



AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, November 7, 2023

6:00 PM

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – MARK HUMBERT

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1609523217>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 952 3217**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@berkeleyca.gov.

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

Preliminary Matters

Roll Call:

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

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

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

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

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

Consent Calendar

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

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

Consent Calendar

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. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of September 11 (special closed), September 12 (regular), September 18 (special closed), September 19 (regular), September 26 (special closed and special), October 2 (special closed), October 3 (regular) and October 10 (special closed, special and regular).

Financial Implications: None

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

2. Police Accountability Board – Appointment of New Member

From: City Manager

Recommendation: Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Kesarwani.

Financial Implications: None

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

3. Grant-Funded Expenditure Contract with O2X Human Performance to Hire a Behavioral Health and Nutritional Health Specialist in Support of NFPA 1582 and 1583

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with O2X Human Performance to provide full-time behavioral and nutritional health services for the Berkeley Fire Department) for a two (2) year contract period that starts November 8, 2023, and ends on November 8, 2025, in an amount not to exceed \$840,000 with the option to extend two (2) additional years via FEMA's amendment process to November 8, 2027.

Financial Implications: FEMA Fund - \$840,000

Contact: David Sprague, Fire, (510) 981-3473

Consent Calendar

- 4. Purchase Order: Water Tender from Golden State Fire Apparatus, Inc.**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a purchase order with Golden State Fire Apparatus, Inc in an amount not to exceed \$504,110 for the purchase of 3,000-gallon water tender to support the City's efforts improve its capacity to respond to wildfire.
Financial Implications: Measure Q - \$504,110
Contact: David Sprague, Fire, (510) 981-3473
- 5. Appointment of Interim Health Officer**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager to appoint Dr. Anju Goel, M.D., as the Interim Health Officer for the City of Berkeley.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 6. Reallocation of Unspent FY 2023 Child Care Subsidy Funding**
From: City Manager
Recommendation: Adopt three resolutions authorizing the City Manager or her designee to reallocate \$232,362 in unspent child care subsidy funds awarded through the FY 2020 community agency contract process and amend three existing contracts by increasing their contract limits for the period beginning July 1, 2023 and ending June 30, 2024 by \$77,454 per agency, as follows: BAHIA, Inc. (from \$82,143 to \$159,597); Ephesian Children's Center (from \$45,507 to \$122,961); and Nia House (from \$39,999 to \$117,453).
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 7. Northern California Land Trust – 2321 Tenth Street Housing Trust Fund Reservation**
From: City Manager
Recommendation: Adopt a Resolution: 1. Reserving an additional \$1,703,585 in Housing Trust Fund program funds for a development loan for Northern California Land Trust (NCLT)'s 2321-2323 Tenth Street and: a) waiving Sections I.A.1 and IV.C.1 of the Housing Trust Fund Guidelines; b) applying the Small Sites Program standards to the project's development and operating budgets; and c) requiring partial repayment of the loan through the energy efficiency rebates NCLT pursues. 2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate these actions.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

8. **Resolution of Intention to Amend the Miscellaneous CalPERS Contract Pursuant to California Government Code Section 20516 to Reduce the Additional Cost Share Contribution Made by Unrepresented Employees on Behalf of the City**
From: City Manager
Recommendation: Adopt the Resolution of Intention to eliminate the additional cost share contribution made by Unrepresented Employees, who are classified as Public Employees Pension Reform Act (PEPRA) members of the California Public Employees' Retirement System (CalPERS), on behalf of the City to CalPERS pursuant to California Government Code Section 20516.
Financial Implications: See report
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
9. **Appointment of Tanir Ami to the Board of Library Trustees**
From: City Manager
Recommendation: Adopt a Resolution appointing Tanir Ami to the Board of Library Trustees ("BOLT") for a term of four years beginning November 8, 2023.
Financial Implications: None
Contact: Tess Mayer, Library, (510) 981-6100
10. **Audit Recommendation Status - Data Analysis of the City of Berkeley's Police Response** *(Reviewed by the Public Safety Committee)*
From: City Manager
Recommendation: See policy committee recommendation.
Policy Committee Recommendation: Send the item to Council with a positive recommendation.
Financial Implications: None
Contact: Jennifer Louis, Police, (510) 981-5900

Council Consent Items

11. **United Against Hate Week 2023**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation:
1. Adopt a Resolution declaring November 12th – 18th, 2023 as United Against Hate Week.
2. Adopt a Resolution approving the D-13 expenditure in an amount not to exceed \$500 per Councilmember, to support the cost associated with the Berkeley event at the UC Theatre. The total cost is \$3,000.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

- 12. Berkeley Holiday Fund: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Arreguin to the Berkeley Holiday Fund's annual campaign with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.
Financial Implications: Mayor's Discretionary Fund - \$500
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 13. Budget Referral: Supplemental Funding for Housing Retention Program**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Robinson (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation: Refer \$1,000,000 from Measure P tax receipts to the Fiscal Year 2024 AAO1 Budget Process to augment the Housing Retention Program, (administered by the Eviction Defense Center, EDC) as part of the City's anti-displacement programs (launched in 2017), for the purpose of providing rental assistance to tenants.
Financial Implications: Measure P Fund - \$1,000,000
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 14. Transgender Awareness Month and Day of Remembrance Resolution**
From: Councilmember Taplin (Author), Councilmember Kesarwani (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a resolution declaring November as Transgender Awareness Month and November 20 as Transgender Day of Remembrance in the City of Berkeley.
Financial Implications: Staff time
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 15. Budget Referral: Refer \$6,000 to the November 2023 AAO #1 for Two Pilot Special Mentoring and Violence Prevention Events for Berkeley Youth**
From: Councilmember Harrison (Author), Councilmember Taplin (Co-Sponsor)
Recommendation: Refer \$6,000 to the November AAO #1 to fund two pilot special mentoring and violence prevention events for Berkeley youth as organized by the Berkeley Jr. Jackets and the Young Lives Matter Foundation.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Council Consent Items

16. **Budget Referral: Refer \$800,000 to the November 2023 AAO #1 for Matching Funds to Repair Eight Deficient Tide Tubes to Avoid Catastrophic Structural Failure and Escalating Construction Costs**
From: Councilmember Harrison (Author)
Recommendation: Refer \$800,000 to the November 2023 AAO #1 to repair eight deficient tide tubes to avoid catastrophic structural and transportation failure, escalating construction costs, certain climate and sea level rise impacts, and further environmental catastrophe by providing the Parks, Recreation & Waterfront Department matching funds for a Federal Highway Administration (FHWA) PROTECT or other available grants.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
17. **Resolution Supporting Efforts to Exonerate the Port Chicago 50**
From: Councilmember Hahn (Author), Mayor Arreguin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: Adopt a new resolution supporting local, State, and federal efforts to exonerate the Port Chicago 50; 50 Black sailors who were wrongfully convicted of mutiny during WWII in the wake of a massive, devastating explosion at the Port Chicago naval base near Concord, CA.
Financial Implications: See report
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action Calendar

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

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

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

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

Action Calendar – Scheduled Public Comment Period

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

Action Calendar – New Business

18. Initiative Petition – Initiative Ordinance Prohibiting Concentrated Animal Feeding Operations in the City of Berkeley

From: City Manager

Recommendation:

1. Take action on the initiative petition to:

a) Adopt the provisions of the measure without alteration.

-OR-

b) Adopt a Resolution submitting the measure, without alteration, to a vote of the people at the November 5, 2024 General Municipal Election.

2) Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

Financial Implications: None

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

19. Pursuant to Chapter 2.99 of the Berkeley Municipal Code Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, Unmanned Aerial Vehicles (UAV's), the Street Level Imagery Project, and External Fixed Surveillance Video Cameras

From: City Manager

Recommendation: Pursuant to Chapter 2.99 of the Berkeley Municipal Code Adopt a Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, Unmanned Aerial Vehicles (UAV's), the Street Level Imagery Project, and External Fixed Surveillance Video Cameras.

Financial Implications: See report

Contact: Jennifer Louis, Police, (510) 981-5900, Liam Garland, Public Works, (510) 981-6300

Action Calendar – New Business

20. **Recommendation on Climate, Building Electrification, and Sustainable Transportation Budget Priorities for Fiscal Year 2023 and 2024** *(Reviewed by the Budget & Finance Committee)*

From: Energy Commission

Recommendation: The Energy Commission recommends that the Berkeley City Council prioritize and include in the City's budget for the Fiscal Years Ending (FYE) 2023 and 2024 several staff positions, pilot projects, investments in electric vehicles and charging infrastructure, and other measures to ensure that the City's budget is aligned with and provides adequate and needed funding to implement the City's adopted Climate Action Plan, Electric Mobility Roadmap, Building Emissions Saving Ordinance, 2019 ban on gas in new construction, and the Existing Buildings Electrification Strategy.

