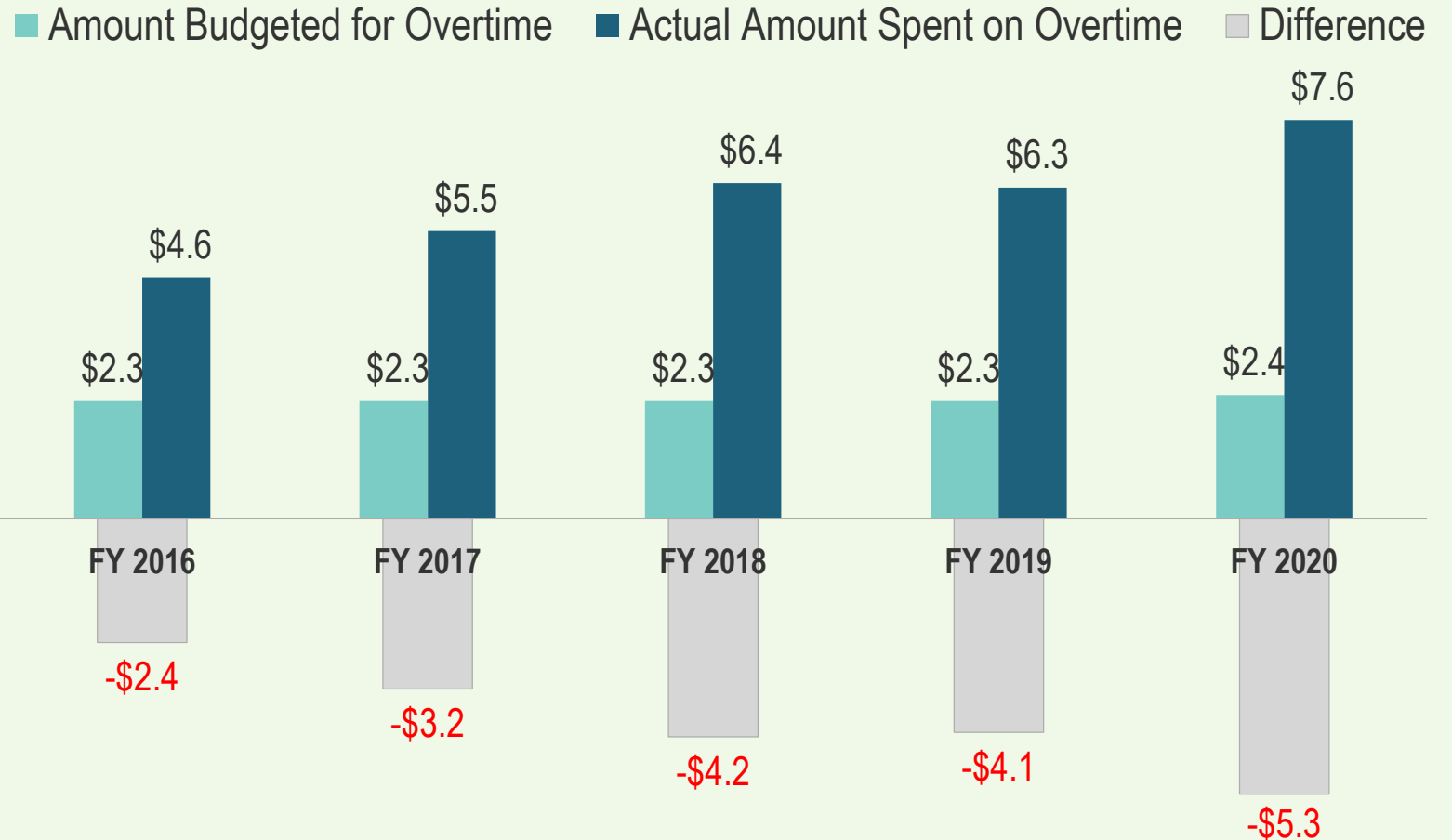


- General Fund savings from other departments cover BPD overages.

Source: BPD presentation to the Budget and Finance Committee on October 22, 2020. The values are *not* adjusted for inflation. See Page 9 and Appendix I of the report for details. Page 445

Overtime is the primary cause of BPD overspending, with increased costs each year.

BPD Overtime Budget and Actual Expenditures FY 2016-2020 in Millions of Dollars



- BPD’s spending on overtime has consistently exceeded the \$2.25 million budgeted annually over the past ten years.

Source: BPD presentation to the Budget and Finance Committee on October 22, 2020. The values are *not* adjusted for inflation. See page 10 of the report for details. Page 446

Backfilling for vacancies and absences cost nearly \$1.3 million, or 24 percent of the BPD's total overtime costs.

BPD's Top 10 Overtime Expenditures, FY 2020
Total expenditures = \$5,153,176

1. Vacancies and Absences	\$1,254,652
2. Protest/Demonstration	\$687,619
3. Security for Outside Entities	\$498,758
4. Overtime Associated with Investigations	\$437,371
5. Community Patrol/ Security Coverage	\$413,952
6. Shift Extend	\$412,322
7. Special Response Team/Bomb Detail	\$351,390
8. Special Event	\$202,109
9. Grant-related	\$190,148
10. COVID-19	\$172,175

- BPD relies on overtime to achieve the sworn staffing levels set by the department for regular duty operations.

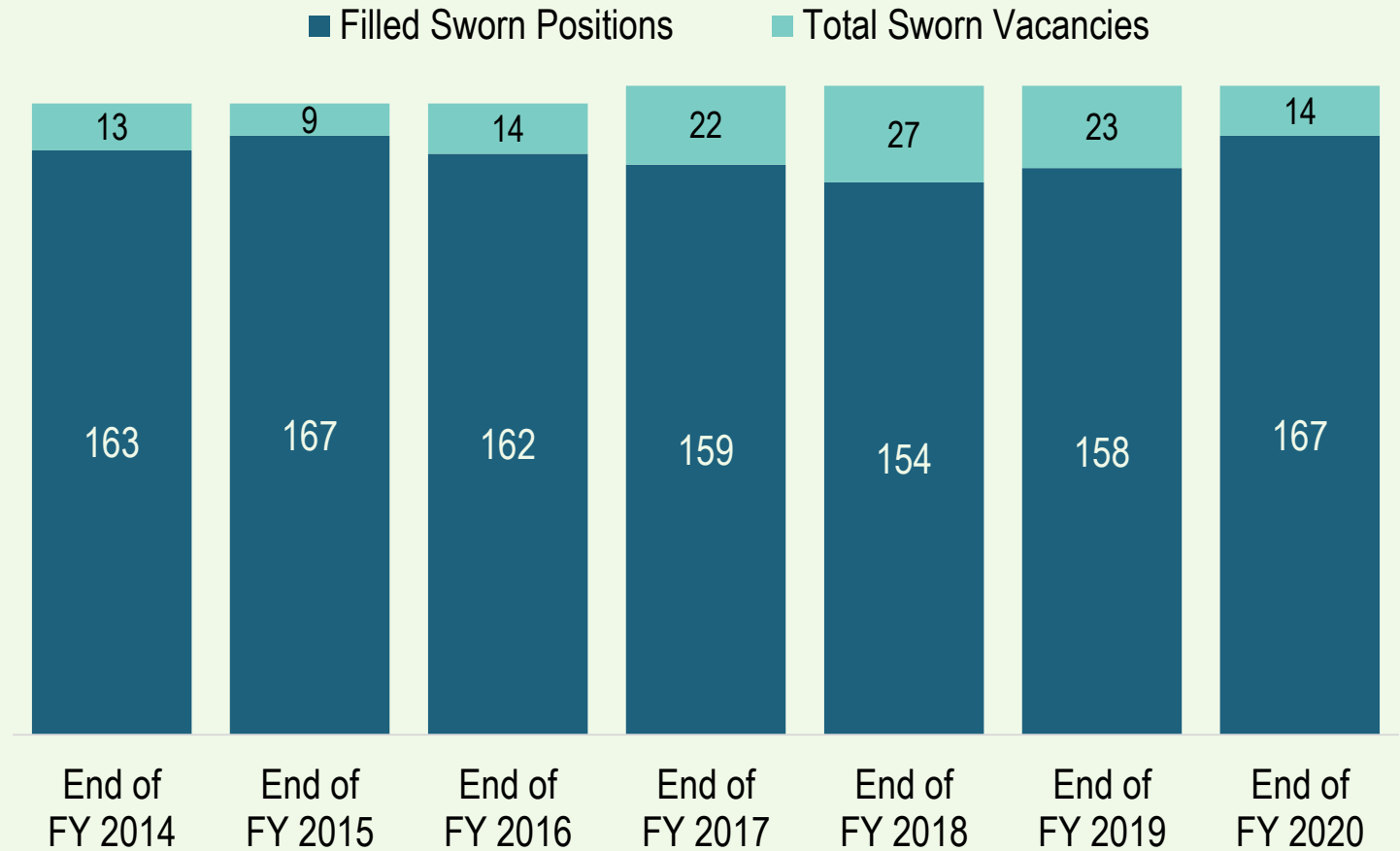
What we found

- Background: Analysis of the BPD budget
- **Finding 1: Overtime is used to maintain minimum patrol staffing set by BPD.**
- Finding 2: Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.
- Finding 3: Officers work excessive overtime, increasing health and safety risks.
- Finding 4: BPD has no contracts for overtime security with outside entities.

Vacancies contribute to BPD's reliance on overtime

- Sworn officer positions across BPD's divisions have continuously been underfilled since 2015.
- According to BPD, patrol teams often do not meet daily minimum staffing without overtime.

**Sworn Officer Vacancies and Filled Positions
End of FY 2014 to End of FY 2020**

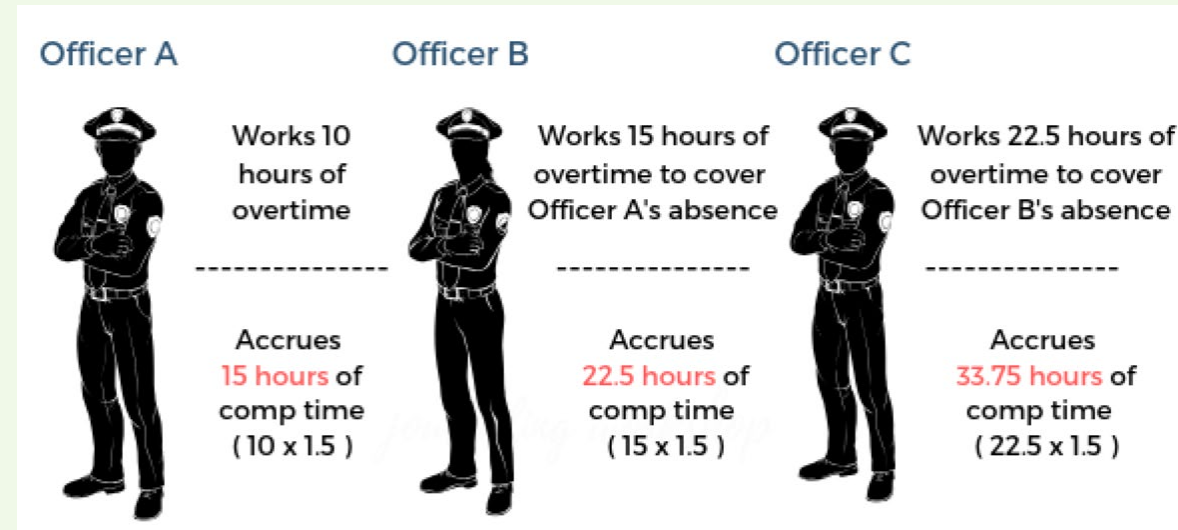


Source: Employment and vacancy data from the Berkeley Human Resources Department
 This chart is based on year end actuals. We did not analyze vacancies before 2015. See page 14 of the report for details. Page 449

Compensatory time may decrease policing capacity and increase costs

- In FY 2020, sworn officers accumulated a total of **8,319 hours** of compensatory time, which accounts for a **full year of work** (2080 hours), or **four full time employees**.
- Compensatory time may decrease the policing resources available.

Compensatory time has the potential to cause a chain reaction of backfill overtime.



Source: Audit of Oakland Police Department Overtime (FY 2014-15 through FY 2017-18)









What we found

- Background: Analysis of the BPD budget
- Finding 1: Overtime is used to maintain minimum patrol staffing set by BPD.
- **Finding 2: Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.**
- Finding 3: Officers work excessive overtime, increasing health and safety risks.
- Finding 4: BPD has no contracts for overtime security with outside entities.

Minimum staffing is the lowest number of sworn officers needed to provide satisfactory levels of service and protection to the public.

- BPD set staffing at **60 patrol officers**, split into **7 teams** covering 16 beats across the City.
- Staffing levels were set in 2016.
- Off-duty officers work **overtime** to backfill the absences.

BPD Minimum Staffing Levels

	Teams	Minimum of 60 Officers Total	Shift Time
Monday-Thursday	 Team 1	9 officers minimum	6:00am – 4:00pm
	 Team 2	8 officers minimum	11:00am – 9:00pm
	 Team 3	8 officers minimum	3:30pm – 1:30am
	 Team 4	9 officers minimum	8:30pm – 6:30am
Friday-Saturday	 Team 5	9 officers minimum	6:00am – 6:30pm
	 Team 6a	4 officers minimum	11:30am – 12:00am
	 Team 6b	4 officers minimum	2:00pm – 2:30am
	 Team 7	9 officers minimum	6:00pm – 6:30am

Source: Berkeley Police Department

See page 12 of the report for further details.

BPD does not regularly assess the efficacy of their minimum staffing model.

- Calls for service requiring increased collaboration across City departments, such as homelessness and mental health.
- BPD does not regularly assess the Patrol Unit's staffing model in response to changing community needs.
- Patrol minimum staffing levels are not documented by BPD.
- Best practice: dynamic staffing model appropriately addresses community needs and accounts for staffing realities.

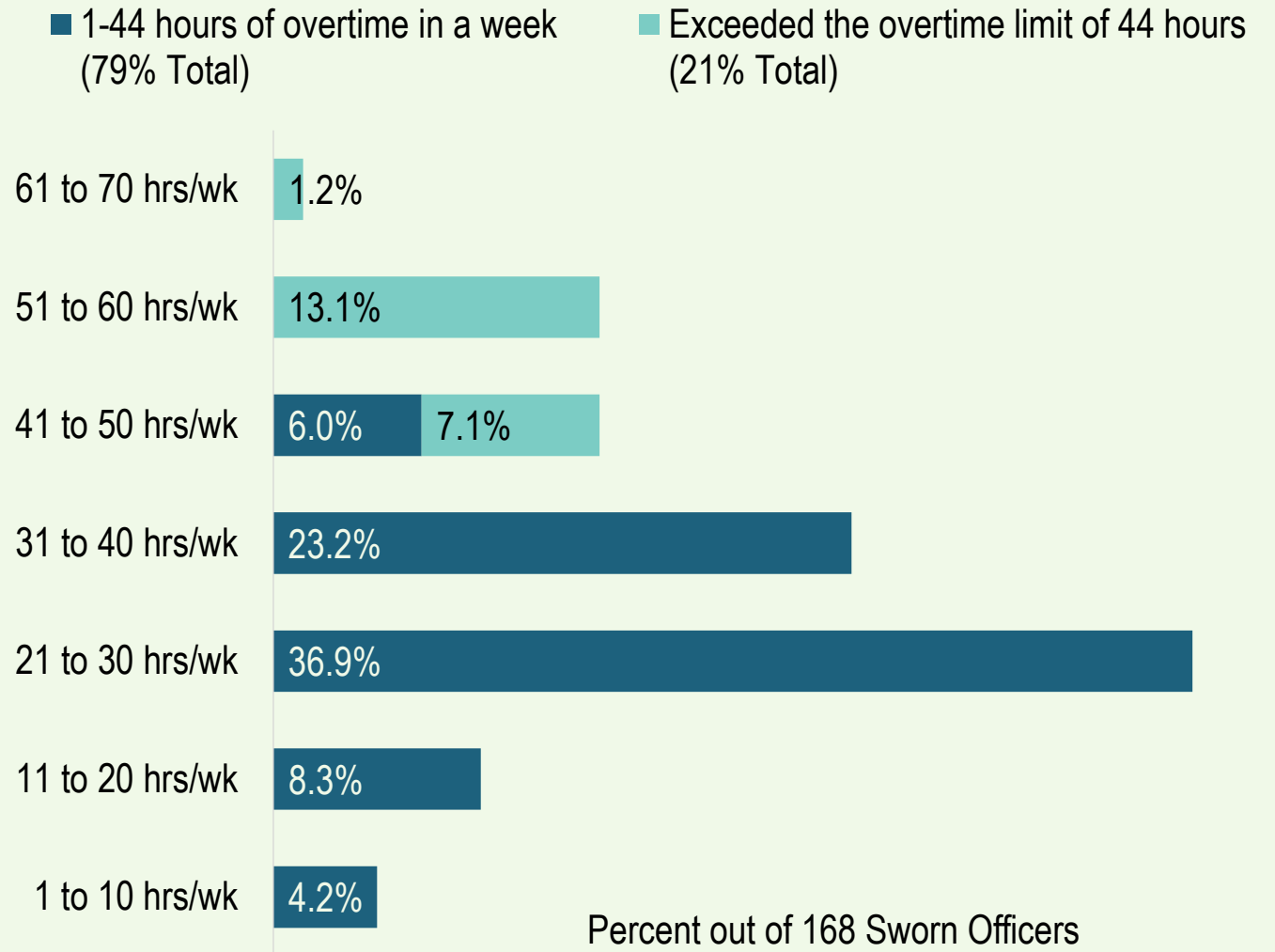
What we found

- Background: Analysis of the BPD budget
- Finding 1: Overtime is used to maintain minimum patrol staffing set by BPD.
- Finding 2: Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.
- **Finding 3: Officers work excessive overtime, increasing health and safety risks.**
- Finding 4: BPD has no contracts for overtime security with outside entities.

Officers exceed overtime limits set by BPD.

- In FY 2020, **21 percent** of sworn officers exceeded BPD’s overtime limit at least once.
- **85 percent** of officers worked a week or more, compared to **nearly half** in FY 2019.

Maximum Hours Worked in One Week by Sworn Officers in FY 2020



BPD does not effectively track officer hours to enforce overtime limits.

Sample BPD Sign-up Sheets

- Manual paper system to schedule and track work hours.
- Overtime is voluntary and first come, first serve.
- System does not limit signing up for multiple spots, and supervisors may not know how much an officer has worked.



Source: Berkeley Police Department

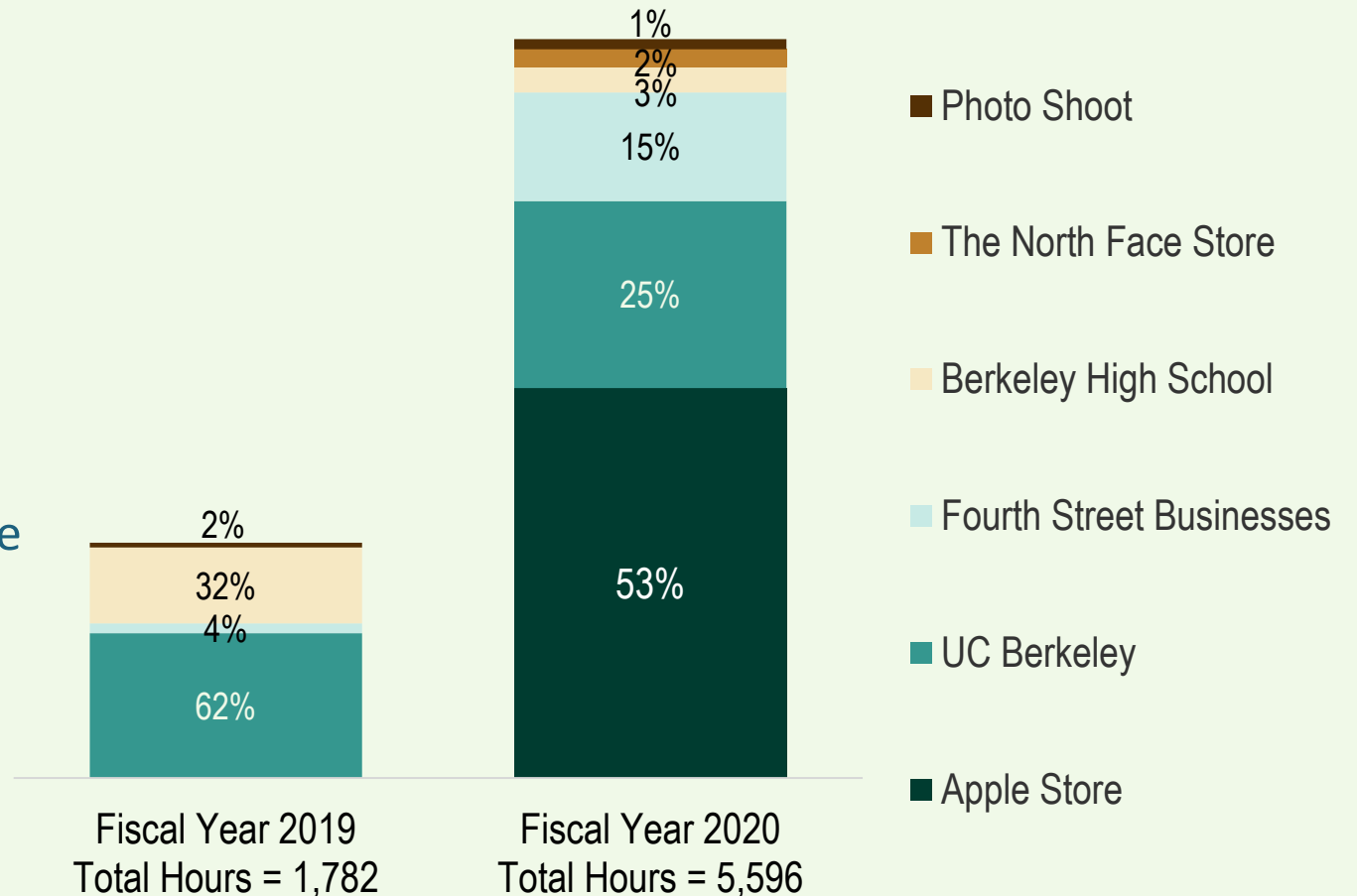
What we found

- Background: Analysis of the BPD budget
- Finding 1: Overtime is used to maintain minimum patrol staffing set by BPD.
- Finding 2: Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.
- Finding 3: Officers work excessive overtime, increasing health and safety risks.
- **Finding 4: BPD has no contracts for overtime security with outside entities.**

BPD's personnel costs and hours towards overtime security work for outside entities more than tripled in FY 2020

Total Hours Worked by BPD for Outside Entities, FY 2020
(labeled by percent)

- In FY 2020, **50 percent** of all BPD sworn officers conducted this overtime.
- Six major employers, with **53 percent** of hours going toward Apple.
- Davis Police Department has a comparable arrangement and has a policy.



Source: BPD Payroll Data

BPD does not effectively track costs of overtime security and it is unclear if the City is charging outside entities appropriately.