Policy Committee Recommendation: to send the item to the City Council with a qualified positive recommendation, and that the Council consider the following:

- 1. Planning Department's request to continue funding the position of Green Building Program Manager.*
- 2. Specific recommendations in the item around integrating low carbon mobility into the Street Maintenance budget.*
- 3. For the one-time funded pilot programs and positions, assess their effectiveness and consider on-going funding.*
- 4. Direction to staff to look at grant opportunities, in particular the Federal Inflation Reduction Act, to create charging infrastructure particularly at the Zero Waste Facility as the transfer station is being rebuilt.*

Financial Implications: See report

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

- 21a. **Referral of Two Health Educator Positions to the COB FY 2024 Budget Process** *(Reviewed by the Budget & Finance Committee)*

From: Peace and Justice Commission

Recommendation: Refer to the budget process a request for estimated \$150,000 annually, beginning in FY 2024 or as early as the AAO #2 process in spring 2023, for staffing, materials, and supplies to be able to more broadly and flexibly conduct health education, prevention, and outreach to reduce health disparities, as proposed by the Peace and Justice Commission.

Policy Committee Recommendation: To send the commission item and companion report to the City Council with a negative recommendation, express thanks to the Peace and Justice Commission for their work, and recognize that there is a need for community- and school-based public health outreach, and that the City should consider the recommendation after the completion of the community health assessment.

Financial Implications: See report

Contact: Okeya Vance-Dozier, Commission Secretary, (510) 981-7100

Action Calendar – New Business

21b. Companion Report: Referral of two health educator positions to the COB FY 2024 budget process *(Reviewed by the Budget & Finance Committee*

From: City Manager

Recommendation: Refer to the Peace and Justice Commission's request for \$150,000 annually for staffing, materials, and supplies for health education and outreach to the Budget and Finance Policy Committee for further deliberation.

Policy Committee Recommendation: To send the commission item and companion report to the City Council with a negative recommendation, express thanks to the Peace and Justice Commission for their work, and recognize that there is a need for community- and school-based public health outreach, and that the City should consider the recommendation after the completion of the community health assessment.

Financial Implications: None

Contact: Peter Radu, City Manager's Office, (510) 981-7000

Information Reports

22. Audit Recommendation Status - Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

From: City Manager

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

Public Comment – Items Not Listed on the Agenda

Adjournment

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

Archived indexed video streams are available at:

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

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

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

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on

the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

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

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

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

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

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



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

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on October 26, 2023.***

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 at the City Clerk Department and through [Records Online](#).*

### North Berkeley BART Development

1. 28 similarly-worded form letter
2. Jason Knox
3. Cheryl Brewster

4. Lea Barrow
5. Alison Teal
6. Leif Brown
7. Leah Levy
8. Harald Leventhal
9. Anne Boersma
10. Tawny Reynolds
11. Rachel Bradley
12. Michael Roche
13. Toni Casal
14. Joan Hamilton
15. Charlene Woodcock
16. Carol Hirth
17. Kitt Saginor
18. Elizabeth Willson
19. D.E. Neyhart
20. David Sochowitzky
21. David Rice
22. Rebecca Olmsted
23. Scott Selmanoff
24. Gary Parsons
25. North Berkeley Neighborhood Alliance
26. Meave O'Connor
27. Kathleen Tuttle
28. Miranda Ewell
29. Sara Cohn
30. Lynda Caesara
31. Kori Kody
32. Leslie Valas
33. Yuval
34. Karl Goldstein
35. Meryl Siegal
36. Gerald Morrison
37. Melanie Lawrence & John Smail
38. Laura Raboff
39. Jennifer King
40. Constance Rivemale
41. Aimee Baldwin
42. Julieta Pisani McCarthy
43. Eileen Hughes
44. Gary Dahl
45. Lois Cantor
46. Tamara Birdsall
47. David Meyer
48. David Benaroya Helfant
49. Gerry Tierney

50. T. Anne Richards
51. Cece Littlepage
52. Jay Harlow
53. Phil Allen
54. Joel Myerson
55. Theresa Gensler
56. Mary Rose
57. Leigh Lightfoot
58. Victoria Eisen (2)
59. Mark Schirmer
60. Raymond Barglow
61. David Brandon
62. Jill Bond
63. Walter Wood
64. Karen Dabrusin
65. Susie Wallenstein
66. Jason Warriner
67. The-Anh Cao
68. Doris Nassiry
69. Mary Behm-Steinberg
70. Virginia Browning
71. Walter Wood
72. Sarah Bell
73. Jeff Baker
74. Phil Allen

### **Crime**

75. Durgesh Srivastava
76. Vivek Dua
77. Aravind & Shalini Kulkarni
78. Benjamin Stein
79. Paula Torbush

### **Encampments**

80. John Caner, on behalf of the Downtown Berkeley Association
81. Joshua Jacobs, Homeless Services Coordinator
82. Ann Murray, on behalf of Revival Restaurant
83. Barbara Rydlander
84. Aimee Baldwin
85. Sabyl Landrum, on behalf of East Bay Community Law Center
86. Acacia Schmidt
87. Chris Schalis
88. Meryl Siegal
89. Mary Behm Steinberg
90. Vianney, on behalf of Extra Space Storage

### **Horses at Golden Gate Fields**

- 91. TC Conrad (2)
- 92. Franziska Marks
- 93. Janine Baer
- 94. Pam Singer
- 95. Samantha Eachus
- 96. Jill Winter
- 97. Christopher Kroll (2)
- 98. Linda Berland

### **Miyawaki Forest**

- 99. Rose Schweig

### **URL's Only**

- 100. Vivian Warkentin (6)

### **Golden Bear**

- 101. Lamar Esquire McKinze

### **Chess Club**

- 102. Sally Sommer
- 103. Amy
- 104. Jonah Gottlieb
- 105. Diana Bohn
- 106. Chess Club, Berkeley

### **Repave Hopkins**

- 107. Kay Englund
- 108. Carol Hirth
- 109. Lisa Chow
- 110. Chris Hamilton
- 111. Doug Giancoli
- 112. Laura Fuji
- 113. Michael Frantz
- 114. Edward Opton
- 115. Marguerite Lee

### **BUSD Concerns**

- 116. Mati Teiblum (3)
- 117. Claudia Eyzaguirre
- 118. Enikia Ford Morthel (2)