Officer Working the Apple Store

- Officers paid overtime by BPD, outside entities reimburse the City.
- BPD charges payroll costs, including benefits paid for overtime.
- No charge for vehicle costs nor administrative costs.
- Difficult to determine costs are fully recovered:
 - Cannot separate out revenue
 - Manual processes subject to error
 - Billing can have errors

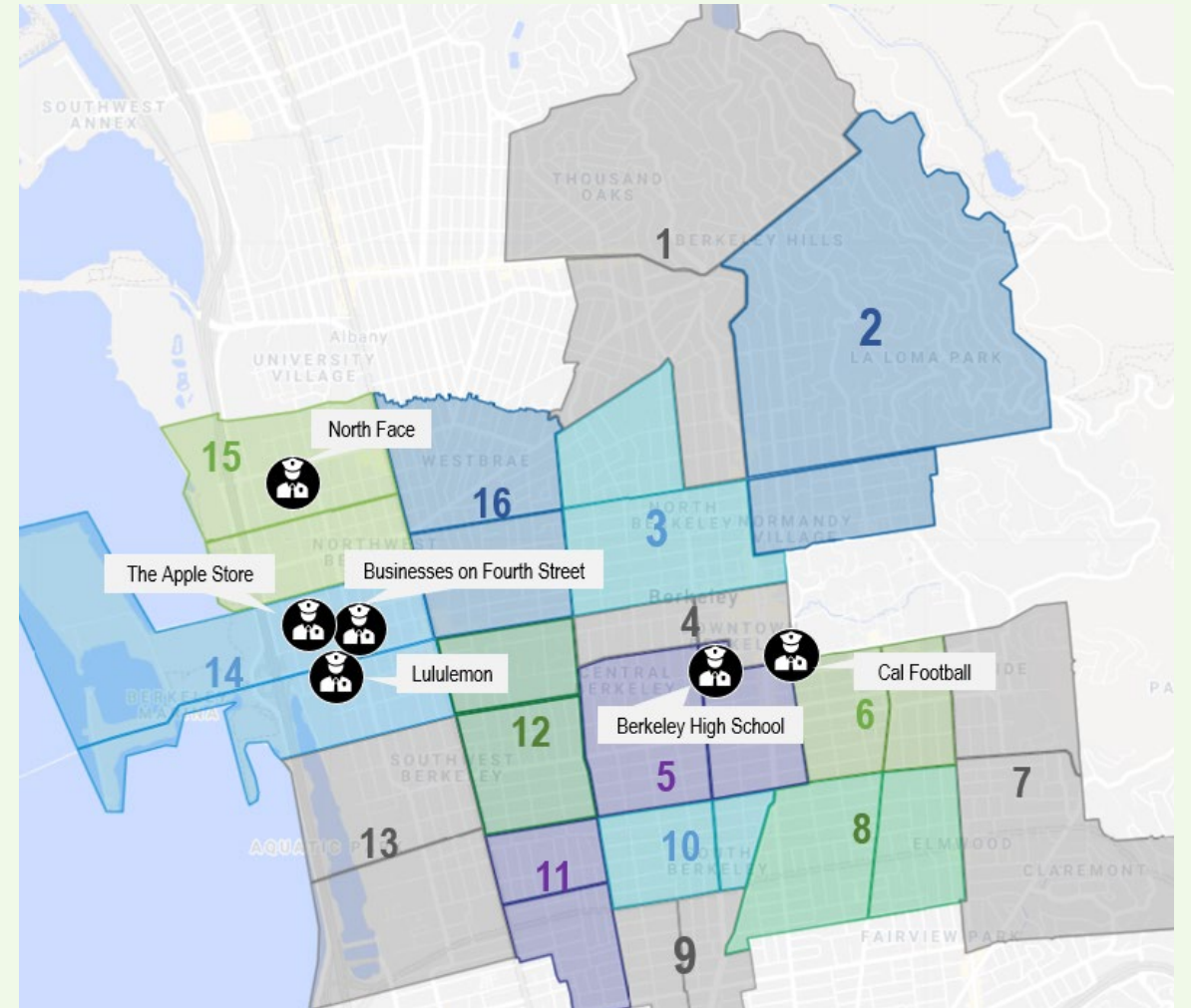


Source: Berkeley City Auditor

The BPD has no procedures or written agreements for working overtime with outside entities.

Work for Outside Entities in FY 2020 by Police Beats

- No evidence of contracts nor written agreements. No policies or criteria that govern approval and administration.
- Risks:
 - Liabilities
 - Conflict of interest
 - Administrative gaps
 - No working limits
- Without policies and documentation, BPD cannot ensure transparent and equitable services.



Recommendations

We recommend that the Berkeley Police department:

1. Fill vacancies deemed necessary and/or reallocate staff pending reimagining process; collect and monitor data on compensatory time.
2. Publicly document minimum staffing; establish procedures to regularly assess their efficacy.
3. Evaluate and update overtime policies; use staffing software to monitor overtime and compensatory time.
4. Update policies and procedures, create contracts, and increase transparency on security for outside entities. Regularly evaluate billing, and explore ways to track revenues and expenses.

Management Response

The Berkeley Police Department agreed with our audit findings, conclusions and recommendations, and provided an action plan to address our recommendations.



We would like to thank the Police Department for their cooperation with this audit.





To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor

A handwritten signature in blue ink, appearing to be 'JW'.

Subject: Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

RECOMMENDATION

We recommend City Council request that the City Manager report back by September 29, 2022, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Berkeley Police Department (BPD). They have agreed to our findings and recommendations. Please see our report for their complete response.

FISCAL IMPACTS OF RECOMMENDATION

Implementing the recommendations will ensure overtime worked by BPD officers is appropriate, saving BPD and the City costs related to unnecessary overtime. Implementation will also ensure the City is appropriately reimbursed for police services to outside entities.

If BPD and City do not implement recommended measures, overtime expenditures may continue to exceed BPD's budgeted amount in the following years. Without the ability to track revenues and expenses of work for outside entities, BPD risks continually underbilling for their services and not recovering the full costs of officer overtime. BPD and the City may also encounter liability costs if BPD continues to provide services to outside entities without contracts that include indemnity agreements.

CURRENT SITUATION AND ITS EFFECTS

BPD relies on overtime to achieve their sworn staffing levels. In Fiscal Year (FY) 2020, nearly a quarter or \$1.3 million of BPD's sworn overtime costs went toward backfilling for officer vacancies and absences.

BPD lacks a process to regularly assess the efficacy of minimum staffing levels, and cannot ensure that minimum staffing reflects the current needs of BPD and the community. BPD's minimum staffing levels could cause unnecessary overtime if not regularly updated.

BPD does not adhere to their overtime controls. In FY 2020, 21 percent of sworn officers exceeded BPD's overtime limit at least once. Without adequate enforcement and tools to manage overtime, BPD cannot mitigate risks of officer fatigue.

BPD's overtime security work for outside entities more than tripled in FY 2020. There are no procedures or contracts for this work, and it is unclear if BPD charges outside entities

appropriately. Without policies and documentation, BPD cannot ensure transparent and equitable services.

BACKGROUND

BPD's budget has increased significantly in the past several decades. BPD surpassed the budgeted amount four out of the last five years, with overtime being the primary cause of overspending. Though some amount of overtime is required, overreliance on overtime can increase fatigue and burnout, decrease productivity, and increase mistakes.

ENVIRONMENTAL SUSTAINABILITY

Our office manages and stores audit workpapers and other documents electronically to significantly reduce our use of paper and ink. Our audit recommendation for BPD to use modern staffing software could also reduce the use of paper and ink.

RATIONALE FOR RECOMMENDATION

Implementing our recommendations will improve BPD's management of overtime and mitigate risks associated with excessive overtime and officer fatigue. The recommendations will also ensure BPD's staffing levels are transparent, appropriate, and responsive to the current needs of the community. Additionally, the recommendation ensures BPD's work for outside entities is equitable and transparent, and in full compliance with relevant laws and policies.

CONTACT PERSON

Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

Attachments:

1: Audit Report: Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

Audit Report
March 3, 2022

Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities



BERKELEY CITY AUDITOR

Jenny Wong, City Auditor

Erin Mullin, Senior Auditor

Alejandra Barrio Gorski, Auditor I



Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

Report Highlights

March 3, 2022

Findings

1. Berkeley Police Department (BPD) relies on overtime to achieve their sworn staffing levels. In Fiscal Year (FY) 2020, nearly a quarter or \$1.3 million of BPD’s sworn overtime costs went toward backfilling for officer vacancies and absences.

Berkeley Police Department Top 10 Overtime Expenditures, FY 2020

1. Vacancies and Absences	\$1,254,652
2. Protest/Demonstration	\$687,619
3. Security for Outside Entities	\$498,758
4. Overtime Associated with Investigations	\$437,371
5. Community Patrol/ Security Coverage	\$413,952
6. Shift Extend	\$412,322
7. Special Response Team/Bomb Detail	\$351,390
8. Special Event	\$202,109
9. Grant-related	\$190,148
10. COVID-19	\$172,175

■ Total expenditures = \$5,153,176. See Figure 8 on Page 13 for further details.

Source: BPD Payroll Data

2. BPD lacks a process to regularly assess the efficacy of minimum staffing levels, and cannot ensure that minimum staffing reflects the current needs of BPD and the community. BPD’s minimum staffing levels could cause unnecessary overtime if not regularly updated.

Objectives

1. What policing functions does BPD’s use of overtime cover?
2. Does BPD regularly assess minimum staffing levels to meet community needs?
3. Is BPD’s management of overtime sufficient to reduce excessive uses of overtime?
4. Are BPD’s agreements to provide work for outside entities transparent and in accordance with the law?

Why This Audit Is Important

BPD exceeded its General Fund budget four out of the last five years. In FY 2020, BPD surpassed its \$71.0 million allocation by \$4.8 million. Overtime is the primary cause of BPD’s overspending, and this report seeks to understand why BPD’s overtime spending has increased in recent years. Some overtime is required for various reasons. It is often more cost-effective than hiring staff and allows employees to meet fluctuating workloads. However, overreliance on overtime can increase fatigue and burnout, decrease productivity, and increase mistakes.

- 3. BPD does not adhere to their overtime controls. In FY 2020, 21 percent of sworn officers exceeded BPD’s overtime limit at least once. Without adequate enforcement and tools to manage overtime, BPD cannot mitigate risks of officer fatigue.

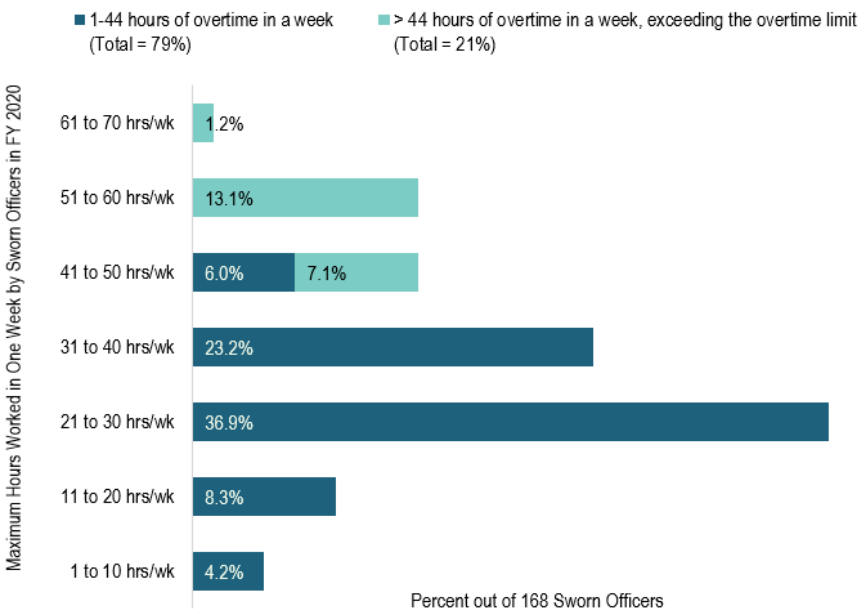
Recommendations

We recommend that BPD publicly document minimum staffing levels and establish procedures to regularly assess their efficacy. BPD should also evaluate and update overtime policies, and monitor overtime and compensatory time using staffing software.

We also recommend that BPD update policies and procedures, create contracts, and increase transparency on work for outside entities. BPD should also regularly evaluate their billing and explore ways to track revenues and expenses.

This audit does not propose recommendations regarding BPD’s staffing levels or service delivery model.

BPD Officers Exceed BPD’s Overtime Limit of 44 Hours in a Week in FY 2020



Source: BPD Payroll Data

- 4. BPD’s overtime security work for outside entities more than tripled in FY 2020. There are no procedures or contracts for this work, and it is unclear if BPD charges outside entities appropriately. Without policies and documentation, BPD cannot ensure transparent and equitable services.



Photo source: Berkeley Police Department



For the full report, visit:
<http://www.cityofberkeley.info/auditor>

Table of Contents

Page 4	Introduction
Page 5	Background
Page 11	Overtime is used to maintain minimum patrol staffing set by BPD.
Page 18	Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.
Page 22	Officers work excessive overtime, increasing health and safety risks.
Page 28	BPD has no contracts for overtime security with outside entities.
Page 38	Recommendations and Management Response
Page 43	Methodology and Statement of Compliance
Page 45	Appendix I. BPD Funding Streams
Page 47	Appendix II. Reasons for Overtime: Hours and Expenditures
Page 49	Appendix III. Extraordinary Duty Form
Page 51	Appendix IV. Sample BPD Patrol Timesheet

Introduction

In our 2021 Audit Plan, we identified the Berkeley Police Department (BPD) budget as an area needing objective and independent analysis of how limited City funds are allocated. In April 2020, our office produced a special report examining the impact of the COVID-19 pandemic on Berkeley's finances. We found that the City may need to reduce expenditures to focus on essential activities that prioritize public health and safety, as well as community values.¹ BPD's overtime expenditures have increased in recent years, and this report seeks to understand why. Some amount of overtime is required due to vacancies, emergencies, special events, staffing shortages, workload fluctuations, etc. It is often more cost-effective than hiring additional staff and allows employees to meet fluctuating workloads. However, overreliance on overtime can increase fatigue and burnout, decrease productivity, and increase mistakes.

In December 2020, the City entered into a contract with outside consultants to research, analyze, and make recommendations in regards to BPD's policing model including the size and scope of operations. It is important to have a staffing model that aligns with the needs of the community. To avoid duplication of work outlined in the City's reimagining public safety process, this report does not assess the adequacy of BPD's staffing levels or service delivery model. There are ongoing discussions in the City about appropriate staffing levels and what functions BPD should undertake.

¹Navigating the Impact of the COVID-19 Pandemic on Berkeley's Finances: https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Navigating%20Impact%20of%20COVID-19%20Pandemic%20on%20Berkeley%E2%80%99s%20Finances%20rpt.pdf

Objectives, Scope, and Methodology

Our objectives were to determine:

1. What policing functions does BPD's use of overtime cover?
2. Does BPD regularly assess minimum staffing levels to meet community needs?
3. Is BPD's management of overtime sufficient to reduce excessive uses of overtime?
4. Are BPD's agreements to provide work for outside entities transparent and in accordance with the law?

We examined BPD spending on overtime for fiscal years (FY) 2019 and 2020. We focused on this scope period due to its timeliness and relevance, bearing in mind that 2020 data may reflect the impacts of the COVID-19 pandemic. We assessed historic funding levels going as far back as FY 1970 when data was available. We specifically assessed internal controls significant to the audit objectives. This included a review of selected policies and procedures, interviews with staff from BPD, and source documents for payroll data. In performing our work, we identified concerns about the department's manual process for tracking officer schedules and hours worked to enforce overtime limits and manage staffing. For more information, see p. 43.

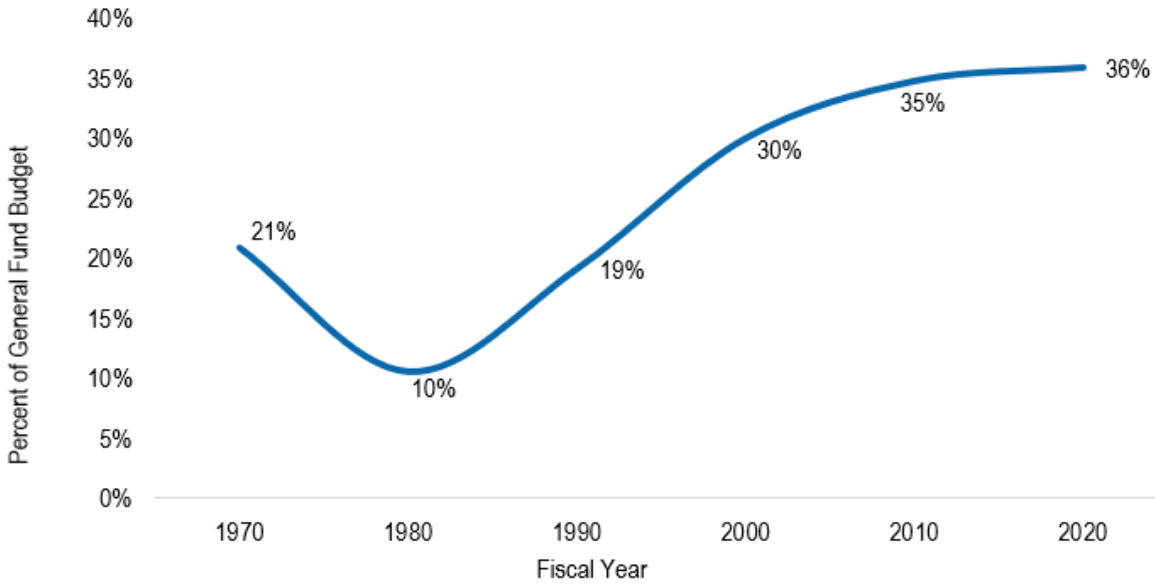
Background

BPD's budget is the largest portion of the City's General Fund.

BPD receives more General Fund money than any other department in the City. The Fire Department is the department with the second highest allocation of General Fund monies.² In FY 2020, BPD's allocation of General Fund monies accounted for 36 percent (\$70.6 million) of the City's \$196.9 million General Fund budget. The percentage of the General Fund allocated to BPD increased from 21 percent in 1970 to 36 percent in 2020, with one notable dip to 10 percent in 1980. In the context of Berkeley's total government expenditures, police spending has remained at a relatively constant level. BPD accounted for 14 percent of government expenditures in FY 2020 which is only a one percent decrease since 1970. Figure 1 only reflects the share of General Fund spending on police services and does not show how staffing and police operations have changed over time.

² City of Berkeley, FY 2020-2021 Biennial Budget: <https://www.cityofberkeley.info/uploadedFiles/Manager/Budget/FY-2020-2021-Adopted-Budget-Book.pdf>

Figure 1. BPD Received 36 Percent of the City’s General Fund Budget in FY 2020

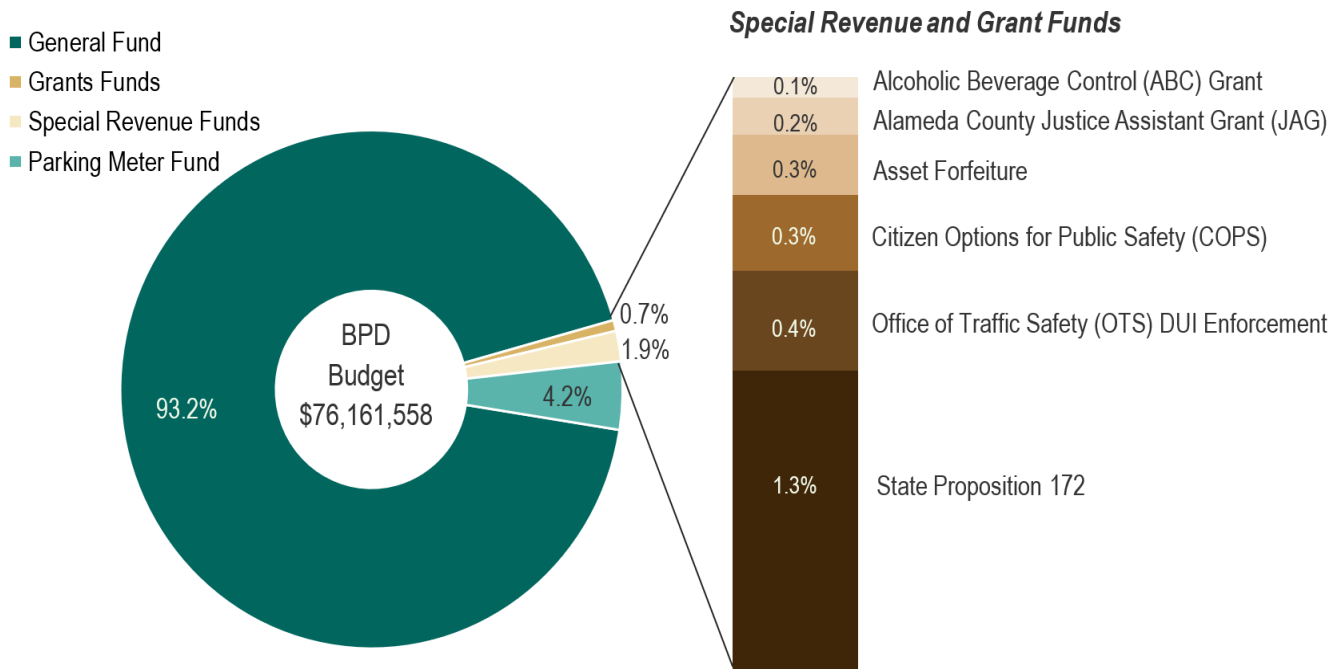


Source: FY 1970, 1980, 1990, 2000, 2010, and 2020 Adopted City Budgets

Most of BPD’s budget comes from the City’s General Fund.

Ninety three percent of BPD’s budget is paid for by the General Fund. Between 2015 and 2020, BPD’s funding streams were the General Fund, Parking Fund, Asset Forfeiture Fund, Federal Grants, and State/ County Grants. Appendix I provides further information about each fund.

Figure 2. The General Fund Makes Up 93 Percent of the BPD Budget, FY 2020



Source: FY 2020 Revised Budget Data

BPD’s budget has increased over time.

Since 1970, the BPD budget has grown significantly each decade, from \$21.86 million in 1970 (adjusted to 2020 purchasing power) to \$74.98 million in 2020. Personnel costs have accounted for the most significant portion of these budgets. Over the years, personnel costs have increased alongside BPD’s overall budget, but the portion of the budget that personnel costs account for has remained consistent at around 89 percent.

In contrast, since 1970, the number of BPD personnel has increased slightly by five percent, coinciding with a five percent increase in the City’s population during this period. Meanwhile, the average cost per employee has increased drastically: in 1970, 272 BPD personnel (sworn and non-sworn) cost the city \$19.45 million (adjusted to 2020 purchasing power) in wages and benefits, and by 2020, 285.2 employees in the same department cost the City \$67 million. On average, the cost of one BPD employee in 2020 was over three times that of one BPD employee in 1970.

Increases in fringe benefit rates contribute to the spike in personnel costs. We analyzed the overall cost of benefits, but did not look at the actual benefits personnel received. The cost of benefits for sworn police has increased significantly over the last five years, and police have the highest fringe benefit rate across the city. Between 2016 and 2020, the fringe benefit rate for sworn police increased 15.92 percent due mostly to an increase in the employer’s CalPERS rate. Fire had the next highest rate of 88.28 percent in FY 2020 which was 17 percent lower than Police. With a fringe benefit rate at 105.6 percent of an officer’s salary, it is always cheaper to have an officer work overtime rather than hire a new officer. However, it can be more expensive to have a higher ranked sergeant or lieutenant work overtime in place of hiring a new officer.

Figure 3. Officer Fringe Benefit Rates Exceed 100 Percent of Salary

Citywide Composite Fringe Benefit Rates for Sworn and Non-sworn Employees					
Year	Sworn Police	Sworn Fire	Non-sworn (citywide)		
			Office	Field	Laborer
2016	89.68%	77.86%	69.33%	72.72%	89.84%
2020	105.6%	88.28%	66.66%	70.72%	85.09%

Note: These rates are estimates. Non-sworn fringe benefits rates include benefited city employees that are neither a sworn officer nor a firefighter. The type of non-sworn work of an individual position (office, field, laborer) determines the total benefit rate.

Source: City of Berkeley compensation matrices

Patrol has received the greatest portion of funding.

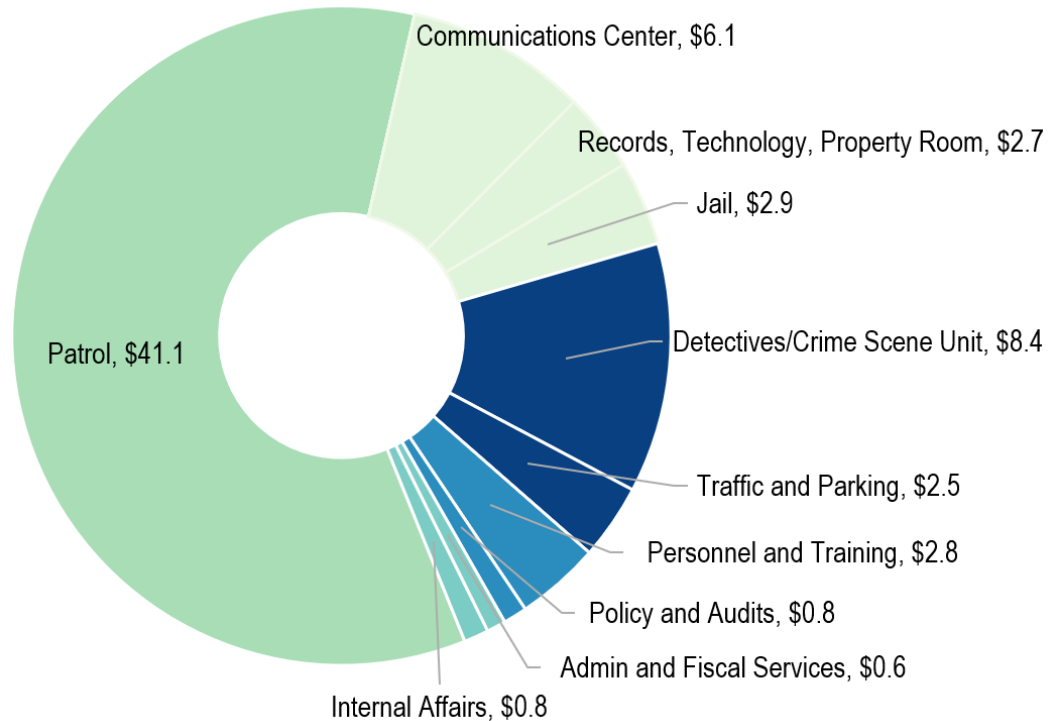
BPD has four divisions that report to the Chief of Police: Operations, Professional Standards, Support Services, and Investigations. The greatest share of BPD’s funding has historically gone toward the Operations Division, which manages the department’s Patrol Unit. Patrol is a core function of BPD, with 24/7 operations responding to emergency and non-emergency calls for service, conducting criminal investigations, and providing additional policing services.

Figure 4 shows personnel expenditures from BPD’s General Fund, by divisions and subdivisions. In FY 2020, BPD’s Patrol Unit accounted for \$41.1 million, or 60 percent of personnel costs within the department’s General Fund budget.

Figure 4. Patrol Operations Utilized 60 Percent of Personnel Costs from the Department’s FY 2020 General Fund Budget, in Millions of Dollars

Divisions:

- Operations (Patrol), 60%
- Support Services, 17%
- Investigations, 16%
- Professional Standards, 5%
- Office of the Police Chief, 2%

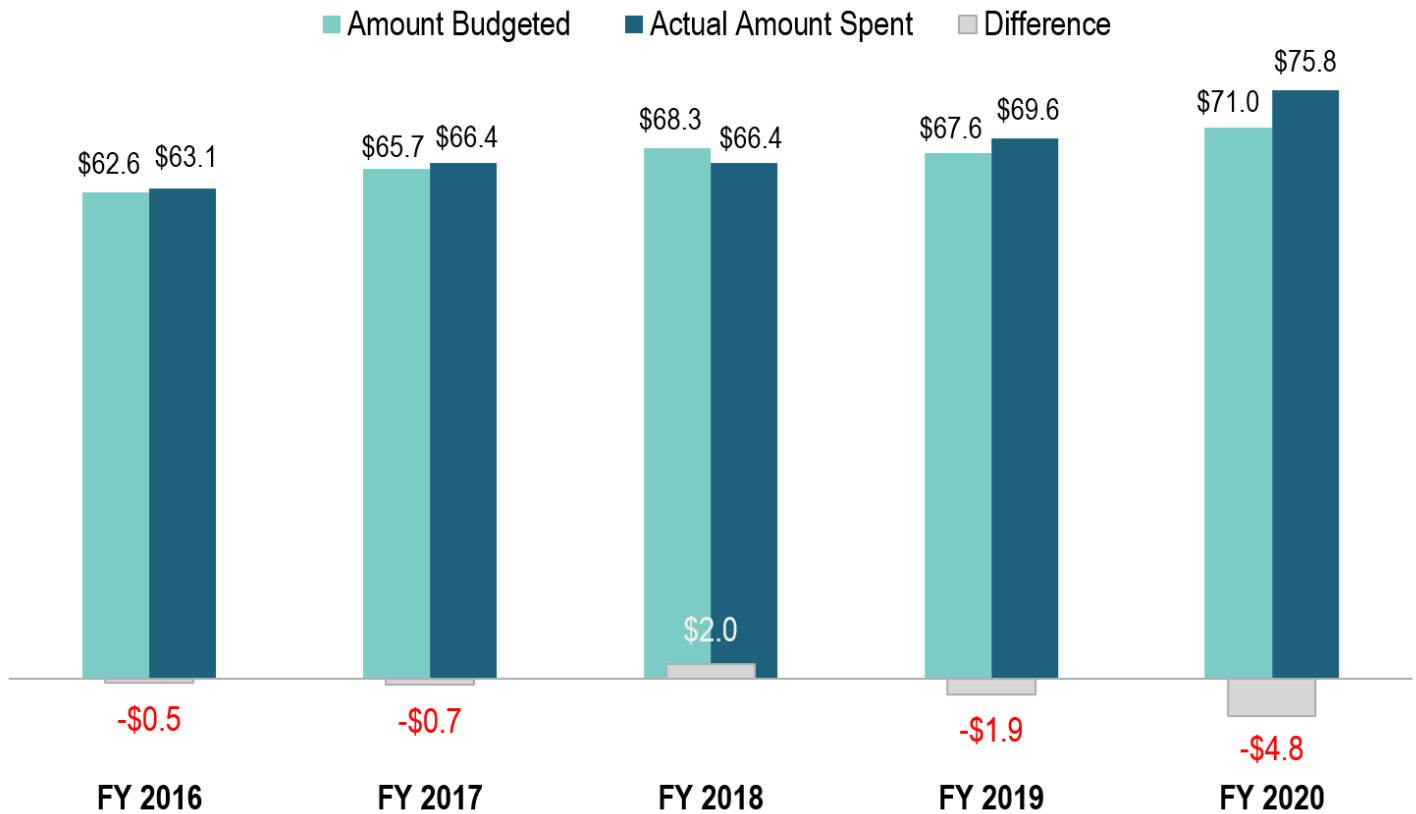


Source: FY 2020 Adopted City Budget

BPD has exceeded its General Fund budget four out of the last five years.

BPD has spent more from the General Fund than budgeted. BPD was half a million dollars over budget in FY 2016, and by FY 2020 the overage was nearing five million dollars. In FY 2020, BPD spent \$75.8 million of General Fund monies or approximately \$4.8 million more than the budgeted amount. According to the City Budget Office, General Fund savings from other departments are used to cover BPD overages after BPD has exhausted savings within their department.

Figure 5. BPD Spent More General Funds than Budgeted Four Out of Five Years, FY 2016-2020 in Millions of Dollars



Source: BPD presentation to the Budget and Finance Committee on October 22, 2020

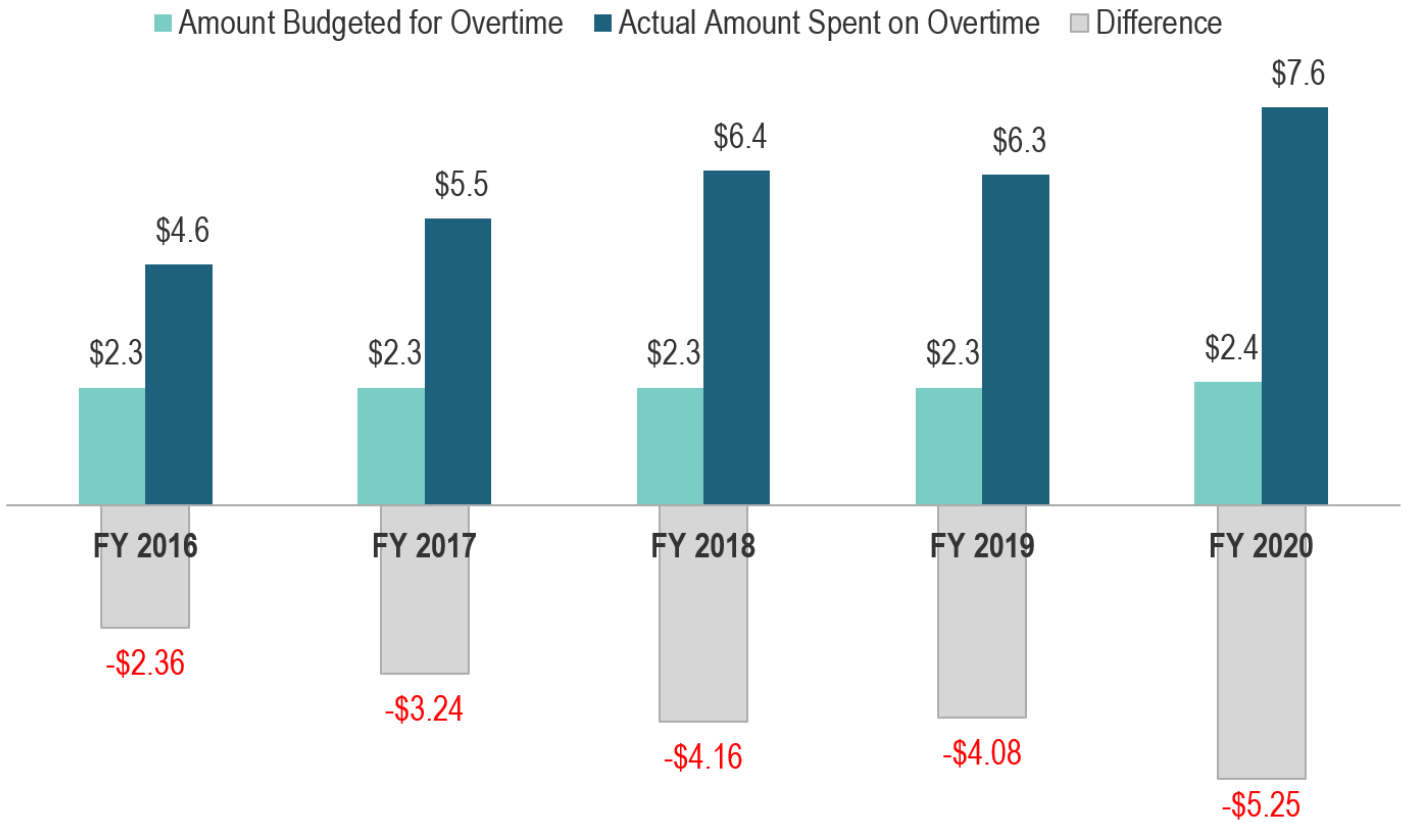
Overtime is the primary cause of BPD overspending, with increased costs each year.

The Operations Division, which contains the Patrol Unit, is BPD’s largest division and the biggest user of overtime. Policing is unpredictable and some overtime work is necessary and unavoidable. Officers may need to complete arrests at the end of their shifts, fill in to cover absences, or assist in safely facilitating public events. Police work also inevitably generates off-duty court appearances, trainings, and work on holidays. Some level of overtime can be viewed as a fixed cost of normal policing and will occur regardless of the number of officers employed. Knowing where, when, and why overtime was used is necessary if BPD is to anticipate overtime, to justify its payment, and to find ways to reduce the need for overtime expenditures.

BPD’s spending on overtime has consistently exceeded the \$2.25 million that the City has budgeted annually over the past ten years. Although BPD exceeded other budget line items in FY 2020, overtime was the biggest reason for the department overages. BPD increased overtime expenditures for public safety power shutoffs, COVID-19, protests, and work for outside entities from FY 2019 to 2020, contributing to an overall increase in overtime expenditures by nearly \$1.2 million (see Appendix II for more detail). According to the Budget Office, the City is committed to providing a police overtime budget that aligns with actual overtime expenditures going forward. In FY 2021, the City increased BPD’s overtime budget to \$5.3 million with an additional \$1 million in reserves.

The budget and expenditure data do not show the details of how overtime is paid. Some overtime is paid for by salary savings associated with department vacancies and other overtime is reimbursed from outside entities. However, reimbursements from outside entities are not credited back to the department, and we are unable to determine the reimbursed amounts under BPD’s current accounting structure (see page 33). Figure 6 offers a simple snapshot of overtime spending, and does not incorporate other ways in which BPD and the City recover the costs of overtime.

Figure 6. The Cost of Overtime Has Increased, While the Budgeted Funding Has Remained Insufficient, FY 2016-2020 in Millions of Dollars



Note: Includes sworn and non-sworn personnel.

Source: BPD presentation to the Budget and Finance Committee on October 22, 2020

The majority of overtime activities are paid for using BPD’s General Fund budget. In FY 2020, 81 percent of overtime activities were budgeted from BPD’s General Fund. The remaining 19 percent of overtime activities were budgeted from Grants and the Parking Meter Funds.

Overtime is used to maintain minimum patrol staffing set by BPD.

BPD relies on overtime to achieve the sworn staffing levels set by the department for regular duty operations. In FY 2020, overtime costs for sworn officers exceeded \$5 million or 75 percent of the department's total overtime expenditures. Overtime has a variety of beneficial uses, but a large part of overtime at BPD is simply backfilling officer vacancies and absences. While it is generally less expensive to use overtime to fill shift vacancies than it is to hire more staff, BPD relies on backfill in patrol often. In FY 2020, 45 percent of sworn officer's overtime hours in BPD were used to maintain regular duty operations and nearly half of those overtime hours were due to staffing vacancies and absences (Figure 8). Sworn officer vacancies contribute to BPD's reliance on overtime, and more work is needed to understand the full impact. Additionally, BPD does not adequately monitor compensatory time to ensure it does not increase the need for overtime.

Backfilling for officer vacancies and absences was the most common reason for overtime.

In FY 2020, backfilling for officer vacancies and absences was the most common and costly reason for overtime, accounting for 21 percent of sworn officer's overtime hours and costing nearly \$1.3 million, or 24 percent of the BPD's total overtime costs (Figure 8). Backfilling is the practice of filling a position to maintain staffing levels after a sworn officer goes on a leave of absence or vacates the position. Sworn officers are most frequently used to backfill to meet minimum staffing levels in the Patrol Unit.

Minimum staffing levels are the lowest number of sworn officers determined by the department that can be deployed while still providing satisfactory levels of service and protection to the public. For BPD, patrol minimum staffing is based on the number of sworn officers needed to cover the City's 16 beats at any given time of day.



According to Policy 1019, BPD overtime compensation is available to Officers,

Sergeants, and Lieutenants, and overtime work should ideally have prior approval by a supervisor and be documented with an overtime form.

The overtime form should be reviewed and approved by the Supervisor and Division Captain before going to the Payroll Clerk. Actual hours worked should be recorded on a timesheet.









Overtime is defined as time worked by an employee in excess of 40 hours per week. All overtime is awarded at time and a half unless specifically stated otherwise. An employee may request compensatory time off in lieu of receiving overtime payment (see extraordinary duty form in Appendix III).^{3, 4}

³ Policy 1019: Overtime Compensation Requests, https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/1019%20Overtime_Compensation_Requests.pdf

⁴ See Section 19: Overtime/Shift Extension in Berkeley Police Association MOU: https://www.cityofberkeley.info/uploadedFiles/Human_Resources/Home/Union_Negotiations/Signed%20BPA%20MOU%20-%20Final%2008262021.pdf

According to BPD command staff, patrol maintains a minimum of 60 sworn officers, broken into seven teams with minimums of eight or nine officers based on their beat and shift allocations (Figure 7). Teams are staffed with additional officers above the minimum level to absorb absences. It is unclear if this staffing level in patrol is appropriate, as we discuss further on page 18.

Figure 7. BPD Patrol Unit maintains a minimum staffing level of 60 sworn officers, split into 7 teams to cover 16 beats at all times of the day

	Teams	Minimum of 60 Officers Total	Shift Time
Monday-Thursday	 Team 1	9 officers minimum	6:00am – 4:00pm
	 Team 2	8 officers minimum	11:00am – 9:00pm
	 Team 3	8 officers minimum	3:30pm – 1:30am
	 Team 4	9 officers minimum	8:30pm – 6:30am
Friday-Saturday	 Team 5	9 officers minimum	6:00am – 6:30pm
	 Team 6a	4 officers minimum	11:30am – 12:00am
	 Team 6b	4 officers minimum	2:00pm – 2:30am
	 Team 7	9 officers minimum	6:00pm – 6:30am

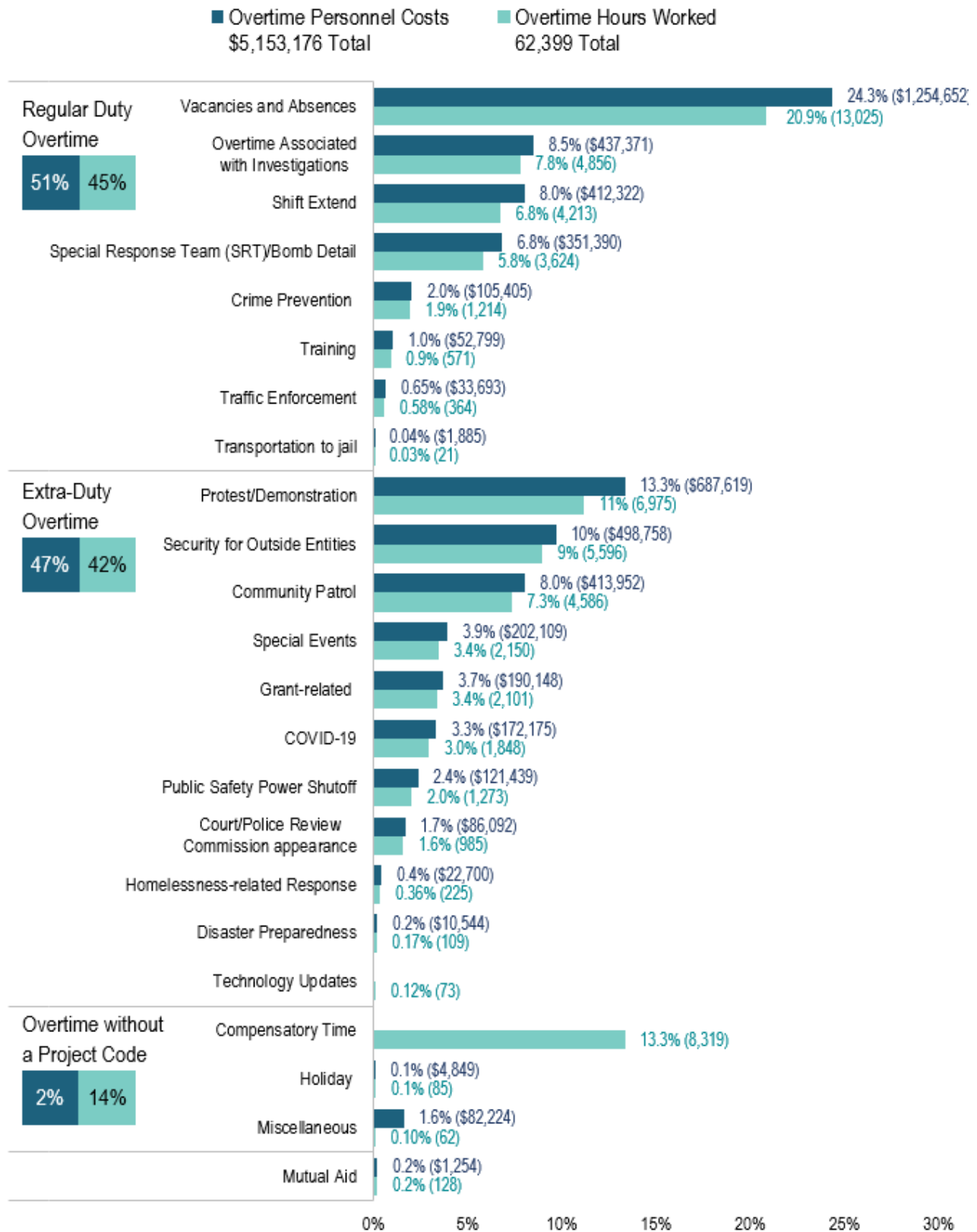
Note: Each team has a minimum of two supervising sergeants. There are four lieutenants, each overseeing two patrol teams. Teams with a minimum of 8 officers cover one beat per officer, while teams with minimums of 9 officers cover two beats per officer, with an additional swing officer when they are the only working team. Swing officers patrol the entire city or fill for absent officers.

Source: Berkeley Police Department

When teams lack sufficient staff to meet their minimums, command staff call in off-duty sworn officers to work overtime and backfill the absences.

Persistent backfilling indicates a chronic shortage of personnel in relation to the minimum staffing requirements. We did not determine whether BPD has appropriate minimum staffing or budgeted staffing levels; we only examined the process they use to determine minimum staffing in the next finding section.

Figure 8. Nearly 25 Percent of All Sworn Officer Overtime Was Used Filling Vacancies and Absences, FY 2020



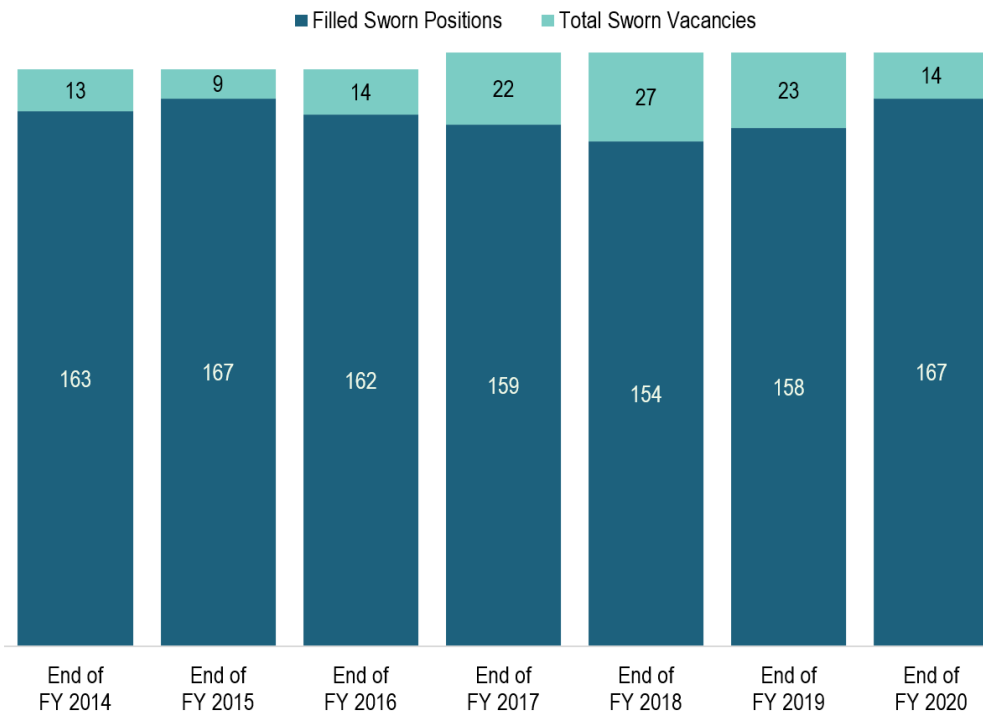
Note: Compensatory time does not have associated personnel costs because the payroll system does not count earned compensatory time as a charge to the City. The miscellaneous category includes hours that did not have a project code assigned due to the individual being a police recruit, an administrative lag, or human error. See Appendix II for a comparison of FY 2019 and FY 2020.

Source: BPD Payroll Data

Vacancies contribute to BPD’s reliance on overtime.