### **Smoke Free Multi-Unit Housing**

- 119. Carol Denney

### **SEIU 1021**

- 120. Andrea Mullarkey

121. Dee Williams-Ridley, City Manager

### **UC Berkeley Campus**

122. Shreya Korlipara

123. Guillermo Aguilar Gonzalez

### **Bio Labs**

124. Sandra Smith

### **Waterfront Specific Plan**

125. Beverley Spencer

126. Gordon Stout

127. Grant Thompson

128. Caitlin Lempres Brostrom

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

129. 13 similarly-worded form letters

### **Housing**

130. Cecelia Mautner

131. Todd Andrew

### **EBMUD Repair**

132. Jason Dearborn

133. Councilmember Harrison

### **Global Concerns**

134. Janice Schroeder

### **Extreme Fire Weather**

135. Todd Andrew (2)

136. Chief David Sprague

### **Heat Advisory**

137. Dee Williams-Ridley, City Manager

### **Berkeley Community Media**

138. David Flores

### **Pedestrians and Bicyclists**

139. Leni Siegel

140. Shirley Kirsten

141. Margot Smith & George Porter

### **Observation of Shattuck Avenue**

142. Virginia Kamp

**Longfellow Construction**

143. Noelle Burrill

**Noise Standards**

144. Anne Whyte (2)

145. Rachel Hope Crossman

**Local Union 342**

146. Jessica Hattich, on behalf of Business Representative, Tim Knight

**Accessory Dwelling Units (ADU)**

147. David Shere

148. Kathleen Frumkin

149. Cynthia Larson

**Neighbor Complaints**

150. Harrod Blank

151. Ileen Dunman

**Dogs on Leash Signage**

152. Mallory Johnson

**Berkeley Theatre's**

153. Kathleen Bolton

154. Charlene M. Woodcock

**51B Bus Rapid Transit**

155. Liam Laubach

**Resignation from the Civic Arts Commission**

156. Rafael Jesus Gonzalez

**Public Transit**

157. Barbara Gilbert (2)

**Parking**

158. Joe Matera

159. Zhong Tran

**Tibetan Association of Northern California Luncheon**

160. Tenzin Tsering

**Prime Roots Event**

161. Sonia Rodrigues



**Agents of Influence Pilot**

162. Anahita Dalmia

**Senior Resource Fair**

163. Joann Sullivan

**Play Café's Showcase of New Musicals**

164. Jamie Greenblatt

**Strawberry Creek**

165. Kathy Farley

**People's Park**

166. Russell Bates

**Fire Safety**

167. Maris Arnold

**Business Plan for Mingling Premier Entertainment, Inc**

168. Eye Candy

**Supplemental Communications and Reports**

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

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





Office of the City Manager

CONSENT CALENDAR  
November 7, 2023

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

RECOMMENDATION

Approve the minutes for the Council meetings of September 11 (special closed), September 12 (regular), September 18 (special closed), September 19 (regular), September 26 (special closed and special), October 2 (special closed), October 3 (regular) and October 10 (special closed, special and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. September 11, 2023 – Special Closed Council Meeting
2. September 12, 2023 – Regular Council Meeting
3. September 18, 2023 – Special Closed Council Meeting
4. September 19, 2023 – Regular Council Meeting
5. September 26, 2023 – Special Closed Council Meeting
6. September 26, 2023 – Special Council Meeting
7. October 2, 2023 – Special Closed Council Meeting
8. October 3, 2023 – Regular Council Meeting
9. October 10, 2023 – Special Closed Council Meeting
10. October 10, 2023 – Special Council Meeting
11. October 10, 2023 – Regular Council Meeting

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING**

**MONDAY, SEPTEMBER 11, 2023**

**3:00 P.M.**

2180 MILVIA STREET, BERKELEY, CA 94704

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – MARK HUMBERT

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1613787641>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 378 7641**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.*

## Preliminary Matters

**Roll Call:** 3:04 p.m.

**Present:** Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin

**Absent:** Kesarwani, Bartlett

**Public Comment - Limited to items on this agenda only – 1 speaker**

## CLOSED SESSION:

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

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

Negotiators: Dee Williams-Ridley, City Manager, Anne Cardwell, Deputy City Manager, LaTanya Bellow, Deputy City Manager, Aram Kouyoumdjian, Human Resources Director, Dawud Brewer, Employee Relations Manager, Jonathan Holtzman, Renne Public Law Group.

Employee Organizations: Berkeley Fire Fighters Association Local 1227 I.A.F.F., Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; Berkeley Police Association; SEIU 1021 Community Services and Part-time Recreation Activity Leaders, SEIU 1021 Maintenance and Clerical, PEU Local 1, Unrepresented Employees

**Action:** No reportable action taken.

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

a. **Title of position to be evaluated:** City Attorney

**Action:** No reportable action taken.

## OPEN SESSION:

No reportable action taken.

## Adjournment

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

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

Adjourned at 5:31 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on September 11, 2023.

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Mark Numainville, City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, September 12, 2023**  
**6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – MARK HUMBERT

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1606796328>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 679 6328**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

## Preliminary Matters

**Roll Call:** 6:07 p.m.

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

**Absent:** None.

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

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

1. Pledge of Allegiance to the Flag
2. Recognition of Yali's Café, Ike's Love and Sandwiches, and Lox Stock & Bagel for offering healthier food and beverage choices

**City Manager Comments:** None

**Public Comment on Non-Agenda Matters:** 13 speakers.

**Public Comment by Employee Unions (first regular meeting of the month):** None

## Consent Calendar

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

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

**Vote:** All Ayes.

**1. Contract: Downtown Berkeley YMCA for Fitness Center Memberships for City Employees**

**From:** City Manager

**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager during recess to execute a contract and any amendments with the Downtown Berkeley YMCA in the amount of \$130,176 for fitness center memberships for City employees for the period July 1, 2023 through June 30, 2024.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,016–N.S.



## Recess Items

- 2. Contract No. 32200058 Amendment: ACI Payments, Inc for Recreation Online Registration System Credit Card Transaction Processing Fees**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager to execute an amendment to Contract No. 32200058 with ACI Payments, Inc (ACI) increasing the contract amount by \$35,000 for a total not to exceed amount of \$185,000.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,017–N.S.
- 3. Stipend for Echo Lake Camp Staff**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving up to a \$500/week stipend for certain Echo Lake Camp daily-rated staff working in the summer of 2023, starting July 30, 2023.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,018–N.S.
- 4. Contract No. 100692-4 Amendment: Serological Research Institute for DNA Testing Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager during recess to amend Contract No. 100692-4 and any necessary future amendments with Serological Research Institute (SERI) for the Police Department, increasing the contract amount by \$1,000,000 for a total not to exceed amount of \$3,000,000 while the contract expiration will remain June 30, 2025.  
**Financial Implications:** State Proposition 172 Fund - \$1,000,000  
Contact: Jennifer Louis, Police, (510) 981-5900  
**Action:** Adopted Resolution No. 71,019–N.S.
- 5. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of July 10 (special closed), July 11 (regular), July 18 (special), July 24 (special closed and special) and July 25 (special and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved the minutes as submitted.

## Consent Calendar

- 6. Establish 2024 City Council Meeting Schedule**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution establishing the City Council regular meeting schedule for 2024, with starting times of 6:00 p.m.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 71,020–N.S.
- 7. Police Accountability Board – Appointment of New Member**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Humbert.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 71,021–N.S.
- 8. Contract: NetFile for Online Campaign Report, Public Financing, and Form 700 Filing and Tracking**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Westcoast Online Information Systems, Inc. dba NetFile for an amount not to exceed \$170,700 for the period October 1, 2023 through September 30, 2028 for online campaign report, public financing, and Form 700 filing, processing, web posting, and tracking.  
**Financial Implications:** General Fund - \$170,700  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 71,022–N.S.
- 9. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 12, 2023**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager’s threshold will be returned to Council for final approval.  
**Financial Implications:** Varous Funds - \$9,990,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.

## Consent Calendar

- 10. Contract: Swifthawk LLC for Project Management & Consulting**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Swifthawk, LLC to provide project management and consulting services for the Fire Department from August 7, 2023 to August 31, 2025 in an amount not to exceed \$600,000.  
**Financial Implications:** Measure FF Fund - \$600,000  
Contact: David Sprague, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 71,023–N.S.
- 11. Contract No. 32300094 Amendment: Restoration Family Counseling Center for Counseling, Education and Support**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32300094 for Counseling, Education and Support for the Fire Department (Department); with Restoration Family Counseling Center Inc. (RFCC), increasing the total contract amount from \$80,000 to \$308,000.  
**Financial Implications:** Various Funds - \$228,000  
Contact: David Sprague, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 71,024–N.S.
- 12. Accept Future of Public Health Funds from the State of California**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City manager to submit grant agreements to the State of California, to accept the grants, and to execute any resultant revenue agreements and amendments for the Future of Public Health program for an amount of \$912,213 for each of the following: Fiscal Year 2024, Fiscal Year 2025, and Fiscal Year 2026.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,025–N.S.
- 13. Taxi Scrip Redemption Window Cash Drawer Increase**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing City Manager or her designee to increase the cash drawer amount for the weekly Taxi Scrip Redemption window from \$15,000 to \$20,000.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,026–N.S.

## Consent Calendar

- 14. Contract: The Housing Workshop for Social Housing Models & Market Analysis  
From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with The Housing Workshop to provide policy model research and market analysis to inform social housing initiatives for the Department of Health, Housing, and Community Services (HHCS) from September 13, 2023 to September 13, 2024 in an amount not to exceed \$175,000.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,027–N.S.
- 15. Expenditure Contract: Persimmony International for Electronic Medi-Cal Administrative Activities and Targeted Case Management Documentation  
From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an expenditure agreement, and any amendments or extensions, with Persimmony International for ongoing system maintenance of web-based Medi-Cal Administrative Activities (MAA) time study documentation, and Targeted Case Management (TCM) documentation. The contract will be in an encumbered amount of \$289,011 for the period July 1, 2023 through June 30, 2027.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,028–N.S.
- 16. Contract No. 31900009 Amendment: Building Opportunities for Self-Sufficiency (BOSS) for McKinley House (2111 McKinley Avenue, Berkeley, CA 94703)  
From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900009 with Building Opportunities for Self-Sufficiency (BOSS) through November 1, 2025, adding \$287,712 for a total contract amount of \$945,424, to fund Mental Health clients living at 2111 McKinley Avenue in Berkeley. This will extend the contract by two years.  
**Financial Implications:** See report.  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,029–N.S.
- 17. Contract: Sensis, Inc. for Recruitment and Marketing Services  
From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Sensis, Inc. for recruitment and marketing services, in an amount not to exceed \$250,000 over two years: \$125,000 in the first year, with an option to renew for a second year for an additional \$125,000.  
**Financial Implications:** See report  
 Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 71,030–N.S.