BPD’s minimum staffing levels are untenable without overtime to backfill vacancies and absences. BPD has experienced sustained vacancies in sworn staffing positions, fluctuating from only nine at the end of FY 2015 to a high of 27 at the end of FY 2018 (Figure 9). According to BPD, patrol teams often do not meet the minimum staffing on a day-to-day basis without overtime due to vacancies and absences related to anticipated leave (e.g., vacation or family leave) or unanticipated leave (e.g., injury, training, sick leave). We found that in FY 2020, sworn officers applied overtime to backfill absences for 353 days, or 97 percent, of the entire year.

Figure 9. Sworn Officer Positions Across BPD’s Divisions Have Continuously Been Underfilled Since 2015



Note: This chart is based on year end actuals. We did not do an analysis of sworn vacancies prior to 2015 to see if this is a normal trend or a 5-year anomaly.

Source: Employment and vacancy data from the Berkeley Human Resources Department

According to BPD, the list of full-time patrol officers in the Patrol Unit's timesheets have declined since 2016, when BPD updated current patrol minimum staffing levels (see Appendix IV for a sample timesheet). The number of patrol officers listed on timesheets has approached the minimum of 60 staff; for instance, in the timesheet spanning September 2021 to March 2022, six out of seven patrol teams had just one officer above the minimum. In October 2021, BPD reported that their sworn staffing levels fluctuate at or just below 157 filled sworn positions after the City deferred 23 sworn positions in BPD as a cost saving measure in response to the COVID-19 pandemic. As of this writing, the City continues to hold those sworn positions vacant.

It is important to note that the number of filled positions is not the same as the number of officers available to work. For example, new hires, although counted as a filled position, are not available for solo officer duties for nearly a year. Of the 157 sworn positions filled, seven of those positions are being held by individuals in academy bringing the number of fully-fledged officers down to 150. It is also not uncommon to have officers out on leave due to illness, injury, family leave, or military leave.

According to BPD, staffing shortages impact all police operations. In response to sustained sworn vacancies in 2020, BPD suspended the Special Investigations Bureau and bike patrol assignments, and reduced the number of Traffic enforcement officers. Absences impact other divisions, as off-duty sworn officers in other BPD divisions conduct overtime patrol when not enough off-duty patrol officers are available. Additionally, BPD has instituted mandatory overtime during periods in which not enough staff volunteer for overtime. All of these factors, among others, contribute to burnout and staff turnover, which reinforces BPD's use of overtime to backfill vacancies. Staffing is only slated to decline, as there are 15 current sworn employees eligible to retire during the writing of this audit.

More work can be done to better understand how recruitment and retention of sworn officers impact overtime. There are other facets of staffing that deserve further attention to understand BPD's reliance on overtime, including the overall budgeted staffing positions, staff workload, the deployment of officers, and the use of leaves of absence.

Compensatory time may decrease policing capacity and increase costs

When BPD officers work overtime, generally they can choose to either be paid for the overtime hours or they can earn additional paid time off (compensatory time) to be used at a later date. According to BPD, officers cannot earn compensatory for overtime that is reimbursable (i.e., work for outside entities and grants). In FY 2020, sworn officers accumulated a total of 8,319 hours of compensatory time, which accounts for approximately 831 10-hour shifts, or a full year of work (2080 hours) for 4 full time employees.

When an officer elects to receive compensatory time in lieu of overtime pay, that may decrease the policing resources available because every hour worked must be repaid by the department at time and a half—time taken away from other activities. Compensatory time comes out of existing capacity. In addition, earned compensatory time may imply additional costs to staffing because it is associated with an officer's absence in the future that may need to be filled with overtime. Because earned compensatory time does not come out of existing budgetary allocations, BPD does not monitor its use as systematically as they do paid overtime.

Compensatory time is not costless, and has the potential to cause a chain reaction of more backfill and more compensatory time. For example, if a patrol officer works 10 hours of overtime, they could choose to earn 15 hours of compensatory time for that work, or they could choose to be compensated for their overtime work at time-and-a-half pay. When that officer takes those 15 hours of compensatory leave, another officer must work overtime to fill the vacancy. The officer might backfill in exchange for 22.5 hours of compensatory time. That 22.5 hours of leave might then be backfilled for 33.75 hours, and so on. Additionally, unused compensatory time is paid out when an officer leaves the City. BPD does have a policy limiting sworn officers' accumulation of compensatory time to 120 hours, which should limit the amount of unfunded liability that comes with accumulated compensatory time and the potential chain reaction of backfilling and compensatory time. Our audit did not determine whether this policy is being enforced.

Staffing analytics tools and processes can factor in the costs of compensatory time, including projected salary increases and the impacts of compensatory time on future staffing. Monitoring compensatory time usage would allow supervisors to see if backfill increases over time.

According to the Berkeley Police Association Memorandum of Understanding, compensatory time off may be earned in lieu of overtime pay at the rate of one and one-half hours for each hour worked beyond 40 hours. Officers can accumulate up to a maximum of 120 compensatory hours. Upon termination of employment, the City must pay out the full amount of compensation for accumulated but unused compensatory time. Whether compensatory time is earned or overtime is paid is up to the discretion of the Police Chief. (BPA MOU sections 19.4 and 19.1.1.2)

Recommendations

To manage costs associated with compensatory time and the impact of vacancies on overtime, we recommend Berkeley Police Department:

- 1.1 Collect and monitor data on how often compensatory time leads to additional backfill overtime and develop a plan to monitor it.
- 1.2 Fill vacancies deemed necessary and/or reallocate staff pending the reimagining process and a determination of appropriate staffing levels.



Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.

In 2016, BPD updated minimum staffing levels in the Patrol Unit to meet service demands and ensure officer safety; however, it is difficult to know whether these levels continue to reflect the City and the department's needs. Additionally, patrol minimum staffing levels are based on what BPD is responsible for responding to, which is subject to the reimagining process. BPD does not have a process to regularly assess the efficacy of minimum staffing levels in their Patrol Unit. Without regularly reassessing minimum staffing levels, BPD cannot ensure that staffing reflects the changing nature of the department and community needs and expectations.

It is unclear whether minimum staffing reflects the current needs of the City and BPD.

Minimum staffing levels can be informed by a variety of factors. The Patrol Unit's minimum staffing is informed by a study of police beats by Matrix Consulting Group that was commissioned by the City in 2014.⁵ The study considered factors including community and town hall meetings, population, geography, officer workload, calls for service, response time (including proactive patrol time), and industry standards/best practices. As a result of the study, BPD transitioned to the current 16-beat structure in 2016 and assigned minimum staffing accordingly (Figure 7).

⁵ Police Patrol Beat Evaluation Study, City Of Berkeley, Final Report: [https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/Berkeley%20Beat%20Structure%20Final%20Report%2008-20-14\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/Berkeley%20Beat%20Structure%20Final%20Report%2008-20-14(1).pdf)

In recent years, BPD officers have encountered situations requiring increased collaboration across City departments, such as homelessness and mental health. BPD has taken measures to adapt to these needs, whether by revamping the Bike Unit, collaborating with Berkeley Mental Health, or fielding homeless-related inquiries through the Community Services Bureau. Following a request from City Council as part of the reimagining process, we initiated an audit of calls for service and proposed recommendations on how BPD can better track calls for service related to mental health and homelessness.⁶ The City is currently working with the Reimagining Public Safety Task Force and consultants to identify areas of police work that can be achieved through alternative approaches.

As of the writing of this report, BPD's Patrol Unit continues to adhere to the same staffing model from 2016, and minimum staffing remains unchanged. Currently, it is difficult to know whether the Patrol Unit's staffing model aligns with the evolving needs of the community and the department's adaptation. Without a regular assessment of their staffing levels, BPD cannot determine the extent to which operational changes exceed their staffing capacity. Given limited capacity and a lack of staffing software in the Department, it is difficult for BPD to quantify the extent to which patrol teams struggle to meet minimum staffing. More work can be done to quantify how often BPD falls below minimum staffing.

BPD does not regularly assess the efficacy of their minimum staffing model.

While minimum staffing is intended to meet the needs of the community, it should not stretch officers too thin nor lead to an excessive number of officers on duty. According to a best practice review by San Francisco's Budget and Legislative Analyst Office, effective minimum staffing is grounded in an up-to-date assessment of community needs and staffing levels which often evolve over time.⁷ It is important that departments regularly assess that their model is dynamic, appropriately addresses community needs, and accounts for staffing realities.

⁶ Data Analysis of the City of Berkeley's Police Response: https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Data%20Analysis%20of%20the%20City%20of%20Berkeley's%20Police%20Response.pdf

⁷ Best Practices Related to Police Staffing and Funding Levels: <https://sfbos.org/sites/default/files/FileCenter/Documents/54867-012616%20Police%20Staffing%20Methodology.pdf>

According to BPD, command staff routinely assess staff capacity in order to meet patrol minimum staffing levels. However, BPD does not regularly assess the Patrol Unit's staffing model in response to changing community needs. While minimum staffing is an important determinant of overtime, the patrol minimum staffing levels are not documented by BPD. There is no explicit reference to minimum staffing in BPD's list of policies, nor are they stated in BPD's publicly accessible list of patrol beats and officers. While an appendix in BPA's 2017-2020 MOU refers to minimum staffing, the document refers to BPD's outdated 18 beat structure.

It is unclear whether the Patrol Unit's minimum staffing is sufficient, and BPD does not use a standard to quantify or regularly assess the adequacy of staffing. Command staff rely on informal precedent, professional judgement, and feedback from officers to determine if staffing levels are adequate. According to BPD, command staff especially consider safety and officer engagement as factors for considering staffing adequacy.

In their 2021 annual crime report, BPD reported that low staffing has impacted the Patrol Unit's ability to proactively address and solve problems in the community. BPD identifies four main metrics to consider when determining patrol staffing and allocation: service levels, staffing levels, response time, and patrol time. These metrics are related and when one is impacted there are likely impacts to others. According to BPD, when they are fully staffed they are able to provide full service, reliable response times, proactive preventative patrol presence, and community engagement.

An effective staffing model includes regular assessments that are built into the department's internal operations. Using staffing software, BPD can draw insights from small, regular reports rather than extensive staffing assessments conducted by a third party. Codifying this process into a procedure or policy helps the department proactively respond to staffing needs and promotes transparency. Additionally, internal reports can serve as tools to communicate the department's capacity to decisionmakers and the public, align expectations with the community, and promote knowledge transfer between command staff and leadership.

Recommendations

To ensure staffing levels are transparent, appropriate, and can be adapted to the current needs of the community, we recommend Berkeley Police Department (BPD):

- 2.1 Establish a procedure to regularly assess minimum staffing and overall staffing needs of the department. This process should document and incorporate criteria to assess staffing levels, such as calls for service, other workload, community input, and other relevant factors. As BPD prepares for the rollout of a new software system, BPD should consider how to best align the program's capabilities with this assessment process.

To increase transparency to decision makers and the public, we recommend Berkeley Police Department:

- 2.2 Document and define the Patrol Unit's minimum staffing levels in a publicly assessable format.
- 2.3 Document the results of staffing assessments along with the assessment criteria. Incorporate results into staffing projections for budgetary decision making, including establishing a sufficient and appropriate overtime budget.

Officers work excessive overtime, increasing health and safety risks.

BPD does not adhere to their overtime policies and controls. In FY 2020, 21 percent of BPD officers exceeded the 44 hour overtime limit at least once. Excessive overtime can lead to fatigue-impaired officers, increasing risks to officers, the City, and the public. They do not have an effective system to enforce their policy and manage overtime. BPD relies on manually prepared paper records for scheduling and tracking regular and overtime hours worked. Without adequate enforcement of policies and tools to manage overtime, BPD cannot fully mitigate risks associated with officer fatigue.

Officers exceed overtime limits set by BPD.

On average, BPD officers worked 13.2 hours of overtime per week during FY 2020, and some worked significantly more. According to BPD, most overtime shifts are filled on a voluntary basis. Some amount of overtime work in policing is necessary and unavoidable, and will occur regardless of the number of officers employed. Officers may need to complete arrests at the end of their shifts, fill in to cover absences, or assist in safely facilitating public events. Police work also inevitably generates court appearances, trainings, and work on holidays (see Figure 8 for details of how BPD used overtime in FY 2020).

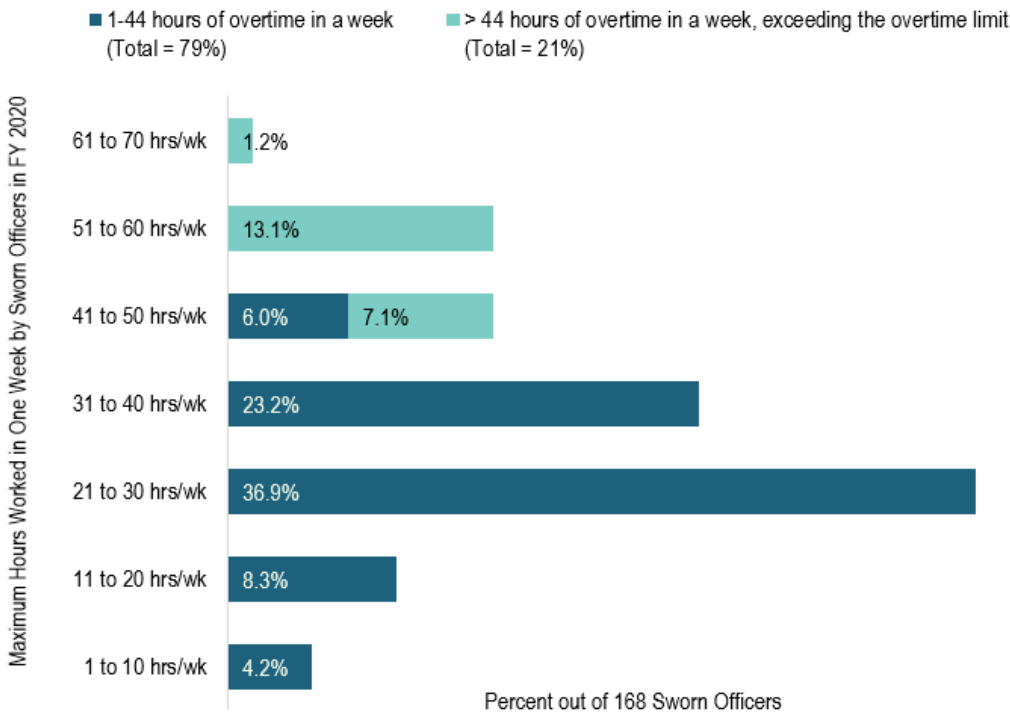
BPD has a policy to regulate overtime by placing limits on the total number of hours that officers can work within specific periods and requires officers have a minimum of eight hours off between shifts. In FY 2020, there were 62 occurrences of officers exceeding BPD’s weekly limit of 44 hours of overtime in a week. Twenty-one percent of BPD officers (36 officers) exceeded this limit at least once, however, one officer exceeded the limit 11 times in FY 2020 (Figure 10). Without enforcement and oversight of these limits, BPD’s policies may not be sufficient to manage the burnout and fatigue associated with overtime. For instance, an officer who works 44 hours of overtime in one week with recommended levels of sleep will only have 4 daily hours of off-duty time. As officers exceed this limit, they cut into their recovery time and increase their risk of burnout. There were two times when an officer worked more than 60 hours of overtime in a week, which is more than 100 total hours worked in a week.

BPD’s internal Policy 1015 states that BPD staff should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2-day (48 hour) period or
- 84 hours in any 7-day (168 hour) period

Additionally, the policy recommends a minimum of 8 hours between shifts except in very limited circumstances. These limitations apply to overtime. Supervisors should consider reasonable rest periods and are authorized to deny overtime or relieve any member who has exceeded the above guidelines. Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

Figure 10. BPD Officers Exceed BPD’s Overtime Limit of 44 Hours in a Week in FY 2020



Note: The chart represents a total of 168 sworn officers. It does not include Captains, the Police Chief, Reserve Officers, and Retired Annuitants as they do not receive overtime pay. In addition, it excludes 1 officer who worked only one shift in FY 2020.

Source: BPD Payroll Data

Additionally, we found that more officers are working longer stretches without days off. In FY 2019, nearly half of sworn officers worked a week or more with no days off at least once, and one officer worked 47 consecutive days in a row. By FY 2020, 85 percent of officers worked a week or more with no days off at least once. BPD does not have a policy limiting the number of consecutive days officers can work. The department policy requires officers to take eight hours of rest between shifts, except in very limited circumstances, however, due to the manual nature of BPD’s staffing and time tracking we were unable to confirm that this policy is enforced.

Long work hours and fatigue can negatively impact officer safety, health, and performance.

While we did not perform specific analysis of the impact of overtime on BPD officers, excessive overtime can lead to fatigue-impaired officers, increasing risks to officers, the City, and the public. Police are required to be alert and use good judgment in order to respond appropriately to emergency calls. They must be able to make split second decisions and act on them with limited time and information in situations where there may be an element of danger. They are not only responsible for the safety of the public but also for other responding public safety officials (police, firefighters, paramedics). Overtime, when used in excess, can inhibit these essential skills and increase the safety risk to the public and other personnel.

Working more hours can increase fatigue, which has been found to increase injuries and accidents. Studies have found that fatigue negatively affects both police and the communities they serve.⁸ Fatigue increases the risk of accidents and other safety incidents, such as decreasing officer alertness, impairing decision-making ability, and slowing down reaction time. According to research, impairment after 20 hours of wakefulness equals that of an individual with a blood-alcohol concentration of 0.10. Fatigue also harms work performance by weakening memory, lowering frustration tolerance, and increasing stress and burnout. Finally, fatigue can have long-term health implications for officers, increasing blood pressure, hypertension, metabolic syndrome, and obesity.

We did not do an analysis of these impacts on BPD specifically as that would have required more resources than this report covered.

⁸ Vila et al., 2002: Improving shift schedule and work-hour policies and practices to increase police officer performance, health, and safety; and Lindsey, D., 2007: Police fatigue: An accident waiting to happen

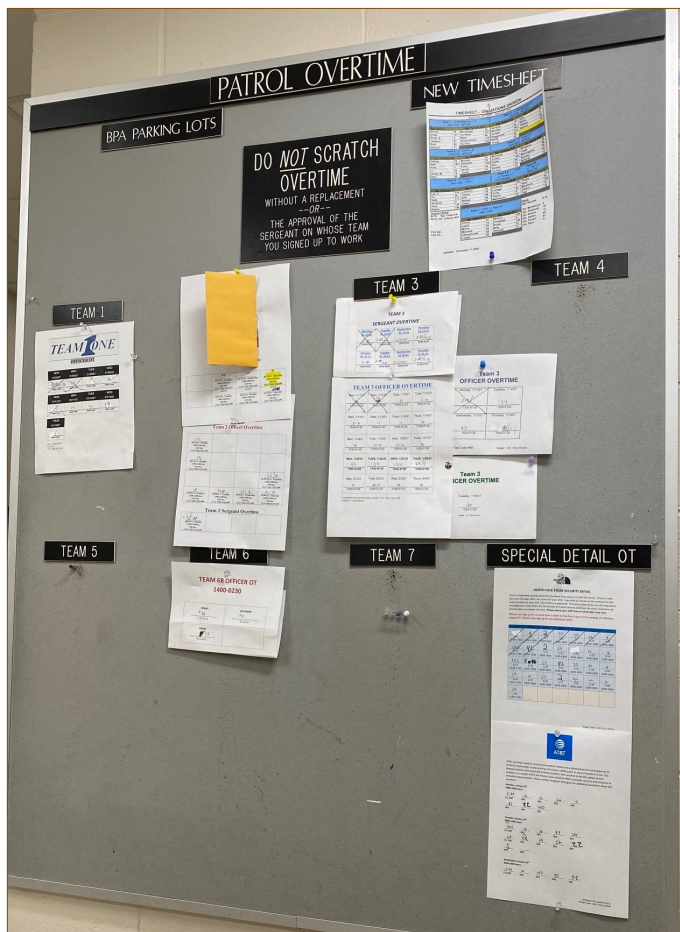
BPD does not effectively track officer hours to enforce overtime limits.

Limits on overtime rely on effective monitoring and enforcement from supervisors. BPD's overtime policy without enforcement does not control for excessive overtime. The monitoring and enforcement for these limits lies with supervisors, as Policy 1015 states, "Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines." BPD relies on manually prepared paper records for scheduling and tracking hours worked. Regular shifts and overtime hours are tracked on separate forms, with each overtime shift requiring a new form (Appendix III).

When tracing a sample of instances where officers exceeded overtime limits to paper overtime forms, there was no indication that supervisors were aware that these officers exceeded the overtime limits or why they were allowed to do so. There are legitimate reasons why supervisors might approve officers to exceed these limits, and the policy states that limitation of hours worked should be enforced absent emergency operations. We were unable to verify that any of these instances of exceeding the overtime limits were to staff for emergency operations.

Additionally, signing up for voluntary patrol overtime shifts are manual and first come, first serve. Supervisors post open overtime shifts on a corkboard in a central location in the public safety building. Officers manually write their badge number on an open shift to claim the overtime. This system does not necessarily block or limit officers from signing up for multiple spots. According to BPD, officers are not required to seek approval from their supervisor, unless officers think it may impact or overlap their regular job duties.

Figure 11. Sign-ups for Patrol Overtime Shifts Are Manual and First Come, First Serve



Source: Berkeley Police Department

As a result of BPD's manual processes, supervisors likely do not know how many hours an officer has worked leading up to a shift. This means that supervisors may select an officer for a new overtime shift who has already worked more than the supervisor thinks is safe.

Tracking all hours of work in one place is important because it can help supervisors ensure that officers are working safe amounts of hours, within the department's limits, and that extra-duty overtime does not affect their regular duty assignments. One study by the Department of Justice states that overtime can be successfully managed through a combination of analysis, recordkeeping, management, and supervision.⁹ Without staffing software and digitized timekeeping, BPD policies and management may not be sufficient to manage the burnout and fatigue associated with overtime.

⁹National Institute of Justice, Police Overtime: An Examination of Key Issues: <https://www.ojp.gov/pdffiles/167572.pdf>

Recommendations

To mitigate the risks associated with excessive overtime and officer fatigue, we recommend Berkeley Police Department:

- 3.1 Update the department overtime policy to address the fact that there currently is no limit to the number of consecutive days worked and determine the appropriate limit for overtime that is enforceable with the goal of avoiding officer fatigue. The department may examine other jurisdictions' overtime limits as possible criteria.

To ensure efficient and effective management of staffing and overtime, we recommend Berkeley Police Department:

- 3.2 Work to implement a staffing software solution that integrates overtime management and scheduling software. Develop management reports that provide timely, accurate, and complete information on overtime usage. Develop a process for filling overtime shifts on a voluntary and mandatory basis, including supervisor approval. Build in warnings for when an individual is approaching overtime limits and an approval process for allowing individuals to exceed limits when deemed necessary according to the policy.

BPD has no contracts for overtime security with outside entities.

The hours BPD officers spent conducting extra-duty, overtime security work for both public and private entities (work for outside entities) more than tripled in FY 2020. Personnel costs for providing security to outside entities also tripled from \$160,000 in FY 2019 to almost \$500,000 in FY 2020, amounting to 10 percent of all of BPD’s overtime personnel costs. BPD does not have written policies that define and govern this work. In addition, BPD does not have contracts with outside entities, which unnecessarily increases the City’s risks and liabilities. BPD’s process for tracking costs associated with work for outside entities is insufficient and we are unable to determine if the City is being reimbursed appropriately. Without documented policies and processes for establishing work for outside entity agreements, BPD cannot ensure their services are equitable and transparent.

Officers’ overtime work for outside entities more than tripled in FY 2020.

The overtime hours BPD officers spent working for outside entities more than tripled in FY 2020, representing nine percent of all sworn overtime hours previously shown in Figure 8. The hours BPD officers work for outside entities contribute to the total strain overtime places on the department and individual officers. Outside entities are public and private organizations such as local businesses, schools, or private event organizers that request police services ranging from security, crowd and traffic management, to neighborhood patrol. Officers provide security in their capacity as BPD sworn officers and BPD pays them at the overtime rate, while outside entities submit reimbursements to the City. Officers worked with six major employers in FY 2020, and more than half (53 percent) of the overtime hours worked were for the Apple store (Figure 12). During this period, the 2,952 hours associated with the Apple store encompassed the equivalent of one full-time staff hours for an entire year.



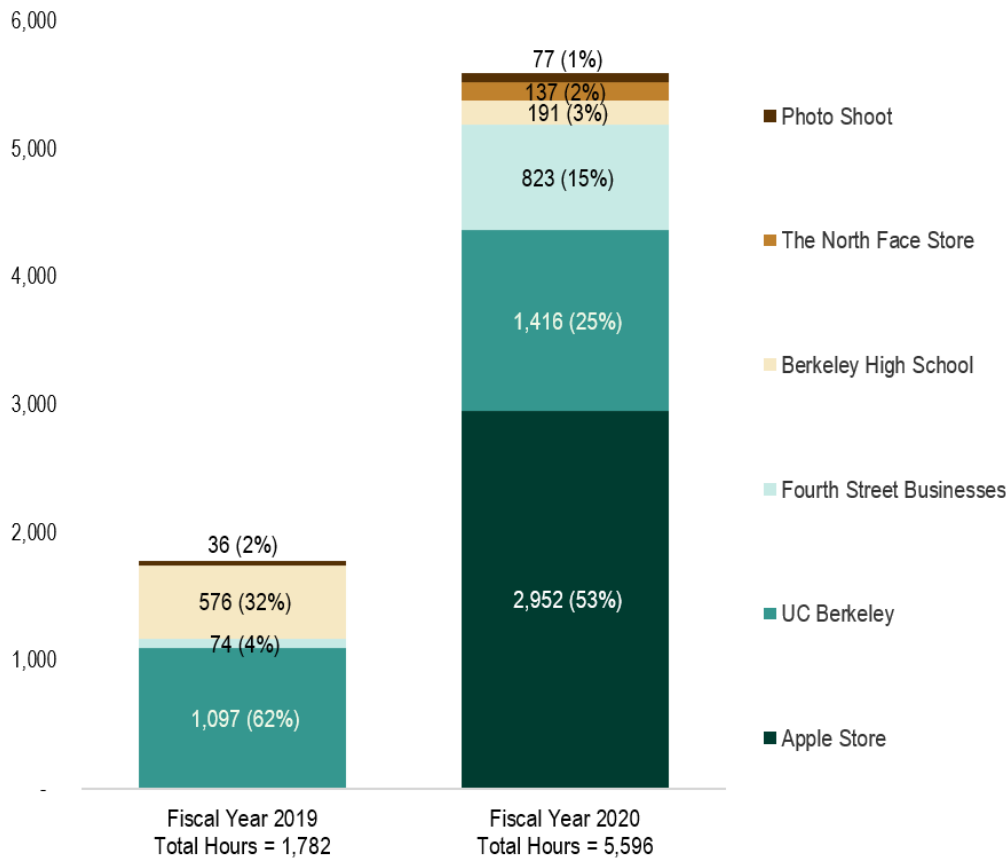
A range of outside entities have requested BPD’s services, including but not limited to:

Retailers. BPD has provided dedicated security services to retail stores including the Apple Store, Lululemon, and North Face. BPD also provides patrol and security for a merchant’s association representing businesses on Fourth Street.

Schools and universities. BPD provides services to local educational institutions including UC Berkeley and Berkeley High School (BHS). According to BPD, services to UC Berkeley are often for football games. BPD’s agreement with BHS supports the cost for overtime incurred by the full time School Resource Officer or any other officer that works in an overtime capacity for BHS.

One-time events for private companies. BPD also provides services to companies for one-time events. For instance, BPD has provided security during movie filming, security for moves between commercial or private residences, and crowd management for demonstrations against installations of AT&T private equipment.

Figure 12. BPD More than Tripled the Hours Spent Working Overtime for Outside Entities in FY 2020



Note: Fourth Street businesses includes holiday patrol.

Source: BPD Payroll Data

The employment of public officers for private security work, whether at an individual or department level, is not unique to BPD. Both the Davis Police Department¹⁰ and San Jose Police Department¹¹ have procedures that enable sworn officers to provide private security overtime.

¹⁰ Davis Police Department, Extra-Duty and Off-Duty Employment Policy: <https://www.cityofdavis.org/home/showpublisheddocument/13243/636951554881270000>

¹¹ San Jose Police Department, Instructions for Secondary Employment: <https://www.sjpd.org/home/showpublisheddocument/350/637469312631370000>

According to an Illinois Law Review study, outside entities are sometimes willing to pay the costs of hiring officers due to their capacity as sworn officers, including the ability to detain, search, arrest, and use force on suspects.¹² In August 2019, the San Francisco Chronicle surveyed security businesses, retailers, and police officers to explore the growth in San Francisco police as private paid security, known as the 10-B program.¹³ They found that outside entities rely on the visibility of a uniformed officer in a patrol vehicle to deter unwanted theft. Additionally, outside entities benefit from officers' broader connection and communications to local law enforcement agencies. Our audit did not investigate the complex reasons for the growth in requests.

The BPD has no procedures or written agreements for working overtime with outside entities.

BPD does not have policies nor criteria that govern the approval and administration of department agreements for work for outside entities. We also did not find evidence of contracts or written agreements between BPD and outside entities on these overtime arrangements. Without written contracts or agreements regarding the role or authority of a private company, BPD and the City of Berkeley may bear the cost of potential hazards that surface from work for outside entities. Updated policies and procedures are essential for the proper transparency and accountability of government resources and for achieving efficient and effective program results.

¹² Stoughton, Seth W., Moonlighting: The Private Employment of Off-Duty Officers (August 26, 2016). 2017 U. Ill. L. Rev. 1848 (2017), Available at SSRN: <https://ssrn.com/abstract=2830652> or <http://dx.doi.org/10.2139/ssrn.2830652>

¹³ San Francisco Chronicle, Businesses hiring real SF cops on OT to keep crime down, employees safe; <https://www.sfchronicle.com/bayarea/philmatier/article/Businesses-hiring-real-SF-cops-on-OT-to-keep-14365181.php>

In 2020, sworn officers in every BPD division provided security for outside entities, amounting to 50 percent of all sworn staff eligible for overtime on BPD's payroll. Unlike self-employment or employment by others, work for outside entities is executed by the department and paid for by reimbursements to the City from outside entities. Nevertheless, the City and BPD's policies on outside employment (A.R. 2.10 and Policy 1020, respectively) do not define nor address reimbursed work for outside entities pursuant to an agreement between the department and those entities. Unlike BPD, Davis Police Department has policies guiding their contracted security work for outside entities. Davis' policies in their arrangements with outside entities include liability and worker's compensation, application protocols, account management, time of payment, and selection of officers.

Figure 13. Apple Accounted for the Majority of BPD's Work for Outside Entities



Source: Berkeley City Auditor

It is City practice in other areas to enter into contracts and/or execute agreements when providing or obtaining services from outside entities. For example, the City has an administrative regulation that establishes a framework for approvals, contract execution, financial recording, and billing of grants and any other agreements such as reimbursement contracts, cooperative agreements, Memorandums of Understanding, or other participation agreements that provide an award of financial assistance to support a City program or project. Adopting similar processes for work for outside entities would improve transparency and decrease risk and liability to the City.

A lack of written agreements and policies, together with the increase in BPD’s work for outside entities, introduce unnecessary risks and liabilities across a variety of areas. We identified the following potential risks, among others:

Liabilities. Without an indemnity agreement to clarify the role and authority of outside entities, BPD and the City of Berkeley may open itself up to additional liability. A lack of agreements also creates ambiguity as to the responsibility of an officer working on behalf of an outside entity. While working for outside entities, officers are assigned to provide security for that entity. They do not respond to calls or perform other general police functions, yet they maintain police powers and can exercise those powers while working on behalf of the outside entity. There may also be misperception on the part of the public, the officer, or the private entity as to the scope of duties and role of the outside entity and relationship with the officer.

Conflict of interest. A lack of priorities or criteria informing BPD’s approval of contracts introduces the risk of working arrangements with a conflict of interest or divergence from City values. Without criteria, there are no formal measures against working for businesses with a history of criminal activity, or businesses involved in legal proceedings against the City.

Administrative Gaps. Without formalized procedures, BPD risks executing important administrative steps partially and inconsistently, or missing some steps altogether. A formal application provides opportunities to collect information about services needed, review and approve contracts in a uniform manner, ensure alignment with the municipal code and BPD’s stated values, and establish expectations with prospective outside entities.

No limits to hours working for outside entities. It is difficult for officers and supervisors to monitor hours spent working for outside entities without overarching guidelines or limits regarding officer’s assignments. According to BPD, the Patrol Unit prioritizes other forms of overtime above work for outside entities.

Fewer data to manage the workload. Without methods to track the number of requests, approvals, and contracts for working with outside entities, BPD is unable to understand trends over time and proactively manage their workload accordingly. Tracking data on outside entity requests, along with project codes in BPD’s payroll data, would provide opportunities to inform beats and staff assignments in the future.

BPD does not effectively track costs of overtime security and it is unclear if the City is charging outside entities appropriately.

BPD’s personnel costs of working for outside entities tripled from \$160,000 in FY 2019 to almost \$500,000 in FY 2020, amounting to 10 percent of all of BPD’s overtime personnel costs. Under BPD’s current process for tracking costs associated with work for outside entities, we cannot determine if the City is recovering the full cost for their services to outside entities.

According to BPD, they charge outside entities only for the payroll costs incurred by the officer’s work for outside entities, including benefits that are paid for overtime. The City does not recover costs associated with the use of City vehicles nor the administration of these agreements including planning, staffing, and invoicing. We also found BPD charges the businesses on Fourth street a flat fee of \$5,000 during the winter holidays, even if the cost of services exceeds this amount. This arrangement pre-dates the current Fiscal Management staff, and it is unclear when or why it was established. We cannot know the full excess costs of flat fee arrangements as BPD does not identify them in their billing documents.

Without clearly understanding invoices and revenue, BPD cannot reconcile costs with their reimbursements. As a result, BPD may continually underbill for their services and not recover the full costs of officer overtime. On the other hand, BPD may overbill outside entities, which can influence perceptions about working with the City. It is difficult to track the appropriateness of reimbursements for several reasons:

BPD cannot separate out revenue. Checks are deposited into a general revenue account along with other revenues. As such the City cannot separate out specific revenues tied to work for outside entities.

Manual process subject to error. Data entry errors may surface as the payroll clerk manually calculates the hours worked by each individual plus the benefitted amount, as well as invoice amounts in the system. It is possible that hours do not get added to payroll, or that they get added to the wrong project code.

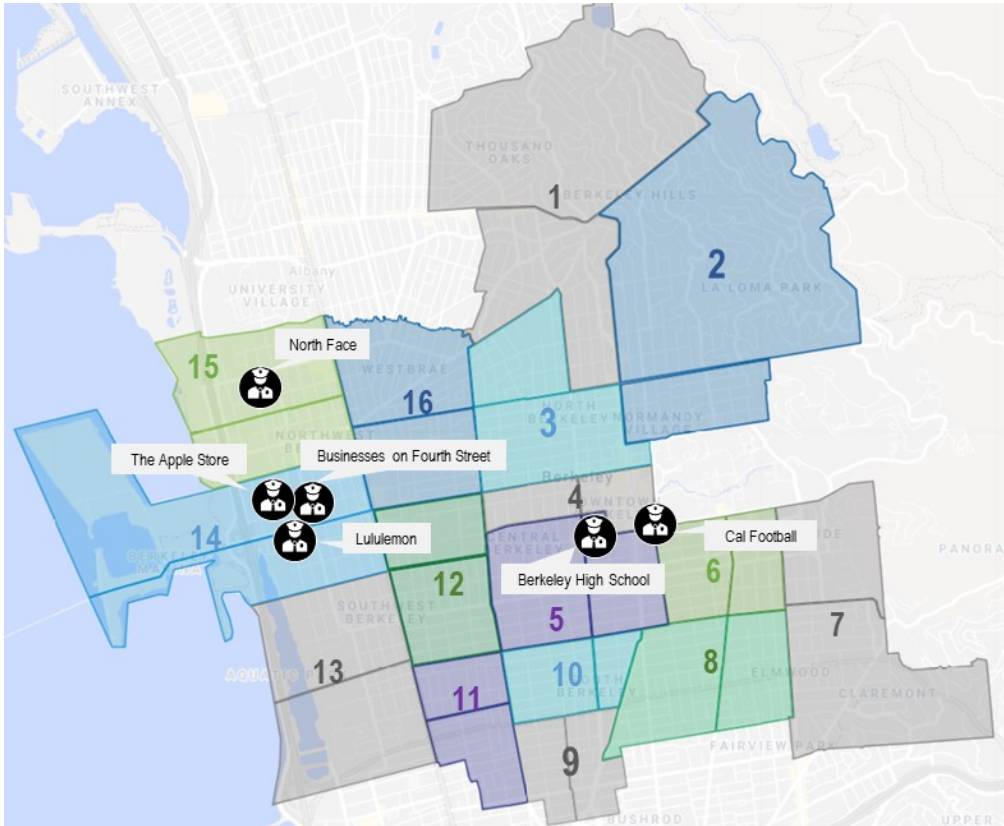
BPD’s billing can have errors. BPD follows a billing procedure that exists outside of the City’s accounts receivable system using spreadsheets. The department does not have quality controls to review the spreadsheets for accuracy, and the growth in requests for outside entities is outgrowing BPD’s capacity to closely monitor a growing number of the invoices to outside entities.

Additionally, revenues from outside party reimbursements are not fully credited back to BPD. Reimbursements from outside entities are deposited into the City’s General Fund, and BPD’s expenditures for overtime work with outside entities can exceed the City’s budgeted amount. According to BPD’s Fiscal Services Manager, the budgeted expenditures for work with outside entities have remained fixed at \$150,000 for over a decade, despite the growth of personnel expenditures to \$498,685 in FY 2020. Reimbursements for overtime work with outside entities do not replenish the overtime fund from which BPD officers were paid, and are not guaranteed to be allocated to BPD.

Without policies and documentation, BPD cannot ensure transparent and equitable services.

BPD leadership should know how to best deploy its officer resources, but work for outside entities as it is currently operating may undermine that judgment. The breadth and prevalence of work for outside entities in FY 2020 has essentially privatized a portion of officer overtime, and without policies to manage this growth, BPD may encounter unforeseen impacts related to equity and transparency of their services for businesses and residents alike. Occasionally, multiple officers will provide services simultaneously for companies located in the same beat alongside the regular beat officer; this is especially true for security for various companies on Fourth street (Figure 13). BPD does not have agreements or written procedures to prevent policing from skewing toward one specific contract or type of entity at the expense of other businesses or neighborhoods with higher service and crime response.

Figure 14. Work for Outside Entities in FY 2020 by Police Beats



Source: BPD Beats Map on the Open Data Portal and Berkeley Police Department

The lack of documentation surrounding outside entities also raises concerns around transparency and equity. As discussed previously, BPD historically provided a flat fee of \$5,000 to the businesses on Fourth Street, and expenditures were higher than this fee. Without procedures, BPD may continue to use inconsistent flat fee arrangements leading the City to inadvertently charge one company less than another without criteria as to why. In addition, certain companies have dedicated contractors that coordinate their security. For instance, the firm Security Industry Specialists Inc. (SIS) handles Apple’s agreements with BPD, while smaller businesses may benefit from BPD security but lack these resources to acquire BPD’s services. Larger-income businesses can afford the additional protection afforded by sworn officers, while smaller businesses may be unable to benefit from City-sponsored security. Further, there is potential for bias or perception of bias if police working as private security encounter a dispute between an member of the public and the private entity. An officer that is providing security for a private entity may not be viewed as objective in resolving a conflict between that private entity and a member of the public. This risk is heightened by lack of regulation, documentation, and public communication.

While any community that wants security has a right to pay for it, it raises questions of equity of access when that extra security is provided by City-employed officers. BPD can improve equity if every business is able to access information about these services, and they provided a transparent application process for community members interested in obtaining these services. This brings up questions and considerations around BPD's overall scope of work for outside entities given BPD's staffing gaps, high levels of overtime, potential perceptions of bias, and the risks detailed above.

Transparency is especially important in the case of police work. Unlike most public officials—who may also be employed by outside entities—police officers retain their public authority in their capacity as sworn officers on behalf of outside entities. Since work as BPD officers is an extension of work for the City, relevant information about their work with private entities should be available internally to the City and/or the public. This practice is worthy of public discussion and evaluation.

Recommendations

To ensure work with outside entities is in full compliance with relevant laws and policies, and to increase transparency and reduce liabilities, we recommend Berkeley Police Department (BPD):

- 4.1 Update A.R. 2.10 and other department policies to explicitly include guidance around department agreements for work for outside entities, which is paid for by reimbursements to the City from the outside entities. Internal procedures should include appropriate criteria to identify and document the benefit to the City gained by work for outside entity agreements, and to allocate resources in a way that does not negatively impact City operations. Additionally, BPD should document their criteria for when officers are not available or eligible for work for outside entities.
- 4.2 In consultation with the City Attorney, create contracts with outside entities in compliance with City policies and applicable laws.

- 4.3 Develop an application for BPD's services that is publicly available and accessible online to any interested party. Set pay uniformly according to rank and hourly rate and include a reasonable fee that covers the expenses of administering work for outside entities including workers compensation, fuel, use of equipment, and any other actual or potential costs to the City.

To ensure the City is being appropriately reimbursed for policing services contracted out to outside entities or any other agreements (i.e., special events), we recommend Berkeley Police Department:

- 4.4 Reconcile invoices with the amounts received for work with outside entities at regular intervals. BPD should also implement procedures to check invoices for errors prior to billing outside entities.
- 4.5 Explore ways to clearly account for different funds to track revenues and expenses.

Recommendations and Management Response

We provided a draft of this report to City Management and BPD for review and comment. City Management agreed to our findings, conclusions, and recommendations. Below is the BPD's initial corrective action plan and proposed implementation date. We find their plan to address our audit recommendations reasonable. As part of the follow-up process, the Berkeley City Auditor will be actively engaged with the Police Department every six months to assess the progress they are making towards complete implementation. The department will submit a council item every 6 months with an update on the progress of their recommendations.

1.1 Collect and monitor data on how often compensatory time leads to additional backfill overtime and develop a plan to monitor it.

Management Response: Agree.

Proposed Implementation Plan: BPD is currently working to implement an electronic staffing solution. The Department will assess the ability to monitor and track this information in electronic staffing in order to understand the expense and impacts of compensatory time. BPD will explore the possibility of developing a report through existing payroll and finance programs to understand the impact of compensatory time usage and practices.

Proposed Implementation Date: Estimated completion within 18 months from date of audit response.

1.2 Fill vacancies deemed necessary and/or reallocate staff pending the reimagining process and a determination of appropriate staffing levels.

Management Response: Agree.

Proposed Implementation Plan: BPD understands the impact that reduced staffing has on overtime costs and always strives to fill vacancies and operate within our budget. Challenges in retention of existing officers, difficulty hiring new officers and many imminent retirements make it difficult to apply a timeline on implementation of this recommendation. Recruitment efforts, prioritization of hiring and related processes and budget authority to hire will be instrumental to the department's success.

Proposed Implementation Date: Ongoing.

2.1 Establish a procedure to regularly assess minimum staffing and overall staffing needs of the department. This process should document and incorporate criteria to assess staffing levels, such as calls for service, other workload, community input, and other relevant factors. As BPD prepares for the rollout of a new software system, BPD should consider how to best align the program’s capabilities with this assessment process.

Management Response: BPD agrees with this recommendation in that regular assessments assist the department with the best allocation and deployment of resources. Our staffing needs may fluctuate as priorities change, but our responsibility to meet public safety demands is always paramount.

Proposed Implementation Plan: Internal evaluations will be completed annually to address constantly changing conditions, call volume, crime data and other external factors. The reimagining public safety efforts may also necessitate changing focus and deployment strategies. BPD will explore engaging outside consultants every ten years to evaluate patrol staffing levels so as to have a useful body of data for evaluation (for example; tying staffing evaluations to census reports).

Proposed Implementation Date: Estimated completion within 18-24 months from date of audit response.

2.2 Document and define the Patrol Unit’s minimum staffing levels in a publicly assessable format.

Management Response: Agree.

Proposed Implementation Plan: BPD will update the department webpage to include information on beat structure, teams, and deployment. This will also include current beat officer assignment.

Proposed Implementation Date: Estimated completion within 6 months from date of audit response.

2.3 Document the results of staffing assessments along with the assessment criteria. Incorporate results into staffing projections for budgetary decision making, including establishing a sufficient and appropriate overtime budget.

Management Response: Agree. Our staffing needs may fluctuate as priorities change, but our responsibility to meet public safety demands is always paramount.

Proposed Implementation Plan: Internal evaluations will be completed annually to address constantly changing conditions, call volume, crime data and other external factors. BPD will explore engaging outside consultants every ten years to also evaluate this item.

Proposed Implementation Date: Estimated completion within 18-24 months from date of audit response though this is subject to change as it is part of the overall budget process.

- 3.1** Update the department overtime policy to address the fact that there currently is no limit to the number of consecutive days worked and determine the appropriate limit for overtime that is enforceable with the goal of avoiding officer fatigue. The department may examine other jurisdictions' overtime limits as possible criteria.

Management Response: Agree.

Proposed Implementation Plan: BPD will review existing policy and ensure that any policy updates or clarification are completed. BPD will conduct research to review fatigue mitigation programs and contact other agencies to learn what they are using successfully. A byproduct of reduced staffing can be increased or excessive overtime where minimum staffing levels or public safety needs necessitate police response. The Department will explore options to develop data collection and monitoring within the electronic staffing solution to be able to regularly assess if there is an issue.

Proposed Implementation Date: Estimated completion within 24 months from date of audit response.

- 3.2** Work to implement a staffing software solution that integrates overtime management and scheduling software. Develop management reports that provide timely, accurate, and complete information on overtime usage. Develop a process for filling overtime shifts on a voluntary and mandatory basis, including supervisor approval. Build in warnings for when an individual is approaching overtime limits and an approval process for allowing individuals to exceed limits when deemed necessary according to the policy.

Management Response: BPD agrees that a staffing software solution could assist with overtime management and scheduling needs.

Proposed Implementation Plan: BPD is already heavily engaged in seeking a software solution. The RFP process is completed, and the vetting process is nearing completion to select the vendor. Following completion of a contract, the steps towards implementation will begin. The Department will have to rely on Information Technology for implementation, consequently timing will depend how this project fits the PD/IT workplan.

Proposed Implementation Date: Estimated completion within 24 months from date of audit response.

4.1 Update A.R. 2.10 and other department policies to explicitly include guidance around department agreements for work for outside entities, which is paid for by reimbursements to the City from the outside entities. Internal procedures should include appropriate criteria to identify and document the benefit to the City gained by work for outside entity agreements, and to allocate resources in a way that does not negatively impact City operations. Additionally, BPD should document their criteria for when officers are not available or eligible for work for outside entities.

Management Response: Agree.

Proposed Implementation Plan: BPD will work with the City Manager’s Office to identify necessary adjustments to the CoB A.R.2.10, current BPD practices engaging in reimbursable service contract, and the overall administration of departmental agreements for work with outside entities.

The Department will create a webpage on the Department’s website with information explaining the process for requesting services. This would include a point of contact to discuss criteria and evaluation of service requests, including staffing impacts. Also included will be clear language explaining that public safety response will be the highest priority.

Proposed Implementation Date: Estimated completion within 12 months from date of audit response.

4.2 In consultation with the City Attorney, create contracts with outside entities in compliance with City policies and applicable laws.

Management Response: Agree.