## Consent Calendar

### 18. Establish Classification and Salary Range – Lactation Counselor

**From: City Manager**

**Recommendation:** Adopt a Resolution establishing the unrepresented classification of Lactation Counselor with an hourly salary range of \$41.1351 - \$50.0000, and an annual salary range of \$85,561.0080 - \$104,000.00, in order to utilize grant funding to employ an International Board Certified Lactation Consultant (IBCLC) who will oversee the City's Breastfeeding Peer Counselor Program and provide additional public health services to the City of Berkeley community.

**Financial Implications:** See report

Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

**Action:** Adopted Resolution No. 71,031–N.S.

### 19. Revise Classification and Salary Range – Paramedic

**From: City Manager**

**Recommendation:** Adopt a Resolution revising the classification of Paramedic to an hourly salary range of \$30.00-\$40.00 per hour (currently \$30.00-\$45.00 per hour) to offset unanticipated budgetary impacts due to overtime. This recommendation and proposed Resolution follow Council consideration of this item in Closed Session on July 24, 2023.

**Financial Implications:** See report

Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

**Action:** Adopted Resolution No. 71,032–N.S.

### 20. Memorandum of Understanding: Berkeley Police Association

**From: City Manager**

**Recommendation:** Adopt a Resolution 1) approving a successor Memorandum of Understanding (hereafter referred to as "MOU") with the Berkeley Police Association (hereafter referred to as the "Union") for a three-year term from July 1, 2023 through June 30, 2026 and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new MOU and to make non-substantive edits to the format and language of the MOU in alignment with the tentative agreement, and conforming to legal requirements; and 2) approving a new Classification and Salary table for Representation Units E and F that implement the salary adjustments reflected in the new MOU and supersede Resolution No. 69,965,-N.S. The terms of the proposed 2023-2026 MOU are within the parameters of authority approved by Council in closed session. The proposals were ratified by the Union following a three-day vote that concluded on August 14, 2023.

**Financial Implications:** See report

Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

**Action:** Adopted Resolution No. 71,033–N.S. as revised in Supplemental Communications Packet #2 from the City Manager.

## Consent Calendar

**21. Grant Applications: Bipartisan Infrastructure Law (BIL) and State Funds For Six City Infrastructure Improvement Projects**

**From: City Manager**

**Recommendation:** Adopt six Resolutions authorizing the City Manager or her designee to submit grant applications to six federal (BIL) and state-funded competitive grant programs for City Infrastructure improvement projects; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the projects and appropriation of funding for related expenses, subject to securing the grants.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,034–N.S. (Berkeley Waterfront University Ave Shoreline), Resolution No. 71,035–N.S. (Interstate 80 and Aquatic Park Lagoon), Resolution No. 71,036–N.S. (West Berkeley and Aquatic Park Lagoon), Resolution No. 71,037–N.S. (Santa Fe Railroad Track to Park), Resolution No. 71,038–N.S. (Martin Luther King, Jr. Youth Services Center), and Resolution No. 71,039–N.S. (South Berkeley Senior Center).

**22. Utility Easement: Bolivar Drive – East Bay Municipal Utility District**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance authorizing and directing the City Manager to convey a utility easement to the East Bay Municipal Utility District along Bolivar Drive at Aquatic Park.

**Financial Implications:** None

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

**Action:** Adopt first reading of Ordinance No. 7,883–N.S. as revised in Supplemental Communications Packet #2 by the City Manager. Second reading scheduled for October 3, 2023.

**23. Serving inclement weather needs, RV dwellers, and other vehicle dwellers through the Encampment Mobile Mental Health Wellness Team, as is feasible, within parameters of the state-approved project plan**

**From: Homeless Services Panel of Experts**

**Recommendation:** That Council refer to staff to include providing services to meet inclement weather needs of the unhoused and provide services to RV, and other vehicle, dwellers, as is feasible, within the parameters of the state-approved plan.

**Financial Implications:** See report

Contact: Josh Jacobs, Commission Secretary, (510) 981-5400

**Action:** Approved recommendation.

## Consent Calendar

- 24. Authorization for an Additional Homeless Services Panel of Experts meeting in October 2023**  
**From: Homeless Services Panel of Experts**  
**Recommendation:** Adopt a Resolution authorizing one additional meeting of the Homeless Services Panel of Experts in October 2023, which would restore one general meeting given that 3 special meetings were otherwise used to address Measure P allocations.  
**Financial Implications:** See report  
Contact: Josh Jacobs, Commission Secretary, (510) 981-5400  
**Action:** Adopted Resolution No. 71,040–N.S.
- 25a. Accommodating Client Literacy and Cognitive Challenges in Community Agency Allocation Funding Process as to Homeless Providers**  
**From: Homeless Services Panel of Experts**  
**Recommendation:** That Council refer to staff to include in the community agency allocation funding RFP a question to homeless services providers as to how homeless services providers plan to accommodate clients with literacy and cognitive challenges.  
**Financial Implications:** See report  
Contact: Josh Jacobs, Commission Secretary, (510) 981-5400  
**Action:** See action for Item 25b.
- 25b. Companion Report: Accommodating Client Literacy and Cognitive Challenges in Community Agency Allocation Funding Process as to Homeless Providers**  
**From: City Manager**  
**Recommendation:** Take no action on the Homeless Services Panel of Experts' recommendation, as staff have already included in the community agency allocation funding Request for Proposals (RFP) a question to homeless services providers as to how they plan to accommodate clients with literacy and cognitive challenges.  
**Financial Implications:** See report  
Contact: Peter Radu, City Manager's Office, (510) 981-7000  
**Action:** Approved recommendation in Item 25b.

## Council Consent Items

- 26. Appoint Ayanna Davis to the Berkeley Housing Authority Board**  
**From: Mayor Arreguin (Author)**  
**Recommendation:** Adopt a Resolution appointing Ayanna Davis to serve on the Berkeley Housing Authority Board of Commissioners for a four-year term.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 71,041–N.S.

## Council Consent Items

**27. Excused Absence for Councilmember Kate Harrison**

**From: Mayor Arreguin (Author)**

**Recommendation:** Excuse Councilmember Kate Harrison from the September 19, 2023 Council meeting as a result of attending to official business of the City.

**Financial Implications:** None

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

**Action:** Approved recommendation.

**28. Letter to State Legislators Regarding San Pablo Park Pool Project**

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

**Recommendation:** Send a letter to the requesting state budget allocations for capital improvements at San Pablo Park including the Frances Albrier Community Center and San Pablo Park Pool.

**Financial Implications:** Staff time

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

**Action:** Vice-Mayor Bartlett added as a co-sponsor. Approved recommendation.



## Council Consent Items

29. **51B BRT + University/Shattuck Corridor Mobility Improvements** (*Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee*)

**From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor), Councilmember Humbert (Co-Sponsor)**

**Recommendation:**

1. Refer to the City Manager commencement of a feasibility analysis and community engagement process to develop options for the implementation of Bus Rapid Transit (BRT) improvements along AC Transit's 51B route; options are to be developed in tandem with internal city departments, including Public Works, Fire, Police Traffic Unit, and Economic Development, and interagency partners, including AC Transit, the Alameda County Transportation Commission, BART, Caltrans, UC Berkeley, and WETA; community engagement is to emphasize students, transportation advocates, transit riders, the disability rights community, the faith community, the senior community, local merchants, the business community, the arts community, and tenants; consultation with AC Transit and UC Berkeley Bear Transit on planning, scoping, and implementation is to begin as soon as possible; staff are encouraged to explore and pursue quick build improvements.