Proposed Implementation Plan: BPD will work with the City Manager’s Office, and in consultation with the City Attorney, to determine appropriate contract(s) for reimbursable service contracts.

Proposed Implementation Date: Estimated completion within 24 months from date of audit response.

4.3 Develop an application for BPD’s services that is publicly available and accessible online to any interested party. Set pay uniformly according to rank and hourly rate and include a reasonable fee that covers the expenses of administering work for outside entities including workers compensation, fuel, use of equipment, and any other actual or potential costs to the City.

Management Response: Agree.

Proposed Implementation Plan: We intend to create a webpage on the Department’s website with information explaining the process for requesting services. This would include a point of contact to discuss criteria and evaluation of service requests, including staffing impacts. Also included will be clear language explaining that public safety response will be the highest priority.

Proposed Implementation Date: Estimated completion within 12-18 months from date of audit response.

4.4 BPD should reconcile invoices with the amounts received for work with outside entities at regular intervals. BPD should also implement procedures to check invoices for errors prior to billing outside entities.

Management Response: Agree.

Proposed Implementation Plan: BPD will discuss possible solutions with other city stakeholders, including the Finance Department.

Proposed Implementation Date: Estimated 12 months from date of audit completion.

4.5 Explore ways to clearly account for different funds to track revenues and expenses.

Management Response: Agree.

Proposed Implementation Plan: BPD will discuss possible solutions with other city stakeholders, including other city departments.

Proposed Implementation Date: Estimated 12 months from date of audit completion.

Methodology and Statement of Compliance

Methodology

We audited the Berkeley Police Department's (BPD) budget and operations for fiscal years (FY) 2015 through 2020. We assessed historic funding levels going as far back as FY 1970 when data was available. We performed a risk assessment of BPD's practices and procedures to identify potential internal control weaknesses, including fraud risks, within the context of our audit objectives. This included a review of selected policies and procedures, as well as interviews with subject matter experts and BPD staff.

To gain an understanding of BPD's operations and internal controls and to achieve our audit objectives, we reviewed the following:

- Biennial budget reports, financial reports, and census data summarizing historic trends in BPD's budget and staffing.
- State and federal laws governing police overtime, staffing, and work with outside entities.
- Previous audit recommendations, staffing assessments, and BPD's organization chart informing BPD's departmental structure and practices.
- General orders and protocols detailing BPD's limits on overtime and minimum staffing.
- Existing agreements for BPD's police services including grants, mutual aid, special events, and outside entities.
- Written procedures and common forms used by BPD supervisors to monitor and approve overtime.
- National media on police budgeting and reimagining policing.
- Professional literature on effective management of overtime and staffing in police operations.
- Other audits and police practices in comparison cities related to police budgeting, staffing and overtime.

We also conducted interviews with:

- BPD police officers in the Operations and Support Services departments spanning the ranks of police officer, sergeant, lieutenant, captain, and chief.
- Berkeley Police Association President and Vice President.
- BPD administrative staff including the Administrative and Fiscal Services Manager and the Department's payroll clerks.
- City leadership including the Manager of the Budget Office, the Berkeley City Attorney, and City Councilmembers.
- Peer auditors in the City of San Jose that conducted an audit on police staffing.

We analyzed:

- The City's financial system payroll data for BPD from FY 2019 to FY 2020.
- BPD budget and expenditures for each year from FY 2015 to FY 2021; BPD budgets for FY 1960, 1970, 1980, 1990, 2000, and 2010.
- BPD's record of invoices for work with outside entities.

Data Reliability

We assessed the reliability of payroll data by reviewing it for completeness, appropriateness, and consistency. We determined it is sufficient and reliable for the purposes of our work. The data captures that date of the hours, the staff member, authorized and actual position title, and hour code. We noted a limitation in the data in that the position title associated with individuals is their current title and does not necessarily reflect the title at the time the hours were earned. Additionally, the data does not capture adjustments made to correct labor distributions and project charges. These limitations do not significantly impact our use of the data.

Independence

Payroll Audit is a Division of the City Auditor's Office. Payroll Audit Division performs citywide payroll functions and is a module leader for the payroll/personnel module used to record payroll costs. BPD is solely responsible for identifying the payroll codes applicable to their staff's time reported on timesheets and overtime forms and for providing sufficient documentation to support those hours for payroll processing. Payroll Audit is not responsible for verifying the employee's time or the use of budget codes by the department. Payroll limits its review to ensuring that BPD payroll clerks provide the appropriate and sufficient documentation for the reported time.

To reduce the threat to our independence, we limited our work to exclude areas overseen by our office. We also selected data from closed payroll periods that was in read only status and we traced select data back to source documents to verify that the data is reliable.

We consulted with representatives from the Government Accountability Office to discuss the engagement and the safeguards we put in place. They determined that with the safeguards mentioned above we had reduced the identified threats to our independence to an acceptable level to proceed with the audit.

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.

Appendix I. BPD Funding Streams

City Funding

General Fund. The General Fund is the chief operating fund in the City. It accounts for all financial resources of the general government, except those required to be accounted for in another fund.

Parking Meter Fund. The Parking Meter Fund is one of the City's major enterprise funds. It accounts for the collection of coins from the City's parking meters and for the purchasing, leasing, installing, repairing, maintaining, operating, removing, and policing of the meters.

State Funding

State funding to BPD derives from a combination of grant funding and revenue from state ballot measures.

Alcohol and Beverage Control (ABC) Grant. This program focuses on reducing the number of alcohol related calls for service to BFD and reducing the availability of alcohol to underage persons. It includes a partnership with UC Berkeley to work with student groups in organized events involving alcohol, including "operation trapdoor" to identify students using fake IDs, and conducting patrol on house parties.

State Public Safety Sales Tax Proposition 172. Ballot measure approved in 1993, imposed a state sales tax to be used for local public safety activities. As of FY20-21, it formed 0.25 percent of the total sales tax rate in Alameda County. The state distributes Proposition 172 revenues to each county based on its proportionate share of statewide taxable sales.

Citizens' Option for Public Safety (COPS). The State Controller's Office allocates the Citizens' Option for Public Safety funds to law enforcement agencies according to the relative population for each county and city. In FY 2021, Berkeley was projected to be allocated \$186,209 COPS funding. The allocations may be slightly different from the projections made by the State Controller's Office due to rounding.

Asset Forfeiture Fund. Asset forfeiture is the process by which legal ownership of an asset is transferred to BPD. According to the Health and Safety Code Section 11495, the funds received by the law enforcement agencies are deposited into an account maintained by the controller, county auditor, or city treasurer. From there, they are distributed to law enforcement agencies at their request. Sixty-five percent of State asset forfeiture proceeds are distributed to state and/or local law enforcement agencies that participated in the seizure of the assets. Fifteen percent of those funds must be deposited in a special fund maintained by a council made up of local government entities. These funds are restricted to be used for the sole purpose of funding programs designed to combat drug abuse and divert gang activity (Health and Safety Code 11489). In FY 2019, Berkeley PD received \$127,629.88 in state asset forfeiture funds from Alameda, Contra Costa, and Solano County. There were no reported state asset forfeiture funds received by Berkeley PD in FY 2020.

Mutual Aid from State Agencies. Mutual aid costs are paid for by the state for instances when the state becomes involved. Otherwise, the cost of mutual aid is the responsibility of each agency participating. Five state agencies have specific responsibilities to support local law enforcement during emergency situations: California Highway Patrol, State Military Department, Department of Justice, Department of Corrections, and the Officer of the California State Police.

Federal Funding

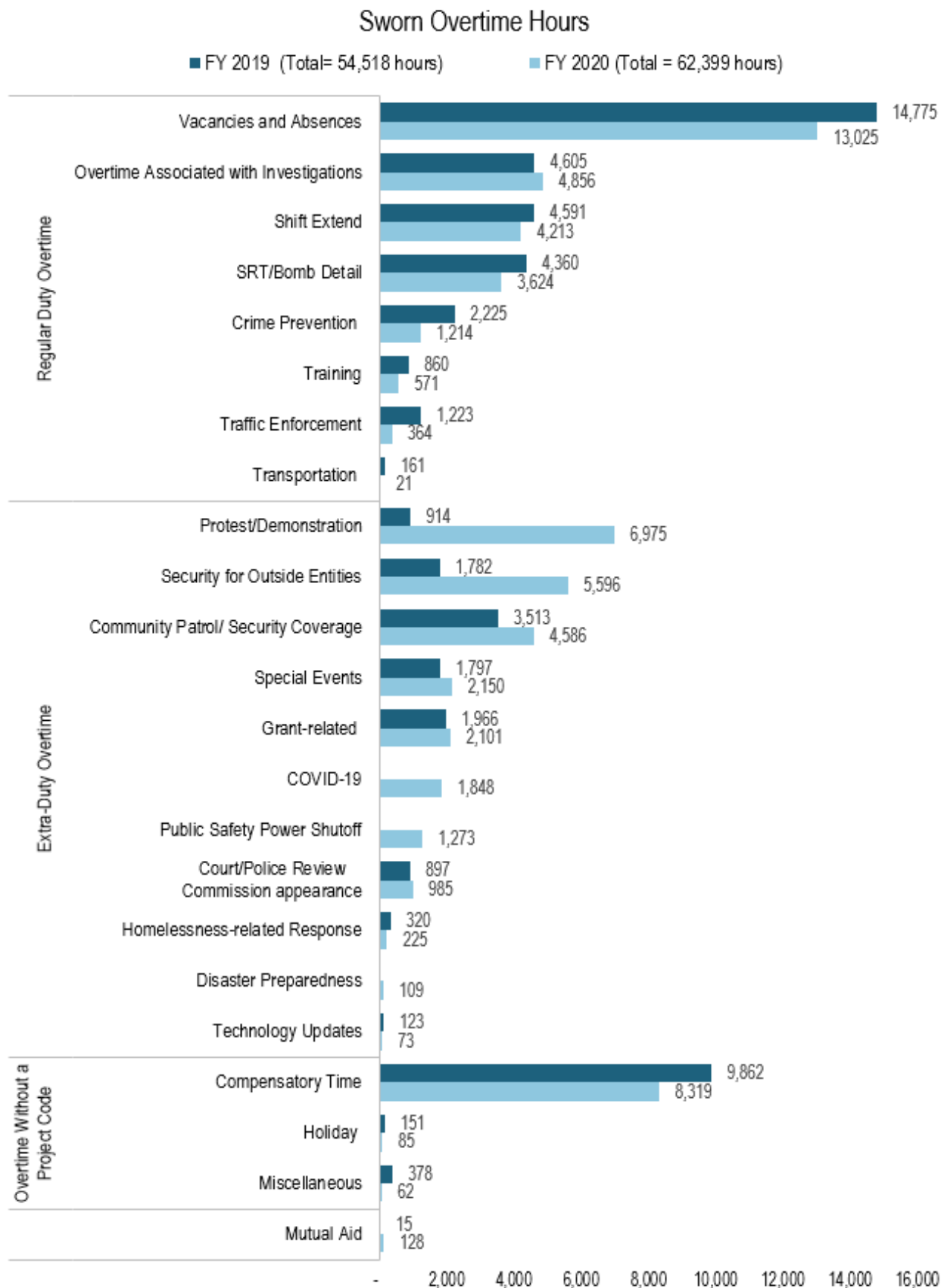
Federal funding for BPD derives exclusively from grants. BPD has received funding from the following grants:

Alameda County Justice Assistance Grant (JAG) Grant. JAG-funded projects address crime by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures. BPD receives funding from the JAG as a member of a consortium with the Alameda County Sheriff's office and other cities of Alameda County. As part of the JAG Consortium, BPD used funds to supplement overtime and benefits for sworn and non-sworn personnel engaged in targeted crime suppression activities.

Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP). The goal of the STEP program is to reduce the number of persons killed and injured in traffic crashes using "best practice" strategies. The grant funds strategies related to traffic enforcement including but not limited to: DUI checkpoints, DUI saturation patrols, warrant service operations, stakeout operations, educational presentations, court stings. There is also a media element to enhance deterrence.

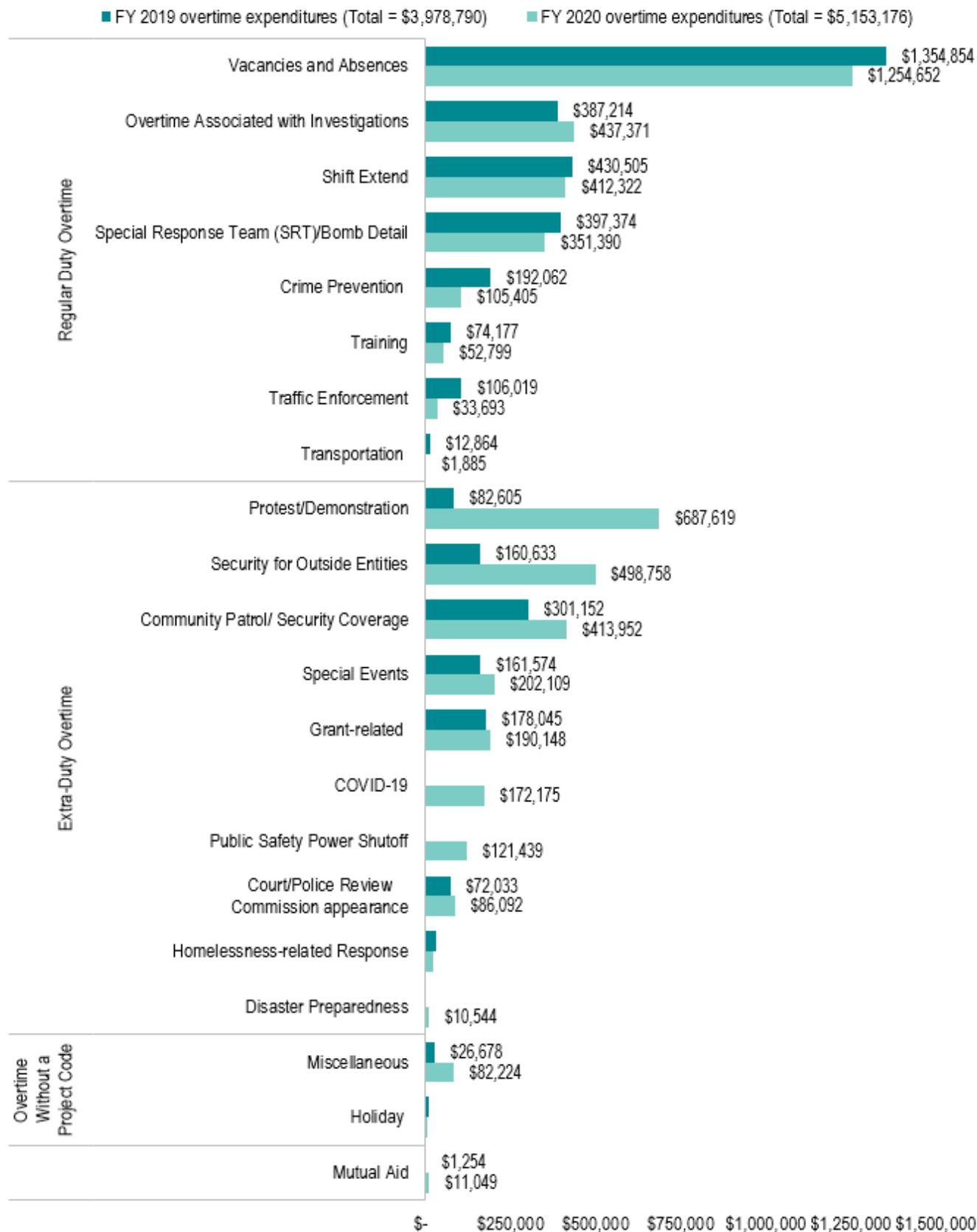
Office of Traffic Safety (OTS) Avoid the 21 Campaign. The grant activities target those who drink too much and get behind the wheel. DUI/Driver's License Checkpoints are a key component of the grant, being highly visible, highly publicized events. Officers staff DUI/Driver License Checkpoints, multi-agency DUI Task Force deployments, and local DUI saturation patrols for each partnering agency.

Appendix II. Reasons for Overtime: Hours and Expenditures



Source: BPD Payroll Data

Sworn Overtime Expenditures



Source: BPD Payroll Data

Appendix III. Extraordinary Duty Form



BERKELEY POLICE DEPARTMENT EXTRAORDINARY DUTY REPORT

Name _____ To _____
(Last) (Initials) (Badge #) (Rank) (Div/Team) (Regular duty hours)

Overtime worked _____
(Date) (Day of Week) (Beginning) (Ending) (Hours) (Minutes) (Days Off)

Reason:

Shift Extended _____ Pre-approved by: _____
(Case #) (Signature Mandatory) (Badge#)
 Special Detail _____
(Case #) (Explanation Mandatory)
 Backfill/Shortage _____
(For Badge #) (Explanation Mandatory)
 Court _____
(Attach Subpoena) (Case #) Did you testify? No Yes (Hours) (Minutes)

Premium Pay: SRT FTO EOD Phone Standby

On-duty _____ Off-duty _____ Comp time / Vacation time taken this week? Yes No
(Hours) (Minutes) (Hours) (Minutes)

Signed: _____ Date: _____ Time: _____ Prefer: Time / \$\$\$
(Signature) (Date) (Time) (Circle One)

Approval

Budget Code:	Activity Code:	Project Code:
<input type="checkbox"/> 1301 Regular OT	<input type="checkbox"/> 6901 Admin	<input type="checkbox"/> XX3069 SRT
<input type="checkbox"/> 1303 Hourly OT	<input type="checkbox"/> 6902 Media	<input type="checkbox"/> XX3070 Court (needed)
<input type="checkbox"/> 1311 Special Events	<input type="checkbox"/> 6903 IAB	<input type="checkbox"/> XX3071 Court (NOT needed)
<input type="checkbox"/> 1312 Training	<input type="checkbox"/> 7002 Prof. Standards	<input type="checkbox"/> XX3072 PRC Appearance
<input type="checkbox"/> 1313 Vacation Relief	<input type="checkbox"/> 7003 P&T / Court / PRC	<input type="checkbox"/> XX3A01 Workers Comp
<input type="checkbox"/> 1315 Misc.	<input type="checkbox"/> 7101 SS Admin	<input type="checkbox"/> XX3A02 Parental Leave
<input type="checkbox"/> 1316 Sick Time Relief	<input type="checkbox"/> 7004 Jail	<input type="checkbox"/> XX3A03 Military Leave
<input type="checkbox"/> 1317 Court / PRC	<input type="checkbox"/> 7206 Comm. Center	<input type="checkbox"/> XX3A04 Replace LD (on duty)
<input type="checkbox"/> 1338 Work Private Parties	<input type="checkbox"/> 7104 Records/Liaison/Warr	<input type="checkbox"/> XX3A05 Replace LD (off duty)
	<input type="checkbox"/> 7202 Operations	<input type="checkbox"/> XX3A06 Suspension
	<input type="checkbox"/> 7301 Investigations	<input type="checkbox"/> XX3A07 Administrative Leave
	<input type="checkbox"/> 7302 Traffic	<input type="checkbox"/> XX3A08 Leave w/o pay
	<input type="checkbox"/> 7303 Parking	<input type="checkbox"/> XX3A09 Under Strength
	<input type="checkbox"/> 7304 SEU	<input type="checkbox"/> XX3A10 Shift Extended
	<input type="checkbox"/> 7305 CAU	<input type="checkbox"/> XX3A11 Crime Prevention
	<input type="checkbox"/> 7306 ABC	<input type="checkbox"/> XX3A12 Community Events
	<input type="checkbox"/> 7307 Crime Scene	<input type="checkbox"/> XX3A13 Auto Theft
		<input type="checkbox"/> XX3A14 Fraud
		<input type="checkbox"/> XX3A15 Homicide
		<input type="checkbox"/> XX3A16 Property Crimes
		<input type="checkbox"/> XX3A17 Robbery
		<input type="checkbox"/> XX3A18 SVU / Sex Crimes
		<input type="checkbox"/> 15PO02 SVU / YSD
		<input type="checkbox"/> 15PO10 SVU / DV
		<input type="checkbox"/> 15PO01 Traffic / FAIT
		<input type="checkbox"/> XX3A19 SEU / Narcotics
		<input type="checkbox"/> XX3A20 SEU / Prostitution
		<input type="checkbox"/> XX3A21 Santa Rita Transportation
		<input type="checkbox"/> XX3A22 Hospital Transportation
		<input type="checkbox"/> XX3A23 Other Transportation
		<input type="checkbox"/> XX3A24 Telegraph (Fri / Sat)
		<input type="checkbox"/> XX3A25 City Council
		<input type="checkbox"/> XX3A26 Private Property (General)
		<input type="checkbox"/> XX3A72 DUI Checkpoint
		<input type="checkbox"/> XX3B74 Private Property (UCB)
		<input type="checkbox"/> XX3B75 Private Party (BUSD)
		<input type="checkbox"/> XX8P14 EOD
		<input type="checkbox"/> XX8P15 Range Training / FTU TTT
		<input type="checkbox"/> XX8P16 DT Training / DTU TTT
		<input type="checkbox"/> XX8P17 Demonstrations
		<input type="checkbox"/> XX8P18 Special Training
		<input type="checkbox"/> Other: _____

Time / \$\$\$* _____
(Circle One) *Grants \$\$\$ only

Total Hours _____
(Hours) (Minutes)

(Supervisor) (Date) (Commander) (Date) (Div. Commander) (Date)

Revised 9/2014

Overtime Reference Information – Overtime regulations are codified in General Order D-15 and Union Agreements between the City and the BPA or Local 1021. See referenced materials for more detail.

- **Whether an employee shall be compensated for overtime by compensatory time off or by payment shall be at the sole discretion of the employee's department director. MOU BPA §19.1.1.2.**
- No employee may work overtime or extend his or her shift without express prior approval of his or her supervisor. General Order D-15 §17.
- For paid overtime to be credited, an employee is required to submit an Extraordinary Duty Report immediately following the overtime assignment. General Order D-15 §17.
- Unless specifically requested by a commanding officer, employees shall not work overtime on their regularly scheduled shift on days they would normally work. MOU BPA §19.1.
- On days when they have taken paid time off for any reason other than workers' compensation, they are not automatically restricted from working overtime during those same days on shifts other than their own. MOU BPA §19.1.
- An employee who is placed on emergency on-call status on his or her regularly scheduled day off shall be paid or be credited with compensatory time off at a one quarter (¼) time rate. General Order D-15 §40(a) / MOU BPA §19.3.1.
- If the emergency on-call status continues into a second day during the month, an employee placed on emergency on-call status shall be paid or be credited with compensatory time off at a one quarter (¼) time. General Order D-15 §40(b) / MOU BPA §19.3.2.
- Emergency Overtime - An employee is guaranteed at least three (3) hours overtime when called to emergency overtime duty from his or her residence. MOU BPA §19.7.
- Unless otherwise approved by a Commanding Officer, all court overtime shall be paid. General Order D-15 §27 / MOU BPA §20.1.2.
- A sworn employee who makes an off-duty court appearance shall receive a minimum of four (4) hours overtime unless his or her scheduled duty reporting time, regular shift or overtime shift is less than four hours after the scheduled court appearance in which case the employee will receive overtime in the lesser amount. General Order D-15 §28 / MOU BPA 20.1.3.
- For off-duty, out-of-town court appearances, travel constitutes court overtime and is determined by the round trip time from the Hall of Justice. General Order D-15 §31 / MOU BPA D-15 20.1.5.
- Sworn employees who are placed on telephone stand-by for the court will be compensated by earned compensatory time as follows: General Order D-15 §34 / MOU BPA 20.2.1-20.2.2.
 - Duty Day: One hour minimum compensatory time and hour for hour thereafter.
 - Day Off: Two hour minimum compensatory time and hour for hour thereafter.
- Subpoena should be attached and case number indicated if either or both are available. General Order D-15 §35(a) / MOU BPA 20.2.2.1.
- Report is to be completed by the officer and shall specify the case number and the name of the Deputy District Attorney placing him or her on telephone stand-by. General Order D-15 §35(b) / MOU BPA D-15 20.2.2.2.