2. Refer \$150,000 to the FY 2024-2025 budget process to increase the budget for the city's ADA Transition Plan capital project to prioritize and implement ADA improvements at the city's intersections, such as curb cuts, auditory functions of crossing signals, bulb-outs, shortening crossing distances, and other safety improvements.

3. Refer \$150,000 to the FY 2025-2026 budget process for consulting costs to conduct corridor studies along University Avenue, from Seawall Drive, to Oxford Street, and along Oxford Street and Fulton Street, from Virginia Street to Durant Avenue, to identify appropriate road safety improvements that advance city-adopted safety, transportation, and climate goals and are continuous with work currently underway on the Addison Bicycle Boulevard, and explore improvements for curb management, i.e. accessible parking (blue curbs), management of curb space for third party delivery service, etc.

*Policy Committee Recommendation: To forward the item to Council with a positive recommendation.*

**Financial Implications:** See report

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

**Action:** Approved recommendation as recommended by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee.

## Council Consent Items

- 30. Budget Referral: Refer \$100,000 to the FY 23 and FY 24 AAO #1 to beautify Vacant Storefronts in Berkeley Commercial Districts**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Refer \$100,000 to the FY 23 and FY 24 AAO #1 to help fund art or district branding vinyl window graphics on vacant storefronts in Berkeley Commercial Districts to beautify our Commercial Districts. The fund would be administered by the Downtown Berkeley Association on behalf of all Commercial Districts, and would reimburse property owners for 50% of the entire cost of the project: 1. Artist fee; 2. Costs associated with non-commercial printed material that is ideally non-plastic (may be vinyl if no alternative exists); 3. Installation of non-commercial window graphics  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Approved recommendation.  
**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – Humbert.
- 31. Budget Referral: Miyawaki “Pocket Forest” Pilot Program to Support Carbon Sequestration, Biodiversity, Cooling, Noise Reduction, Health, and Equity**  
**From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor)**  
**Recommendation:** Refer to the November 2023 Budget Process \$140,000 to fund staffing, materials, and consultants for a Miyawaki Pocket Forest Pilot Project, including the planting of two pocket forests on City of Berkeley sites, preferably in areas most impacted by poor air quality, and a report to Council on opportunities and funding for a broader Citywide Miyawaki Forest program. Should November 2023 funding not be available, refer to subsequent budget processes for consideration.  
**Financial Implications:** See report  
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150  
**Action:** Mayor Arreguin added as a co-sponsor. Approved recommendation including supplemental material in Supplemental Communications Packet #1 from Councilmember Hahn, further amended to include consideration of the Here/There site as a potential pilot site. Supplemental material removes co-sponsor.

## Council Action Items

**32. Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42**

**From: Councilmember Harrison (Author)**

**Recommendation:** Adopt a resolution designating open space in front of Old City Hall as linear City park space and formally dedicate this site for permanent recreational use pursuant to BMC 6.42.

**Financial Implications:** See report

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

**Action:** Moved to Consent Calendar. Adopted Resolution No. 71,042–N.S. with an amended resolved clause as written below and including the Council Report as Exhibit A to the resolution.

*NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Berkeley-owned open space and land adjacent to and in front of Old City Hall is designated as an official part of City park land and infrastructure. This includes the land identified in the greyed box on page 2 of the council report, attached hereto as Exhibit A, which is the area between the buildings and right of way excluding the area that is subject to a lease between the County and City of Berkeley.*

## Information Calendar

**33. LPO NOD: 60 Panoramic Way, #LMIN2023-0001**

**From: City Manager**

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

**Action:** Received and filed.

**34. LPO NOD: 1960 San Antonio Avenue/645 Arlington Avenue, #LMSAP2022-0005**

**From: City Manager**

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

**Action:** Received and filed.

**35. LPO NOD: 803 Delaware Street, LMSAP2023-0002**

**From: City Manager**

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

**Action:** Received and filed.

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

## Adjournment

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

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

Councilmember Hahn absent 8:25 p.m. – 8:27 p.m.

Adjourned at 8:27 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting held on September 12, 2023.

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Mark Numainville, City Clerk

## Communications

### **Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements**

1. Bike East Bay
2. Raul Maldonado

### **Berkeley Crime**

3. Anthony Felli, Regional Vice President, Skates on the Bay (2)
4. Nina Lyons
5. Pamela Michaud
6. Benjamin Stein
7. Peter Radu
8. Colleen McCann
9. Mike Kim
10. Nina Lyons
11. Diana Rossi
12. Peter Horsemann
13. Linda Laskowski
14. Teresa Clarke
15. Melissa Little
16. Rebecca Thomas
17. Ryan Kidd
18. Joshua Bloom
19. Shok Saidmuradov
20. Shannon Holloway
21. Peter Hosemann

### **Automated License Plate Readers (ALPR)**

22. Emily Benner
23. Laura Lake Gediman
24. Alex Merenkov

- 25. Rosemarie Klems
- 26. Katie Johnson
- 27. Isaac Dietz
- 28. Mary S.
- 29. Rosa Perez

**Daylight Strawberry Creek/Civic Center Park**

- 30. Jessica Hall
- 31. Juliet Lamont and Phil Price
- 32. Diana Bohn
- 33. Jennifer Ware
- 34. Stacie Degeneffe
- 35. Summer Brenner

**BART Transit Oriented Development and Parking**

- 36. John Hitchen
- 37. Barbara Flasher
- 38. Michai Freeman
- 39. Markus Feyh
- 40. Chris Watters
- 41. Mikayla Fussman
- 42. Nat Kane
- 43. Peter Waller
- 44. Christine Goldin
- 45. Marija Hillis
- 46. Peggy Scott

**2720 Hillegass/Willard Clubhouse**

- 47. Julie Obbard
- 48. Alex Stec

**Housing**

- 49. Aimee Baldwin (3)
- 50. Meryl Siegal

**Reforest Berkeley**

- 51. Glenn Alex
- 52. Ruby Lee
- 53. Mike Vandeman

**Shellmound**

- 54. Sophia DeWitt, on behalf of East Bay Housing Organizations

**Fukushima**

- 55. Richard Tamm

## **Communications**

- 56. Francine Cavaliere
- 57. Dawn DelMonte (2)
- 58. Sally Nelson
- 59. Bjorn Fox
- 60. Nori Hudson
- 61. Jose Arau
- 62. Juli Dickey
- 63. Jose Franklin Arau

## **3050 College Avenue**

- 64. Janet Miller (2)

## **Help Shape the Library's Strategic Plan**

- 65. Aimee Reeder

## **Lawrence Hall Neighborhood Issues**

- 66. Emily Starr

## **Berkeley's Business Districts**

- 67. Jack Kurzweil

## **Racial Injustices**

- 68. Aimee Baldwin

## **Public Works Transportation Division**

- 69. Hamid Mostowfi, Transportation and Infrastructure Commission Co-Secretary

## **Bio Labs**

- 70. Steve Shmanske
- 71. Sandina Robbins

## **People's Park**

- 72. Tobey Wiebe
- 73. Rod Gutierrez

## **Here/There Now Fence**

- 74. Mike Kim
- 75. Nicole Sullivan

## **Berkeley Police Department Investigation**

- 76. Diana Bohn
- 77. Mary Behm-Steinberg
- 78. Janie Schroeder (2)
- 79. Tobey Wiebe
- 80. Nathan Mizell

## **Communications**

### **Fire Danger**

- 81. Susan Nunes
- 82. Councilmember Hahn

### **Cell Antennas**

- 83. Stephanie Thomas
- 84. Constance Anderson
- 85. Phoebe Thomas Sorgen

### **Encampment at 8<sup>th</sup> & Harrison**

- 86. Yesica Prado (3)
- 87. Peter Radu, Neighborhood Services, City Manager's Office

### **Appoint Police Chief Louis**

- 88. Marvin Snow

### **Secondhand Smoke**

- 89. Carol Denney
- 90. Rebecca Day-Rodriguez, on behalf of Health, Housing & Community Services