SEIU Local 1021 Only

- Employees who are called into work outside their normal work schedule shall be paid overtime compensation for actual time worked. The minimum time for which such overtime compensation shall be paid shall be four (4) hours. If such overtime work is performed prior to the beginning of the regularly scheduled work period and overtime continues into the regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked. Memorandum Agreement SEIU Local 1021 §14.5.

Appendix IV. Sample BPD Patrol Timesheet

TIMESHEET – OPERATIONS DIVISION

Month, Day, 2021 – Month, Day, 2022 [Six-month period]

Team 1 – Lieutenant 1 0600-1600 M/T/W/T				Team 2 – Lieutenant 1 1100-2100 M/T/W/T							
Sergeant 1		Sergeant 2		Sergeant 3		Sergeant 4					
Officer 1	Badge #	Officer 6	Badge #	Officer 11	Badge #	Officer 16	Badge #				
Officer 2	Badge #	Officer 7	Badge #	Officer 12	Badge #	Officer 17	Badge #				
Officer 3	Badge #	Officer 8	Badge #	Officer 13	Badge #	Officer 18	Badge #				
Officer 4	Badge #	Officer 9	Badge #	Officer 14	Badge #	Officer 19	Badge #				
Officer 5	Badge #	Officer 10	Badge #	Officer 15	Badge #	Officer 20	Badge #				
Team 3 – Lieutenant 2 1530-0130 M/T/W/T				Team 4 – Lieutenant 2 2030-0630 M/T/W/T							
Sergeant 5		Sergeant 6		Sergeant 7		Sergeant 8					
Officer 21	Badge #	Officer 26	Badge #	Officer 30	Badge #	Officer 35	Badge #				
Officer 22	Badge #	Officer 27	Badge #	Officer 31	Badge #	Officer 36	Badge #				
Officer 23	Badge #	Officer 28	Badge #	Officer 32	Badge #	Officer 37	Badge #				
Officer 24	Badge #	Officer 29	Badge #	Officer 33	Badge #	Officer 38	Badge #				
Officer 25	Badge #			Officer 34	Badge #	Officer 39	Badge #				
Team 5 – Lieutenant 3 0600-1830				Team 6 A - Lieutenant 3 1130-Midnight		Team 6 B - Lieutenant 4 1400-0230					
Sergeant 9		Sergeant 10		Sergeant 11		Sergeant 12					
Officer 41	Badge #	Officer 46	Badge #	Officer 51	Badge #	Officer 56	Badge #				
Officer 42	Badge #	Officer 47	Badge #	Officer 52	Badge #	Officer 57	Badge #				
Officer 43	Badge #	Officer 48	Badge #	Officer 53	Badge #	Officer 58	Badge #				
Officer 44	Badge #	Officer 49	Badge #	Officer 54	Badge #	Officer 59	Badge #				
Officer 45	Badge #	Officer 50	Badge #	Officer 55	Badge #	Officer 60	Badge #				
Vacation Relief M-TH: Sergeant 15 M-TH: Officer 71 Sergeant 16 FSS Officer 77				Team 7 - Lieutenant 4 1800 - 0630				Bikes: Sergeant 17 Officer 72 Badge # Officer 73 Badge # Officer 74 Badge # Officer 75 Badge # Officer 76 Badge #			
Sergeant 13		Sergeant 14									
Officer 61	Badge #	Officer 66	Badge #								
Officer 62	Badge #	Officer 67	Badge #								
Officer 63	Badge #	Officer 68	Badge #								
Officer 64	Badge #	Officer 69	Badge #								
Officer 65	Badge #	Officer 70	Badge #								

Official [Date] Timesheet

Source: Berkeley Police Department

Mission Statement

Promoting transparency and accountability in Berkeley government.

Audit Team

Erin Mullin, Senior Auditor
Alejandra Barrio Gorski, Auditor I

City Auditor

Jenny Wong

Office of the City Auditor

Phone: (510) 981-6750

Email: auditor@cityofberkeley.info

Website: www.cityofberkeley.info/auditor

Copies of our audit reports are available at
www.cityofberkeley.info/Auditor/Home/Audit_Reports.aspx



BERKELEY CITY AUDITOR



Commission on Labor

ACTION CALENDAR
April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Commission on Labor

Submitted by: Michael Berne, Chairperson, Commission on Labor

Subject: Fair Workweek Ordinance; Adding Berkeley Municipal Code Chapter 13.110

RECOMMENDATION

Adopt first reading of the proposed Fair Workweek Ordinance, adding Berkeley Municipal Code Chapter 13.110.

FISCAL IMPACTS OF RECOMMENDATION

This ordinance provides for both private enforcement and enforcement by the City. Comparable jurisdictions report a small number of complaints annually, but additional staffing may be required to investigate complaints and hold enforcement hearings. Temporary staffing and one-time mailing costs will be required to conduct outreach to covered employers. The Commission anticipates that these cost projections will be quantified in a companion staff report.

SUMMARY

Key features of the proposed ordinance include:

Scheduling Notification and Requests

- Schedules must be given 14 days in advance
- Employees must be provided with an initial estimate of hours
- Employees have the right to decline hours they are given with less than 14 days notice
- Employees shall have the right to request flexible and predictable schedules to accommodate childcare, education, second jobs etc.
- Employees have the right to decline any shift that either occurs less than 11 hours after the end of their previous shift; if accepting such a shift, will be compensated at 1½ times their regular rate of pay.

Predictability Pay

- Employees will receive predictability pay equal to a specified number of hours at their hourly rate of pay as compensation for schedule changes, ranging from 1 hour of pay for a shift scheduled less than 14 days in advance but at least 24

hours up to 4 hours of pay or hours equal to the amount of hours lost when a shift is canceled or reduced

Offer of Work to Existing Employees

- Before hiring new employees, employers must offer additional hours to existing part-time employees for any new hours available
- Employees shall have 24 hours to accept additional hours

Applicability

- In general, employers in Berkeley with 50 or more employees globally engaged in the following industry sectors: building services, healthcare, hotel, manufacturing, retail, or warehouse services;
- Restaurant employers with at least 100 employees globally and 10 or more in Berkeley;
- Franchisees associated with a network of franchises employing 100 or more employees globally and 10 or more; and
- The City of Berkeley as an employer.
- Specifically **excluded** are nonprofit organizations with fewer than 100 employees globally (which includes most arts organizations).

BACKGROUND

The City Council referred to the Commission on Labor in 2018 to draft an Ordinance to establish regulations governing the scheduling and hiring practices of qualifying businesses in Berkeley.

The City Council’s referral observed that:

Even with sick pay and strong minimum wage laws, workers in Berkeley, particularly shift workers, still face unfair and exploitative work practices. Since the passage of the Affordable Care Act, a frequent issue that has arisen is the practice of businesses keeping their employees below 30 hours a week to avoid having to provide them health care. Workers may be forced to take “clopening” shifts, where an employee covers the closing shift one day and the opening shift the next day, giving them little time for rest. Shift workers frequently have shifts added or removed hours before they are set to begin, making scheduling impossible and creating financial difficulties for those with children who need child care.

At the time of the City Council’s referral, multiple jurisdictions had introduced or enacted measures to address these inequitable conditions, including the Cities of Emeryville, San Jose, San Francisco, and New York, and the State of Oregon, with the strongest at the time being the City of Emeryville. The referral directed the ordinance to be based on the City of Emeryville, strengthened with the following principles:

- The right to refuse “clopening” shifts, the right to request a flexible work arrangement, and a prohibition on refusing hours to prevent the application of benefits should apply to all employers and employees
- The right to at least two weeks notice of work schedule, to decline additional hours, and to “predictability pay” if changes are made to the schedule after the 2 two week deadline should apply to all businesses of at least 25 employees
- The requirement that new shifts first be offered to all qualified existing employees until they have at least 35 hours of work per week on average should apply to all Retail, Hotel, and Restaurant firms with at least 25 employees
- All requirements of the ordinance apply to the City of Berkeley and the Berkeley Rent Stabilization Board.

Since the referral, several of the above-mentioned jurisdictions passed the introduced ordinances, in addition to the City of Chicago. Sectoral coverage in the proposed ordinance is generally modeled after Chicago, while firm size is generally modeled after Emeryville.

After many deliberative meetings before the full Commission and a dedicated subcommittee, and considering input from stakeholders including affected employers and workers, the Commission developed a proposed ordinance taking into account the Council’s direction. At its November 17, 2021 meeting, the Commission on Labor voted to appoint Commissioners Katz and Botello to draft the Fair Workweek Council report recommending adoption of the draft ordinance and to send to Council without further action from the commission. (M/S/C: Katz/Osborne. Yes: Scantlebury, Harlow, Botello, Jones, Berne. Noes: None. Absent: Medak, Schriener.) By passing this ordinance, Berkeley has the opportunity to be at the forefront of worker protections and to support the essential workers that have gotten us through this pandemic.

The Commission found many of the workers employed in the retail, restaurant, and hospitality industries suffer from low wages and unpredictable schedules, while needing to work multiple jobs just to get by. Volatile scheduling leads to difficulty in managing multiple jobs, school work, and childcare. Following the model adopted by the City of Chicago, the proposed ordinance would cover building services (including janitorial and security), healthcare, manufacturing, and warehouse services.

In response to input received by stakeholders, the proposed ordinance applies only to employers employing fifty or more employees globally (similar to Emeryville), but for restaurants or franchises would apply if the employer employed at least ten employees in the City of Berkeley and at least one hundred globally. This attempts to balance an interest in achieving the broadest coverage of any ordinance or law in the United States, while avoiding coverage of locally owned businesses that do not have the human resources support of a franchisor.

The strengthening elements requested by the City Council are mostly incorporated, except for the applicability thresholds based on our deliberative process, compliance with federal laws as applicable, the requirement for new shift offers reflects a forty-hour workweek, and the Rent Stabilization Board employees are presumed incorporated within City of Berkeley employees.

The City Council may wish to consider a delayed effectiveness date, such as until the beginning of the following calendar year, for private sector employers to allow for the time necessary for staff to provide outreach and education to affected businesses. While private sector employers should be provided a reasonable amount of time to set up systems to ensure compliance with the ordinance, the subcommittee recommends that the City of Berkeley as an employer can and should implement the new procedures promptly.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This action is not expected to have any impact on the environment and is exempt from CEQA.

RATIONALE FOR RECOMMENDATION

Enactment of workplace protections. See background discussion.

ALTERNATIVE ACTIONS CONSIDERED

The Commission recognizes the labor standards benefits of applying the right to refuse “clopening” shifts, and refusal of hours to prevent employees from attaining thirty hours per week to all employers, and applying the two week notice and predictability pay to all sectors of the economy. The right to request a flexible working arrangement remains applicable to all employers that employ ten or more employees under the Berkeley Family Friendly and Environment Friendly Workplace Ordinance, adopted in 2017. The proposed ordinance’s focus on uniform application to the seven sectors covered in Chicago’s model reflects (a) the expected education and outreach required for compliance, (b) the sectors where working conditions require intervention the most, and (c) that the employers covered by the proposed ordinance are in the best position to comply with its provisions in the near term, and does not preclude broadening coverage in the future.

CITY MANAGER

See companion report.

CONTACT PERSON

Margot Ernst, Commission Secretary, 510-981-5427

Fair Workweek Ordinance

Attachments:

1: Ordinance

Exhibit A: Fair Workweek Ordinance

ORDINANCE NO. -N.S.

FAIR WORKWEEK EMPLOYMENT STANDARDS; ADDING BERKELEY MUNICIPAL CODE CHAPTER 13.110

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

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

**CHAPTER 13.110
FAIR WORKWEEK EMPLOYMENT STANDARDS**

Sections:

- 13.110.010 Purpose and Intent**
- 13.110.020 Definitions.**
- 13.110.030 Applicability.**
- 13.110.040 Waiver through Collective Bargaining**
- 13.110.050 Advance Notice of Work Schedules.**
- 13.110.060 Notice, Right to Decline, and Compensation for Schedule Changes.**
- 13.110.070 Offer of Work to Existing Employees.**
- 13.110.080 Right to Rest.**
- 13.110.090 Right to Request a Flexible Working Arrangement.**
- 13.110.100 Notice and Posting.**
- 13.110.110 Implementation.**
- 13.110.120 Enforcement.**
- 13.110.130 Retaliation Prohibited**
- 13.110.140 Retention of Records.**
- 13.110.150 City Access.**
- 13.110.160 No Preemption of Higher Standards.**
- 13.110.170 Severability.**

13.110.010 Purpose and Intent

This chapter shall be known and may be cited as the “Berkeley Fair Workweek Ordinance”. It is the purpose of this chapter and the policy of the City: (i) to enact and enforce fair and equitable employment scheduling practices in the City of Berkeley; (ii) to provide the working people of Berkeley with protections that ensure employer scheduling practices do not unreasonably prevent workers from attending to their families, health, education, and other obligations; and (iii) to require Employers needing additional hours, whether temporary or permanent, to first offer those hours to current part-time Employees.

13.110.020 Definitions

As used in this chapter, the following terms shall have the following meanings:

- (a) "Calendar week" shall mean a period of seven (7) consecutive days starting on Sunday.
- (b) "City" shall mean the City of Berkeley.
- (c) "Covered employer" shall mean an employer subject to the provisions of this chapter, as specified in Section 13.110.030.
- (d) "Department" shall mean the Department of Finance or other City department or agency as the City shall by resolution designate.
- (e) "Employee" shall mean any person who:
 - (1) In a calendar week performs at least two (2) hours of work within the geographic boundaries of the City of Berkeley for an employer;
 - (2) Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as provided under Labor Code Section [1197](#) and wage orders published by the California Industrial Welfare Commission. Employees shall include learners, as defined by the California Industrial Welfare Commission; and
 - (3) Is (i) not exempt from payment of an overtime rate of compensation pursuant to Labor Code Section 510; and (ii) is not paid a monthly salary equivalent to at least forty hours per week at a rate of pay of twice the minimum wage required by Berkeley Municipal Code Section 13.99.040.
- (f) "Employer" shall mean any person, including corporate officers or executives, as defined in Section [18](#) of the California Labor Code, who directly or indirectly through any other person, including through the services of a temporary employment agency, staffing agency, subcontractor or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee, or any person receiving or holding a business license through Title [9](#) of the Berkeley Municipal Code.
- (g) "Firm" shall mean a business organization or entity consisting of one (1) or more establishments under common ownership or control. In the case of a franchise, the franchisor shall be considered the firm.
- (h) "Franchise" shall have the meaning in California Business and Professions Code Section [20001](#).
- (i) "Franchisee" shall have the meaning in California Business and Professions Code Section [20002](#).
- (j) "Franchisor" shall have the meaning in California Business and Professions Code Section [20003](#).
- (k) "Good faith" shall mean a sincere intention to deal fairly with others.

(l) "Predictability pay" shall mean wages paid to an employee, calculated on an hourly basis at the employee's regular rate of pay as that term is used in [29 U.S.C. Section 207\(e\)](#), as compensation for schedule changes made by a covered employer to an employee's schedule pursuant to Section 13.110.060, in addition to any wages earned for work performed by that employee.

(m) "Shift" shall mean the consecutive hours an employer requires an employee to work including employer-approved meal periods and rest periods.

(n) "Work schedule" shall mean all of an employee's shifts, including specific start and end times for each shift, during a calendar week.

(o) "Building services" means the care and maintenance of property, including, but not limited to, janitorial services, building maintenance services, and security services.

(p) "Healthcare" shall mean either a Hospital, Medical Practitioner Office, Nursing Home, or Supportive Housing as defined in BMC Section 23F.04.10, or a facility that provides outpatient maintenance dialysis.

(q) "Hotel" shall mean Tourist Hotel as defined in BMC Section 23F.04.10.

(r) "Manufacturing" shall mean a Manufacturing Use as defined in BMC Section 23F.04.10.

(s) "Restaurant" shall mean a Food Service Establishment as defined in BMC Section 23F.04.10.

(t) "Retail" shall mean a Retail Products Store as defined in BMC Section 23F.04.10.

(u) "Warehouse services" shall mean Warehouse Based Non-Store Retail as defined in BMC Section 23F.04.10.

13.110.030 Applicability

(a) All sections of this chapter shall apply to: the City of Berkeley as an employer, and all employers in the City of Berkeley who are primarily engaged in any of the following industries:

- (1) building services;
- (2) healthcare;
- (3) hotel;
- (4) manufacturing;
- (5) restaurant;
- (6) retail; or
- (7) warehouse services.

(b) Notwithstanding subdivision (a), this chapter shall apply only to an employer that

- (1) is not a restaurant and employs fifty (50) or more employees globally;

- (2) is a restaurant operator employing ten (10) or more employees in the city of Berkeley and employs one hundred (100) or more globally; or
- (3) is a franchisee employing ten (10) or more employees in the city of Berkeley and is associated with a network of franchises employing one hundred (100) or more employees globally.

(c) This chapter does not apply to a not-for-profit corporation organized under Section 501 of the United States Internal Revenue Code unless it employs one hundred (100) or more employees globally.

(d) In determining the number of employees performing work for a covered employer during a given week, all employees performing work for the covered employer for compensation on a full-time, part-time, or temporary basis, at any location, shall be counted, including employees made available to work through the services of a temporary services or staffing agency or similar entity.

(e) For the purposes of determining whether a nonfranchisee entity is a covered employer as defined by this chapter, separate entities that form an integrated enterprise shall be considered a single employer under this chapter. Separate entities will be considered an integrated enterprise and a single employer under this chapter where a separate entity controls the operation of another entity. The factors to consider in making this assessment include, but are not limited to:

- (1) Degree of interrelation between the operations of multiple entities;
- (2) Degree to which the entities share common management;
- (3) Centralized control of labor relations; and
- (4) Degree of common ownership or financial control over the entities.

There shall be a presumption that separate legal entities, which may share some degree of interrelated operations and common management with one another, shall be considered separate employers for purposes of this chapter as long as (i) the separate legal entities operate substantially in separate physical locations from one another, and (ii) each separate legal entity has partially different ultimate ownership.

13.110.040 Waiver through Collective Bargaining

To the extent permitted by law, all or any portion of the applicable requirements of this chapter may be waived in a bona fide collective bargaining agreement; provided, that such waiver is explicitly set forth in such agreement in clear and unambiguous terms that the parties thereto intend to and do thereby waive all of or a specific portion(s) of this chapter.

13.110.050 Advance Notice of Work Schedules.

(a) Initial Estimate of Minimum Hours.

(1) Prior to or on commencement of employment, a covered employer shall provide each employee with a good faith estimate in writing of the employee's work schedule.

(2) Prior to or on commencement of employment, the employee may request that the covered employer modify the estimated work schedule provided under subsection (a)(1) of this section. The covered employer shall consider any such request, and in its sole discretion may accept or reject the request; provided, that the covered employer shall notify the employee of covered employer's determination in writing prior to or on commencement of employment.

(b) Two (2) Weeks' Advance Notice of Work Schedule. A covered employer shall provide its employees with at least two (2) weeks' notice of their work schedules by doing one (1) of the following: (1) posting the work schedule in a conspicuous place at the workplace that is readily accessible and visible to all employees; or (2) transmitting the work schedule by electronic means, so long as all employees are given access to the electronic schedule at the workplace. For new employees, a covered employer shall provide the new employee prior to or on their first day of employment with an initial work schedule. Thereafter, the covered employer shall include the new employee in an existing schedule with other employees. If the covered employer changes an employee's work schedule after it is posted and/or transmitted, such changes shall be subject to the notice and compensation requirements set forth in this chapter.

(c) An Employee who is a victim of domestic violence or sexual violence may request that the Employee's Work Schedule not be posted or transmitted to other employees. An oral or written request shall be sufficient and implemented immediately and is sufficient until the Employee gives written permission to post the Employee's schedule. An Employer may request a written statement from the Employee that states that the Employee is a victim of domestic violence or sexual violence. The written statement shall constitute the documentation needed for the Employer to implement the request. The Employer may not require a written statement more than once in a calendar year from any Covered Employee for this purpose.

13.110.060 Notice, Right to Decline, and Compensation for Schedule Changes.

(a) A covered employer shall provide an employee notice of any change to the employee's posted or transmitted work schedule. The covered employer shall provide such notice by in-person conversation, telephone call, email, text message, or other electronic communication. If the Employee accepts the additional shift via a verbal conversation, the Employer shall immediately follow up with written confirmation to document the agreement and when it was accepted. This notice requirement shall not

apply to any schedule changes the employee initiates, such as employee requested sick leave, time off, shift trades, or additional shifts.

(b) Subject to the exceptions in subsection (d) of this section, an employee has the right to decline any previously unscheduled hours that the covered employer adds to the employee's schedule, and for which the employee has been provided advance notice of less than fourteen (14) days.

(c) Subject to the exceptions in subsection (d) of this section, a covered employer shall provide an employee with the following compensation per shift for each previously scheduled shift that the covered employer adds or subtracts hours, moves to another date or time, cancels, or each previously unscheduled shift that the covered employer adds to the employee's schedule: (1) with less than fourteen (14) days' notice, but twenty-four (24) hours or more notice to the employee: one (1) hour of predictability pay; (2) with less than twenty-four (24) hours to the employee, (i) four (4) hours or the number of hours in the employee's scheduled shift, whichever is less, when hours are canceled or reduced; (ii) one (1) hour of predictability pay for all other changes. The compensation required by this subsection shall be in addition to the employee's regular pay for working that shift.

(d) Exceptions. The requirements of this section shall not apply under any of the following circumstances:

- (1) Operations cannot begin or continue due to threats to covered employers, employees or property, or when civil authorities recommend that work not begin or continue;
- (2) Operations cannot begin or continue because public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities or sewer system;
- (3) Operations cannot begin or continue due to: acts of nature (including but not limited to flood, fire, explosion, earthquake, tidal wave, drought), war, civil unrest, strikes, or other cause not within the covered employer's control;
- (4) Mutually agreed-upon work shift swaps or coverage arrangements among employees.
- (5) Employee initiated voluntary shift modifications, such as voluntary requests to leave a scheduled shift prior to the end of the shift or to use sick leave, vacation leave, or other policies offered by the Employer. This paragraph shall apply only to the employee initiating the voluntary shift modification.
- (6) To accommodate the following transitions in shifts:
 - (i) If an employee works past the end of a scheduled shift to complete service to a customer, which service would entitle the employee to receive a commission, tip, or other incentive pay based on the completion of that service, provided the employee is compensated at their regular rate of pay for the additional work performed by the employee.

(ii) An employee begins or ends their scheduled shift no more than ten minutes prior to or after the scheduled shift, provided the employee is compensated at their regular rate of pay for the additional work performed by the employee.

(7) When, in manufacturing, events outside of the control of the manufacturer result in a reduction in the need for Covered Employees, including, but not limited to, when a customer requests the manufacturer to delay production or there is a delay in the receipt of raw materials or component parts needed for production.

(8) With regard to healthcare employers, in (i) any declared national, State, or municipal disaster or other catastrophic event, or any implementation of an Employer's disaster plan, or incident causing a hospital to activate its Emergency Operations Plan, that will substantially affect or increase the need for healthcare services; (ii) any circumstance in which patient care needs require specialized skills through the completion of a procedure; or (iii) any unexpected substantial increase in demand for healthcare due to large public events, severe weather, violence, or other circumstances beyond the Employer's control.

(e) Nothing in this section shall be construed to prohibit a covered employer from providing greater advance notice of employee's work schedules and/or changes in schedules than that required by this section.

13.110.070 Offer of Work to Existing Employees.

(a) Subject to the limitations herein, before hiring new employees or contract employees, including hiring through the use of temporary services or staffing agencies, a covered employer shall first offer additional hours of work to existing part-time employee(s) who have worked on behalf of the employer for more than two weeks, and if the part-time employee(s) are qualified to do the additional work, as reasonably and in good faith determined by the covered employer. This section requires covered employers to offer to part-time employees only up to the number of hours required to schedule a part-time employee forty (40) hours of work in a calendar week. In order to facilitate communication with current employees who may be interested in additional work, an Employer may specify how employees may in advance communicate their interest of additional work and which positions and hours of work employees would be interested in covering.