### **Mortgage Relief Program**

- 91. Carole Marasovic

### **Rental Inspection Program Proposal**

- 92. Christopher La Combe

### **Virginia/Oxford Intersection**

- 93. Theo Posselt

### **Fire Inspection Bill**

- 94. Jane Kitchel

### **Youth Representation on the Environmental and Climate Commission**

- 95. Kristen Anderson

### **Roots Near Sidewalk and Curb**

- 96. Barry Horwitz

### **New City Manager**

- 97. Carol Denney

### **Battery Recycling**

- 98. David Lerman

### **Conflict of Interest/Trying to Find Children**

- 99. Lavell Young

## **Communications**

### **Golden Gate Horse Racing**

100. Jim Renella

### **Homelessness**

101. Eric Friedman

102. Aimee Baldwin

### **Cub Scout Requirement**

103. Jason Hertenstein

### **Ohlone Greenway**

104. Howard Goldberg (2)

105. Cindi Goldberg

106. Lisa Chow

107. Mary Behm-Steinberg

108. Eric Cheng

### **New Apartments and Business'**

109. Steven Schuyler

### **Star Alliance**

110. Peter Bruce DuMont (2)

### **Oakland International Airport Public Review**

111. Port of Oakland

### **Fire Ready Fest**

112. Berkeley Fire Department (2)

### **#DiscoveredinBerkeley – Squishy Robots**

113. Liz Redman, on behalf of the Office of Economic Development

### **Current State of the City of Berkeley**

114. Assal Sharifi

### **Jr. Jackets Football Support**

115. Eric Friedman

### **Request for Action – Police Budget, Building Heights, etcetera's**

116. Dan.auten@

### **URL's Only**

117. Vivian Warkentin (8)

118. crustyrusty@riseup.net

## **Supplemental Communications and Reports 1**



**Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements**

- 119. Raul Maldonado, East Bay YIMBY Lead
- 120. Kiaran Katyal-Tan
- 121. Chuck Siegel, on behalf of Walk Bike Berkeley
- 122. 5 similarly-worded form letters

**Item #31: Budget Referral: Miyawaki “Pocket Forest” Pilot Program to Support Carbon Sequestration, Biodiversity, Cooling, Noise Reduction, Health, and Equity**

- 123. Supplemental material, submitted by Councilmember Hahn

**Item #32: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42**

- 124. Isabelle Gaston
- 125. Carol Hirth

**Supplemental Communications and Reports 2**

**Item #4: Contract No. 100692-4 Amendment: Serological Research Institute for DNA Test Services**

- 126. Elana Auerbach

**Item #20: Memorandum of Understanding: Berkeley Police Association**

- 127. Supplemental material, submitted by Human Resources

**Item #22: Utility Easement: Bolivar Drive – East Bay Municipal Utility District**

- 128. Revised material, submitted by Parks, Recreation and Waterfront

**Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements**

- 129. Eric Johnson
- 130. Mary Ann Furda
- 131. Tawny Reynolds
- 132. Phyllis Orrick
- 133. Mario Valadez
- 134. Alfred Twu
- 135. Lee Bishop
- 136. 12 similarly-worded form letters

**Item #32: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42**

- 137. Marsha Feinland
- 138. Paola Laverde
- 139. Max Ventura
- 140. Jean Tepperman
- 141. Erika Shore
- 142. Marian Wolfe
- 143. Carole Cool
- 144. Susana Porte
- 145. Summer Brenner
- 146. Gael Alcock

147. Miranda Ewell
148. Jane White
149. Rachel Katz
150. Stephen Most
151. Laura Galligan
152. Cate Leger
153. Helga Recke
154. William Pettus
155. Sally Nelson

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

#### **Item #4: Contract No. 100692-4 Amendment: Serological Research Institute for DNA Test Services**

156. Elana Auerbach

#### **Item #28: Letter to State Legislators Regarding San Pablo Park Pool Project**

157. Claudia Kawczynska
158. Cameron Woo

#### **Item #29: 51 BRT + University/Shattuck Corridor Mobility Improvements**

159. Melinda Howard-Herrarte, on behalf of the Sierra Club
160. Alden Mudge
161. Councilmember Humbert
162. Maulin Chokshi
163. Igor Tregub, on behalf of the Alameda County Democratic Party
164. Sean Gibson
165. 14 similarly-worded form letters

#### **Item #30: Budget Referral: Refer \$100,000 to the FY 23 and FY 24 AAO #1 to beautify Vacant Storefronts in Berkeley Commercial Districts**

166. Steve Kromer

#### **Item #31: Budget Referral: Miyawaki “Pocket Forest” Pilot Program to Support Carbon Sequestration, Biodiversity, Cooling, Noise Reduction, Health and Equity**

167. Daniel Gluesenkamp, on behalf of California Institute for Biodiversity
168. Jess Login and students, Malcolm X Elementary School
169. Hazel Copithorne
170. Lola Leeman
171. Ivan Fisher

#### **Item #32: Designating Open Space Adjacent to and in Front of Old Berkeley City Hall as a Linear City Park Pursuant to BMC 6.42**

172. Virginia Warheit
173. Pamela Drake
174. Diana Bohn
175. Erin Diehm
176. Juliet Lamont and Phil Price
177. Harvey Smith

- 178. Janet Levenson
- 179. Deborah Green

**Miscellaneous Communications**

- 180. Mr. Eid

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING**

**MONDAY, SEPTEMBER 18, 2023**

**4:30 P.M.**

REDWOOD ROOM – 2180 MILVIA STREET, BERKELEY, CA 94704

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – MARK HUMBERT

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1610332476>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 033 2476**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.*

## Preliminary Matters

**Roll Call:** 4:40 p.m.

**Present:** Taplin, Hahn, Wengraf, Robinson, Humbert, Arreguin

**Absent:** Kesarwani, Bartlett, Harrison

**Public Comment - Limited to items on this agenda only – 0 speakers**

## CLOSED SESSION:

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

### 1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

a. *Workers Compensation Appeals Board Case Numbers: ADJ15348795 and ADJ15456130*

**Action:** M/S/C (Arreguin/Robinson) to authorize the City Manager to settle by Stipulated Award with future medical care, as to workers' compensation matters WCAB Case Numbers: ADJ15348795 and ADJ15456130.

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

b. *Workers Compensation Claim #BER2200121*

**Action:** M/S/C (Arreguin/Humbert) to authorize the City Manager to settle by Compromise and Release, or in the alternative settlement by Stipulated Award with future medical care, as to workers' compensation matter WC Claim #: BER2200121.

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

c. *Rena Fisher, Kathi Pugh, and Helen Walsh v. City of Berkeley*

**Action:** No reportable action taken.

d. *Harrison v. Martinez et al. Alameda County Superior Court Case No. 22CV09169*

**Action:** M/S/C (Arreguin/Robinson) to authorize the City Attorney to settle the case in the amount of \$40,000.

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

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

Property Address: 921-927 Parker Street, Berkeley, California  
Agency Negotiators: Dee Williams- Ridley, City Manager; David Sprague, Berkeley Fire Chief; Dionne Early, Public Works Real Property  
Negotiating parties: City of Berkeley and Keegan & Coppin Company Inc., on behalf of 921 Parker Street Partners, LLC  
Property Owner: 921 Parker Street Partners, LLC  
Under negotiation: Price and terms

**Action:** No reportable action taken.

## OPEN SESSION:

City Council met in closed session on September 18, 2023, Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a settlement by Stipulated Award with future medical care, as to workers' compensation matters WCAB Case Numbers ADJ15348795 and ADJ15456130.

City Council met in closed session on September 18, 2023, Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a settlement by Compromise and Release, or in the alternative settlement by Stipulated Award with future medical care, as to workers' compensation matter WC Claim number BER2200121.

The Council convened in closed session on September 18, 2023 and approved a settlement in the matter of Harrison v. Martinez et al, Alameda County Superior Court Case No. 22CV019169, in the amount of \$40,000 in exchange for a release of all claims against the City.

## Adjournment

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

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

Adjourned at 6:47 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on September 18, 2023.

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Mark Numainville, City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, September 19, 2023**  
**6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – MARK HUMBERT

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

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

## Preliminary Matters

### Report from Closed Session

City Council met in closed session on September 18, 2023, Pursuant to Government Code Section 54956.9(d)(2) and provided direction to:

- 1) Approve a settlement by Compromise and Release, or in the alternative settlement by Stipulated Award with future medical care, as to workers' compensation matter WC Claim number BER2200121.
- 2) Approve a settlement by Stipulated Award with future medical care, as to workers' compensation matters WCAB Case Numbers: ADJ15348795 and ADJ15456130.
- 3) Approve a settlement in the matter of Harrison v. Martinez et al, Alameda County Superior Court Case No. 22CV019169, in the amount of \$40,000 in exchange for a release of all claims against the City.

**Roll Call:** 6:20 p.m.

**Present:** Taplin, Hahn, Wengraf, Robinson, Humbert, Arreguin

**Absent:** Kesarwani, Bartlett, Harrison

Councilmember Kesarwani present at 6:22 p.m.

Councilmember Bartlett present at 6:22 p.m.

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

### Ceremonial Matters:

1. Recognition of California Native American Day – September 22, 2023
2. Recognition of the Public Bank of the East Bay

**City Manager Comments:** None

**Public Comment on Non-Agenda Matters:** 9 speakers.



**Action:** M/S/C (Arequin/Kesarwani) to accept an urgency item from the Health, Housing, and Community Services Department pursuant to Government Code Section 54954.2(b)(2) entitled Revised Resolution for a Joint Homekey Application and Urgency Ordinance to Amend Contract No. 32200202 Extending the Lease for Real Property at 1461 University.

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

**Public Comment on Consent Calendar and Information Items Only:** 17 speakers.

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

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

**Urgency Item: Revised Resolution for a Joint Homekey Application and Urgency Ordinance to Amend Contract No. 32200202 Extending the Lease for Real Property at 1461 University**

**From: City Manager**

**Recommendation:** Adopt one resolution and one urgency ordinance approving the following actions in support of a Homekey program application by:

1. Authorizing the City Manager or her designee to prepare and submit a joint application together with Memar and HCEB for the State of California Housing and Community Development (HCD) Department's Homekey program for the University Inn permanent supportive housing project.
2. Authorizing the City Manager or her designee to take actions needed for the City's participation in HCD's Homekey program, including entering into HCD's Standard Agreement and any amendments.
3. Authorizing the City Manager, if Homekey funds are awarded, to execute an amendment to Contract No. 32200202 with Shree Jalasai Lodging, LP for the lease of real property located at 1461 University Avenue, Berkeley, extending the term by five months and increasing the total cost by \$891,132 for a new contract not-to-exceed amount of \$3,896,402 for the purposes of extending the interim non-congregate shelter program at this location.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,043–N.S. and urgency Ordinance No. 7,884–N.S.

## Consent Calendar

- 1. Contract Amendment for Extending the Lease for the Real Property at 1461 University Avenue**  
**From: City Manager**  
**Recommendation:** Adopt an Urgency Ordinance authorizing the City Manager to execute an amendment to Contract No. 32200202 with Shree Jalasai Lodging, LP for the real property located at 1461 University Avenue, Berkeley, extending the term for 30 months and increasing the total cost by \$5,362,043, for a new contract not-to-exceed amount of \$8,367,313, for the purposes of extending the interim noncongregate shelter program at this location.  
**Financial Implications:** See report  
Contact: Peter Radu, City Manager's Office, (510) 981-7000  
**Action:** Adopted urgency Ordinance No. 7,885–N.S.
- 2. Execute contract with Housing Consortium of the East Bay (HCEB) to operate shelter at the Rodeway Inn**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Housing Consortium of the East Bay (HCEB) to operate an interim housing program at the Rodeway Inn (1461 University Ave.) through April 30, 2026.  
**Financial Implications:** See report  
Contact: Peter Radu, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 71,044–N.S.
- 3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 19, 2023**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$22,472,259  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.
- 4. 2024 Tax Rate: Transportation Network Company User Tax**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the 2024 tax rate (effective January 1, 2024) for the transportation network company at the following rates: 56.162 cents on the user for each prearranged trip that originates in the City that is not part of a pooled prearranged trip and 27.424 for each pooled prearranged trip on each user who arranges each prearranged trip that originates in the City and which comprises part of the pooled prearranged trip.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopt first reading of Ordinance No. 7,886–N.S. Second reading scheduled for October 3, 2023.

## Consent Calendar

5. **Contract: Options Recovery Services – Encampment-based Mobile Wellness Center Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Options Recovery Services to provide Mobile Wellness services for individuals who are unhoused or living in encampments in Berkeley. The contract will be funded through California Mental Health Services Act (MHSA) Innovation (INN) funds, for a total not to exceed amount \$2,802,400, through June 30, 2028.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,045–N.S.
6. **Authorizing a Lease of 830 University Avenue to Lifelong Medical Care**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to enter into a lease for 830 University with Lifelong Medical Care (Lifelong).  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopt first reading of Ordinance No. 7,887–N.S. Second reading scheduled for October 3, 2023.
7. **Revenue Grant: California Office of Traffic Safety (OTS) for the 2024 “Selective Traffic Enforcement Program (STEP) Grant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the Chief of Police to accept the "Selective Traffic Enforcement Program (STEP)" grant and enter into the resultant grant agreement and any amendments, with the California Office of Traffic Safety. This OTS grant is for \$269,000 for the period of October 1, 2023 through September 30, 2024, which is Federal Fiscal Year 2024.  
**Financial Implications:** See report  
 Contact: Jennifer Louis, Police, (510) 981-5900  
**Action:** Adopted Resolution No. 71,046–N.S.
8. **Revenue Grant: Cannabis Tax Fund Grant Program (CTFGP)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the Chief of Police to accept the CTFGP grant and enter into the resultant grant agreement and any amendments, with the California Highway Patrol. This grant is for \$59,168 for the period of July 1, 2023 through June 30, 2024.  
**Financial Implications:** One-time Grant Program Fund - \$59,168  
 Contact: Jennifer Louis, Police, (510) 981-5900  
**Action:** Adopted Resolution No. 71,047–N.S.

## Consent Calendar

9. **License Agreement – RM Ventures, LLC, d.b.a, In the Wood Grill & Bar for Nonexclusive Use of the Elmwood Parking Lot Pedestrian Paseo**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a ground license agreement with RM Ventures LLC d.b.a., In the Wood Grill and Bar (In the Wood Grill & Bar) for the nonexclusive use of a portion of the Elmwood Parking Lot Pedestrian Access Path (“Paseo”), a City-owned midblock pedestrian path connecting the City’s Elmwood Parking Lot to College Avenue in the Elmwood Neighborhood Shopping District, for an initial term of five (5) years and authorize the City Manager to execute a renewal of this license, under the same terms, after the termination of the initial term.  
**Financial Implications:** See report  
 Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Item 9 removed from the agenda by the City Manager.
10. **Contract No. 32200073 Amendment: Toole Design Group for Engineering Design and Construction Support Services for the Southside Complete Streets Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32200073 with Toole Design Group for engineering design and construction support services for the Southside Complete Streets Project, increasing the contract by \$508,602, for a total amount not to exceed \$1,790,213, and extending the term of the contract from December 31, 2023 to June 30, 2025.  
**Financial Implications:** See report  
 Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 71,048–N.S.
11. **Agreement with Goldsmiths for Strawberry Creek Culvert Repair**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a Cost Sharing Agreement and Release with Steven and Cathy Goldsmith for repair of a section of Strawberry Creek Culvert. The culvert was reported to have failed on or about October 24, 2021 and the extents of the failure is alleged to include area in both City right-of-way and private property under the Goldsmiths’ home. Per the agreement, the City would expend an amount not to exceed \$75,000 toward repair of the creek culvert in exchange for a release of claims relating to the October 24, 2021 culvert failure.  
**Financial Implications:** See report  
 Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 71,049–N.S.

## Consent Calendar

**12. Amendment to the Agreement for Maintenance of State Highways in the City of Berkeley between the California Department of Transportation and the City of Berkeley**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the Agreement with the California Department of Transportation (Caltrans) for maintenance of the State highways within the City of Berkeley. The amendment will address three new traffic signals: 1) a new pedestrian hybrid beacon (PHB) at San Pablo Avenue and Virginia Street 2) a new PHB at San Pablo Avenue and Hearst Street, and 3) a new rectangular rapid flashing beacon (RRFB) at Ashby Avenue and California Street.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,050–N.S.

**13. Contract No. 9977C Amendment: Portable Computer Systems dba PCS Mobile for Parking Permit and Citation Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9977C with Portable Computer Systems dba PCS Mobile, increasing the contract amount by \$1,650,000 for a total amount not-to-exceed of \$3,700,000 and extending the contract term through June 30, 2029.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,051–N.S.

**14. Contract No. 32000078 and Contract No. 32000093 Amendments DC Electric Group, Inc. for On-Call Electrical Services**

**From: City Manager**

**Recommendation:** Adopt two Resolutions authorizing the City Manager or designee to Amend the contract, increasing the amounts as outlined below, and extending the contracts through June 30, 2026:

1. Increasing Contract No. 32000078 with DC Electric Group, Inc. for the Facilities Electrical Division for on-call electrical services in the amount of \$300,000 for a total contract amount not to exceed \$475,000.