(b) A covered employer has discretion to divide the additional work hours among part-time employees consistent with this section; provided, that: (1) the employer's system for distribution of hours must not discriminate on the basis of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity or expression, disability, age, marital or familial status, nor on the basis of family caregiving responsibilities or status as a student; and (2) the employer may not distribute hours in a manner intended to avoid an increase in the number of employees working 30 or

more hours per week, or with regard to the City of Berkeley, to avoid a the granting of any benefits that an employee earns based on hours worked.

(c) A part-time employee may, but is not required to, accept the covered employer's offer of additional work under this section.

(1) A part-time employee shall have twenty-four (24) hours to accept an offer of additional hours of work under this section, after which time the covered employer may hire new employees to work the additional hours.

(2) The twenty-four (24) hour period referred to in this subsection begins either when the employee receives the written offer of additional hours, or when the covered employer posts the offer of additional hours as described in subsection (d) of this section, whichever is sooner. A part-time employee who wishes to accept the additional hours must do so in writing.

(d) When this section requires a covered employer to offer additional hours to existing part-time employees, the covered employer shall make the offer either in writing or by posting the offer in a conspicuous location in the workplace where notices to employees are customarily posted. Covered employers may post the notice electronically on an internal website in a conspicuous location and which website is readily accessible to all employees. The notice shall include the total hours of work being offered, the schedule of available shifts, whether those shifts will occur at the same time each week, and the length of time the covered employer anticipates requiring coverage of the additional hours, and the process by which part-time employees may notify the covered employer of their desire to work the offered hours.

(e) The covered employer shall retain each written offer no less than three (3) years as required under Section [13.110.140](#).

(f) This section shall not be construed to require any covered employer to offer employees work hours paid at a premium rate under California Labor Code Section [510](#) nor to prohibit any covered employer from offering such work hours.

13.110.080 Right to Rest.

(a) An employee has the right to decline work hours that occur:

- (1) Less than eleven (11) hours after the end of the previous day's shift; or
- (2) During the eleven (11) hours following the end of a shift that spanned two (2) days.

(b) An employee who agrees in writing to work hours described in this section shall be compensated at one and one-half (1-1/2) times the employee's regular rate of pay for any hours worked less than eleven (11) hours following the end of a previous shift.

13.110.090 Right to Request a Flexible Working Arrangement.

An employee has the right to request a modified work schedule, including but not limited to additional shifts or hours; changes in days of work or start and/or end times for the

shift; permission to exchange shifts with other employees; limitations on availability; part-time employment; job sharing arrangements; reduction or change in work duties; or part-year employment. A covered employer shall not retaliate against an employee for exercising their rights under this section or the rights outlined in the Berkeley Family Friendly and Environment Friendly Workplace Ordinance, Berkeley Municipal Code Chapter 13.101.

13.110.100 Notice and Posting.

(a) The Department shall publish and make available to covered employers, in English and other languages as provided in any implementing regulations, a notice suitable for posting by covered employers in the workplace informing employees of their rights under this chapter.

(b) Each covered employer shall give written notification to each current employee and to each new employee at time of hire of their rights under this chapter. The notification shall be in English and other languages as provided in any implementing regulations, and shall also be posted prominently in areas at the work site where it will be seen by all employees. Every covered employer shall also provide each employee at the time of hire with the covered employer's name, address, and telephone number in writing. Failure to post such notice shall render the covered employer subject to administrative citation, pursuant to the provisions of this chapter. The Department is authorized to prepare sample notices and covered employer use of such notices shall constitute compliance with this subsection.

13.110.110 Implementation.

(a) The Department shall be authorized to coordinate implementation and enforcement of this chapter and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the City shall have the force and effect of law and may be relied on by covered employers, employees and other parties to determine their rights and responsibilities under this chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this chapter, including supplementary procedures for helping to inform employees of their rights under this chapter, for monitoring covered employer compliance with this chapter, and for providing administrative hearings to determine whether a covered employer has violated the requirements of this chapter.

(b) Reporting Violations. An aggrieved employee may report to the Department in writing any suspected violation of this chapter. The Department shall keep confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee reporting the violation; provided, however, that with the authorization of such employee, the Department may disclose their name and identifying information as necessary to enforce this chapter or other employee protection laws.

(c) Investigation. The Department may investigate any possible violations of this chapter by a covered employer. The Department shall have the authority to inspect workplaces, interview persons and subpoena records or other items relevant to the enforcement of this chapter.

(d) Informal Resolution. If the Department elects to investigate a complaint, the City shall make every effort to resolve complaints informally and in a timely manner. The City's investigation and pursuit of informal resolution does not limit or act as a prerequisite for an employee's right to bring a private action against a covered employer as provided in this chapter.

13.110.120 Enforcement.

(a) Enforcement by City. Where prompt compliance with the provisions of this chapter is not forthcoming, the Department may take any appropriate enforcement action to ensure compliance, including but not limited to the following:

The Department may issue an administrative citation pursuant to Chapter 1.28 of the Berkeley Municipal Code. The amount of this fine shall vary based on the provision of this chapter violated, as specified below:

(1) A fine may be assessed for retaliation by a covered employer against an employee for exercising rights protected under this chapter. The fine shall be one thousand dollars (\$1,000.00) for each employee retaliated against.

(2) A fine of five hundred dollars (\$500.00) may be assessed for any of the following violations of this chapter:

(i) Failure to provide notice of employees' rights under this chapter.

(ii) Failure to timely provide an initial work schedule or to timely update work schedules following changes.

(iii) Failure to provide predictability pay for schedule changes with less than twenty-four (24) hours' advance notice.

(iv) Failure to offer work to existing employees before hiring new employees or temporary staff or to award work to a qualified employee.

(v) Failure to maintain payroll records for the minimum period of time as provided in this chapter.

(vi) Failure to allow the Department access to payroll records.

(3) A fine equal to the total amount of appropriate remedies, pursuant to subsection (c) of this section. Any and all money collected in this way that is the rightful property of an employee, such as back wages, interest, and civil penalty payments, shall be disbursed by the Department in a prompt manner.

(f) City Access. Each covered employer shall permit access to work sites and relevant records for authorized City representatives for the purpose of monitoring compliance with this chapter and investigating employee complaints of noncompliance,

including production for inspection and copying of its employment records, but without allowing Social Security numbers to become a matter of public record.

(g) Any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the Employer or other person violating this Chapter and, upon prevailing, shall be awarded reasonable attorneys' fees and costs and shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages unlawfully withheld, the payment of an additional sum as a civil penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued, reinstatement in employment and/or injunctive relief. Provided, however, that any person or entity enforcing this Chapter on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief to Employees, and reasonable attorneys' fees and costs.

(i) This Section shall not be construed to limit an Employee's right to bring legal action for a violation of any other laws concerning wages, hours, or other standards or rights nor shall exhaustion of remedies under this Chapter be a prerequisite to the assertion of any right.

(j) The remedies for violation of this chapter include but are not limited to:

1. Reinstatement, the payment of predictability pay unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of fifty dollars (\$50.00) to each employee whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this chapter or State law.
2. Interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.
3. Reimbursement of the City's administrative costs of enforcement and reasonable attorney's fees.
4. If a repeated violation of this chapter has been finally determined in a period from July 1 to June 30 of the following year, the Department may require the employer to pay an additional sum as a civil penalty in the amount of fifty dollars (\$50.00) to the City for each employee or person whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this Code or State law.

(k) The remedies, penalties and procedures provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures established by law which may be pursued to address violations of this chapter. Actions taken pursuant to this chapter shall not prejudice or adversely affect any other action, administrative or judicial, that may be brought to abate a violation or to seek compensation for damages suffered.

(l) No criminal penalties shall attach for any violation of this chapter, nor shall this chapter give rise to any cause of action for damages against the City.

13.110.130 Retaliation Prohibited.

An employer shall not discharge, reduce the compensation of, discriminate against, or take any adverse employment action against an employee, including discipline, suspension, transfer or assignment to a lesser position in terms of job classification, job security, or other condition of employment, reduction of hours or denial of additional hours, informing another employer that the person has engaged in activities protected by this chapter, or reporting or threatening to report the actual or suspected citizenship or immigration status of an employee, former employee or family member of an employee to a Federal, State or local agency, for making a complaint to the Department, participating in any of the Department's proceedings, using any civil remedies to enforce their rights, or otherwise asserting their rights under this chapter. Within one hundred twenty (120) days of an employer being notified of such activity, it shall be unlawful for the employer to discharge any employee who engaged in such activity unless the employer has clear and convincing evidence of just cause for such discharge.

13.110.140 Retention of Records.

Each employer shall maintain for at least three (3) years for each employee a record of their name, hours worked, pay rate, initial posted schedule and all subsequent changes to that schedule, consent to work hours where such consent is required by this chapter, and documentation of the time and method of offering additional hours of work to existing staff. Each employer shall provide each employee a copy of the records relating to such employee upon the employee's reasonable request.

13.110.150 City Access.

Each employer shall permit access to work sites and relevant records for authorized Department representatives for the purpose of monitoring compliance with this chapter and investigating employee complaints of noncompliance, including production for inspection and copying of its employment records, but without allowing Social Security numbers to become a matter of public record.

13.110.160 No Preemption of Higher Standards.

The purpose of this chapter is to ensure minimum labor standards. This chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the City. This chapter shall not be construed to limit a discharged employee's right to bring a common law cause of action for wrongful termination.

13.110.170 Severability.

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

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



Office of the City Manager

ACTION CALENDAR
April 12, 2022

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: Companion Report: Fair Workweek Ordinance; Adding Berkeley Municipal Code Chapter 13.110

RECOMMENDATION

Direct this item to the Health, Life Enrichment, Equity, and Community Policy Committee for the following:

- Review and evaluate the proposed policy; and
- Evaluate resources needed to conduct the necessary analysis of impacts and costs associated with implementing the proposed policy.

FISCAL IMPACTS OF RECOMMENDATION

The costs of implementing the proposed Fair Workweek policy are currently unknown but are expected to be significant. If implemented correctly, and with an equitable approach, this important policy is expected to positively impact many low-income workers in Berkeley. The City currently does not have a full understanding of the impacted businesses, employees, and how to implement this policy for the unique needs of the Berkeley community.

A comprehensive impact analysis of this proposed policy is required to fully determine the upfront and future costs and ongoing staffing needs associated with effectively administering and enforcing the ordinance. Impacted City departments will include Health, Housing, and Community Services, Finance, Neighborhood Services, the City Attorney's Office, and the Office of Economic Development. Resources are also needed to conduct a comprehensive impact analysis.

The cost of ongoing implementation and administration of a Fair Workweek policy depends on many factors including, but not limited to:

- The final determination and consideration for which industry sectors shall be covered;
- The size of employers (based on the number of global and local employees);

- The total number of employers covered by the policy;
- The success of proactive efforts to educate affected employers; and
- A clear expectation of the level of technical assistance provided by City staff to employers and employees covered under the policy.

These factors will inform the breadth of the policy's impact on City employers (how many total employers will be covered) and are necessary to determine how much staff time will be needed to effectively setup and administer the program.

Neighboring jurisdictions that have passed similar policies, including San Francisco and Emeryville, have dedicated additional funds for outreach and education to impacted employers. For the policy to be successful, these proactive efforts are essential in that they aim to reduce the number of enforcement complaints by proactively working with affected employers to build business practices that conform to the noticing and documentation standards required by the ordinance.

Further, significant staff time will be required to accurately identify which employers would be covered by this policy. This is anticipated to be a time-intensive process due to the complexity of screening local employers against the applicable criteria used to determine employer eligibility. It is also expected that the Finance Department would need to make substantial changes to the business license application to help properly identify businesses subject to the regulations; including information about an employer's status as a franchise, their total employee counts worldwide, and employee counts within Berkeley.

CURRENT SITUATION AND ITS EFFECTS

Adding a Fair Workweek policy to Berkeley's labor standards is an important consideration for the community. This policy has been contemplated for many years by Council, the Commission on Labor, and the City's labor standards staff. Many thoughtful hours of work have already gone into drafting the proposed ordinance. Experts on the commission took public comment multiple times and discussed at length the potential impacts to local employers, given the ongoing financial, staffing, and operational struggles some businesses have faced throughout the pandemic. With that in mind, the commission moved this policy forward in consideration of the urgent need for equitable and fair treatment of Berkeley workers, and in support of the essential service workers who have gotten us through the pandemic, many of whom are lower-income and persons of color.

City staff have a similar approach. If adopted, the City first needs to better understand the probable impacts to the business community, employees, and City staff. This includes understanding what is really needed in order to effectively and equitably implement an important and wide-reaching policy such as this. The current economic circumstances also warrant especially careful analysis of the impacts to local employers

as they continue to face ongoing challenges related to the pandemic, including compounding supply chain and inflation issues.

Additionally, adding this policy to the current labor standards and enforcement portfolio will require additional staff resources for initial outreach and education as well as ongoing administration and enforcement. However, even prior that, in order to fully understand the staffing needs and cost associated with administering and enforcing this policy, a comprehensive impact analysis of this proposed policy is required to fully determine the upfront and future costs and ongoing staffing needs associated with effectively administering and enforcing the ordinance. This approach aims to ensure the policy is implemented in the best way for Berkeley, its businesses, and local low-income workers.

The current portfolio of local labor standards and enforcement policies in Berkeley includes: 1) The Minimum Wage Ordinance, 2) The Living Wage Ordinance, 3) The Berkeley Paid Sick Leave Ordinance, and 4) The Berkeley Family Friendly and Environment Friendly Workplace Ordinance. The work to administer these policies, including providing general information as well as conducting formal investigations and enforcement of the policies is considerable. Adding the Fair Workweek Policy to this portfolio significantly expands this body of work and should be considered alongside a cost analysis.

It should be noted that Berkeley Municipal Code Chapter 13.110 is currently dedicated to the COVID-19 Emergency Response Ordinance. If the Fair Workweek Ordinance is to proceed to a first reading, it would need a different Chapter number in Title 13. If adopted as-is, the Fair Workweek Ordinance would supersede the existing Chapter 13.110 and replace the existing language regarding COVID-19 Response.

BACKGROUND

In 2018, the City Council referred this item to the Commission on Labor and directed them to “draft an Ordinance to establish regulations governing the scheduling and hiring practices of qualifying businesses in Berkeley...” The referral included a copy of the Emeryville Fair Workweek Ordinance as a template for consideration.

The Commission appointed a subcommittee to work on the draft ordinance and held several public meetings which were attended by dozens of participants from the public, representing both workers and employers with interest in the policy. The Subcommittee ultimately presented a draft policy that took elements from both the City of Emeryville Fair Workweek Ordinance and the Fair Workweek Ordinance from the City of Chicago that covered more business industries than the Emeryville Ordinance does.

At the November 17, 2021 Commission on Labor Meeting, The Commission approved a motion to recommend the draft policy to the City Council with the motion and vote below:

Recommend approval of draft Fair Workweek Ordinance to the Berkeley City Council.

(M/S/C: Scantlebury/Katz. Yes: Botello, Harlow, Osborne, Jones. Noes: Schriener, Berne. Abstentions: None. Absent: Medak).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

RATIONALE FOR RECOMMENDATION

Staff is recommending that the Council direct the draft Fair Workweek Ordinance to the Health, Life Enrichment, Equity, and Community Policy Committee to evaluate the Commission's recommendations and also evaluate the availability of existing resources to conduct a more thorough analysis of the policy's impacts.

ALTERNATIVE ACTIONS CONSIDERED

The Council could adopt the ordinance now as written, but without an evaluation of the resources needed to enforce the ordinance and commitment of those resources, the ordinance is unlikely to achieve the desired impact. Outreach, education and consistent responses will be key to achieving the goal of a fair workweek for Berkeley workers.

CONTACT PERSON

Margot Ernst, Manager of Housing and Community Services, HHCS, (510) 981-7410



Disaster and Fire Safety Commission

ACTION CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council
 From: Disaster and Fire Safety Commission
 Submitted by: Jose Bedolla, Chairperson, Disaster and Fire Safety Commission
 Subject: UC Berkeley Agreement

RECOMMENDATION

The University of California recently agreed to pay the City of Berkeley \$4.3 million¹ a year to cover cost expended by the City due to the University's expansion and cost on the City. The funding is intended to 'support fire and city services.' The DSFC recommends that the City administer the funds separately from the general funds and with public review under the DSFC similar to FF and GG for the duration of the agreement.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts to the recommendation since this is new money above and beyond the current budget allocation.

CURRENT SITUATION AND ITS EFFECTS

The University of California at Berkeley (Cal) is expected to increase its enrollment by as much as 33%. Even without the increase, the number of calls are driven in part by the college population without a defined revenue source for recovery. Any increase in student population will pull resources away from efforts funded by GG and FF such as inspections, vegetation management, and fire preparedness. To compensate the City for the increased impact, the University agreed to a \$4.3 million annually in compensation for 10 years. Under that agreement, the Fire Department is expected to get a boost of \$2.8 M. These funds are needed to increase personnel to service the expanding population. The spending should come under specific public review via the DSFC.

At the September 22, 2021 regular meeting, the Disaster and Fire Safety Commission voted on a motion to recommend that the City administer the funds separately from the general funds and with public review under the DSFC similar to FF and GG for the duration of the agreement.

¹ <https://www.berkeleyside.org/2021/07/14/uc-berkeley-payment-settlement-agreement>

M/S: Dean/Bradstreet

Votes: 7 Ayes: Rader, Dean, Degenkolb, Cutler, Simmons, Bedolla, Bradstreet; 0 Noes;
1 Absent: Stein; 0 Abstain.

BACKGROUND

The DFSC oversees GG and FF in collaboration with the Fire Department and City Administration. The DSFC has requested the Fire Department provide budget statements that are publically reviewed on the following basis:

1. Quarterly: official document
2. Monthly: unofficial document status report
3. Annual: Formal annual report

In addition, each of these documents will track performance measures against targets and budget. The public is able to comment at a more minute level rather than a citywide level where some of the detail maybe lost.

ENVIRONMENTAL SUSTAINABILITY

There is no environmental impact to this recommendation.

RATIONALE FOR RECOMMENDATION

The DFSC would like to ensure that the new funding does in fact go to the intended activity instead of general use.

ALTERNATIVE ACTIONS CONSIDERED

An alternative could be a line item in the general fund. This could serve a similar function. However, the public would not be able to comment as much or as freely given the size of the general budget and the volume of City business before it.

CITY MANAGER

See companion report.

CONTACT PERSON

Keith May, Secretary, Disaster and Fire Safety Commission, 510-981-5508



Office of the City Manager

ACTION CALENDAR

April 12, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Abe Roman, Fire Chief

Subject: Companion Report: UC Berkeley Agreement

RECOMMENDATION

Use the General Fund and existing budget process to administer payments received through the University of California settlement.

FISCAL IMPACTS OF RECOMMENDATION

From 2021 through 2036, allocate \$4.1 million, with 3% annual increases, to the General Fund.

CURRENT SITUATION AND ITS EFFECTS

The Regents of the University of California have agreed to make an annual payment to the City of \$4.1 million, with 3% annual increases, from 2021 through 2036. The Agreement provides a funding mechanism only and the City has discretion over how to apply the funds to meet the City's needs. The City is not required to spend the entire Annual Payment every year, and may accumulate funds from year to year.

Under the Agreement, the Fire Department is expected to receive \$2.8 million annually. These funds will be used for Fire Department staffing and equipment in order to maintain and augment services provided to the Berkeley community, which includes the UC Berkeley campus.

Budget authority for these funds rests with the City Manager, under the direction of the City Council. Funds from this agreement will be administered through the existing budget process. Fire Department expenditures are addressed in public forums, which encourages public review and comment, at:

- The Budget and Finance Committee, Fire Department Budget Presentation
- City Council Meeting, Public Hearings regarding the Annual Budget

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

RATIONALE FOR RECOMMENDATION

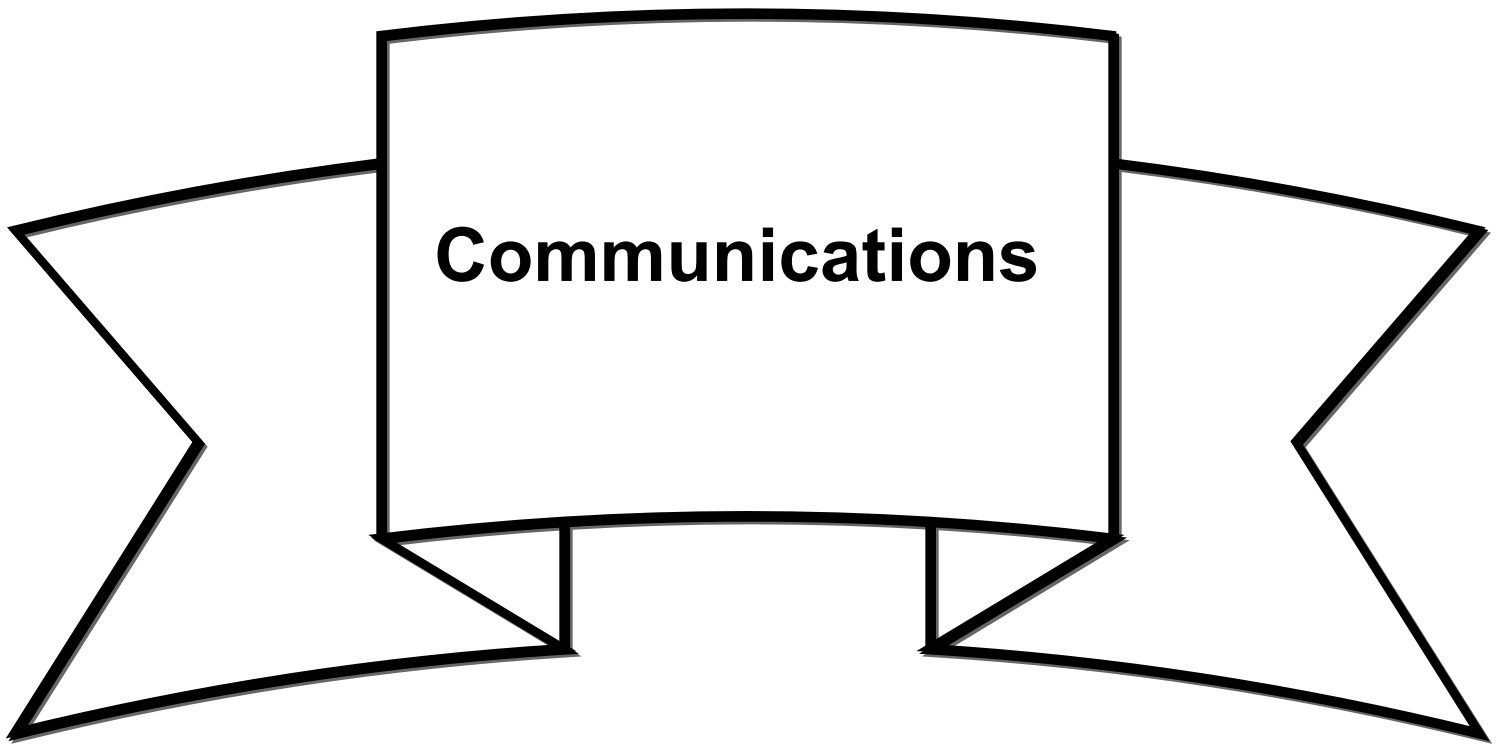
The Disaster and Fire Safety Commission provides oversight over funding allocated to the Fire Department through voter-approved tax measures (GG, FF). The Agreement between the Regents of the University of California and the City of Berkeley is not a tax measure voted on by the community, and can be effectively and transparently managed through the existing budget process.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Keith May, Assistant Fire Chief, Disaster and Fire Safety Commission Secretary, Fire Department, 510-981-5508



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