2. Increasing Contract No. 32000093 with DC Electric Group, Inc. for the Transportation Division for on-call electrical services for traffic calming devices in the amount of \$100,000 for a total contract amount not to exceed \$600,000.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,052–N.S. (Contract No. 32000078); and Resolution No. 71,053–N.S. (Contract No. 32000093).

## Consent Calendar

**15. Contract: Turnstone Data Inc. for Parking Data Analytics Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a three-year contract with an option for two one-year extensions, that require no additional funding, with Turnstone Data Inc., to provide parking data analysis and visualization services in an amount not to exceed \$375,000 for the period from January 1, 2024 through December 31, 2026.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,054–N.S.

## Council Consent Items

**16. Budget Referral: Berkeley Food Network to address increased demand**

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

**Recommendation:** Refer \$200,000 to the November 2023 AAO #1 process to address the increased number of people experiencing food insecurity in Berkeley including people in danger of eviction due to the COVID-19 eviction moratorium expiration and rent debt due to inflation and rental increases. The proposed funding source is FY 2023-2024 Measure P tax receipts.

**Financial Implications:** See report

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

**Action:** Councilmember Humbert added as a co-sponsor. Approved recommendation.

Recess 7:50 p.m. – 8:14 p.m.

## Action Calendar – Public Hearings

17. **Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development** (*Item contains supplemental material.*) (Continued from July 25, 2023)

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of an ordinance amending Berkeley Municipal Code (BMC) Title 23, and repealing BMC Chapter 12.99, relating to Accessory Dwelling Units and Junior Accessory Dwelling Units.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 23 speakers.

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

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

Councilmember Taplin absent 9:09 p.m. – 9:18 p.m.

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

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

**Action:** M/S/Failed (Kesarwani/Taplin) to adopt the first reading of an ordinance as submitted in Supplemental Communications Packet #1 by the Planning and Development Department with the following additional direction.

1. Defer adoption of the parking requirement for Hillside Overlay specified in TABLE 23.322-1: REQUIRED OFF-STREET PARKING IN RESIDENTIAL DISTRICTS and TABLE 23.322-2: REQUIRED OFF-STREET PARKING REQUIREMENTS IN COMMERCIAL DISTRICTS (EXCLUDING C-T) pending the Fire Department's completion of an evacuation study specific to ADUs, as requested by HCD in its enforcement letter dated Oct. 17, 2022
2. Accept Policy Alternative 1. Additional prescriptive standards for New Construction ADUs within the front setback in Section 8.
3. Reject Policy Alternative 2. Converted ADUs: Maintain time limit based on when the accessory building or structure was created in Section 8.
4. Accept Policy Alternative 3. Keep Neighbor Noticing Procedures as-is except removing noticing to owner(s) of subject property in Section 8.
5. Add a 20-foot ADU height limit for units in the Hillside Overlay area.

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

**Action:** M/S/Failed (Robinson/Arreguin) to adopt the first reading of an ordinance as submitted in Supplemental Communications Packet #2 by Mayor Arreguin and Councilmembers Wengraf and Hahn with the following additional direction.

1. Accept Policy Alternative 1. Additional prescriptive standards for New Construction ADUs within the front setback in Section 8.
2. Accept Policy Alternative 2. Converted ADUs: Maintain time limit based on when the accessory building or structure was created in Section 8.
3. Accept Policy Alternative 3. Keep Neighbor Noticing Procedures as-is except removing noticing to owner(s) of subject property in Section 8.
4. Add a 20-foot ADU height limit for units in the Hillside Overlay area.
5. Add a revision of the text of the third item in the first row of table 23.322-1 to read “ADU within Hillside Overlay: 1 per ADU unless satisfies the criteria in subdivision (d) of Government Code Section 65852.2.[1]” and the addition of note 1 to that same table: “For purposes of Subdivision (d)(1)(A), no parking space is required if the parcel is located within 0.5 mile walking distance of a major transit stop or a high-quality transit corridor as defined in Public Resources Code Section 21155.”

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

**Action:** M/S/Carried (Arreguin/Wengraf) to continue the item to October 3, 2023.  
**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Wengraf, Robinson, Humbert, Arreguin; Noes – Hahn; Abstain – None; Absent – Harrison.



## Council Action Items

18. **Authorizing the City Attorney to Submit an Amicus Brief in Support of the UC Regents in Make UC a Good Neighbor v. Regents of University of California**  
**From: Mayor Arreguin (Author), Councilmember Robinson (Author), Councilmember Wengraf (Co-Sponsor)**

**Recommendation:** Adopt a Resolution Authorizing the City Attorney to submit an amicus brief in support of the University of California Regents' in Make UC a Good Neighbor v. The Regents of University of California, currently before the California State Supreme Court on appeal.

**Financial Implications:** See report

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

**Action:** Councilmember Humbert added as a co-sponsor. Moved to Consent Calendar. Adopted Resolution No. 71,055–N.S.

19. **Referral to Rezone Gilman Street to Maximize Revenue Productivity Per Acre**  
**From: Councilmember Kesarwani (Author), Councilmember Taplin (Co-Sponsor), Councilmember Robinson (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**

**Recommendation:** Refer to the City Manager and Planning Commission to rezone Gilman Street—a major thoroughfare for entering and exiting the City—from San Pablo Avenue to Interstate 80 to maximize revenue-generating and job-creating uses. Specifically, the rezoning of Gilman Street should consider the following: Potential for applying the Manufacturing, Research and Development (M-RD) zoning district currently planned for the Pacific Steel Casting site to a portion of Gilman street. The M-RD zoning district seeks to better align with development interest by: allowing research and development, office, laboratory, and light manufacturing uses currently not permitted by the existing Manufacturing (M) zoning; and removing protections for existing manufacturing uses and constraints associated with certain development standards; and/or Consider a new zoning designation for a portion of Gilman Street west of San Pablo Avenue to I-80 that maximizes revenue productivity per acre via permitted uses and associated development standards; and Extend West Berkeley Commercial District (C-W) zoning on Gilman Street from Ninth Street further west for a certain number of blocks and enhance the flexibility of C-W development standards to increase the likelihood of redevelopment—in coordination with “Keep Innovation in Berkeley” Council referral (passed on Sept. 13, 2022) that seeks to allow research and development uses in C zones. Refer \$250,000 to the FY 2024-25 budget process for consulting services to assist with the planning process and associated environmental review and economic analyses.

**Financial Implications:** See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

**Action:** Moved to Consent Calendar. Councilmembers Wengraf and Robinson added as co-sponsors. Approved recommendation as amended in Supplemental Communications Packet #1 by Councilmember Kesarwani.

## Information Reports

### 20. Settlement of California River Watch Notice of Intent to File Suit

#### From: City Manager

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

Action: Received and filed.

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

## Adjournment

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

Vote: Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Humbert, Arreguin;

Noes – None; Abstain – None; Absent – Harrison.

Adjourned at 11:17 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting held on September 19, 2023.

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Mark Numainville, City Clerk

## Communications

### Berkeley's Crime

1. Robin Kibby
2. Shok Saidmuradov

### Police Matters

3. David Freeling
4. Alex Merenkov
5. Carol Denney

### Hotel Sales

6. Sabina McMurtry

### Visit Berkeley

7. Visit Berkeley

### Red Curb

8. Sherleen Brown
9. Amy Campos

### Hiring Bonus'

10. Minda Berbeco

**Cannabis Policy**

11. Getting It Right from the Start

**Second Hand Smoke**

12. Carol Denny

**Willard Park**

13. Vincent Casalaina

14. Mary Oram

**Homelessness**

15. Sharon Sangco, on behalf of Windsor Management (2)

16. Peter Radu, Neighborhood Services

17. Aimee Baldwin

**School Expansion**

18. Leila Moncharsh

**Ohlone Greenway**

19. Rachel Edelson

**Seismic Prep**

20. John Parman

**UN Association Venue**

21. Dirk Neyhart

**New Construction**

22. Dan Auten

**Gus Newport**

23. Boona Cheema

**Black Rep**

24. Tanya Dennis, Post Newspaper Reporter

**Waterfront Specific Plan**

25. Claudia Kawczynska, Chair of Parks, Recreation and Waterfront Commission

**Supplemental Communications and Reports 1**

**Item #12: Amendment to the Agreement for Maintenance of State Highways in the City of Berkeley between the California Department of Transportation and the City of Berkeley**

26. Phyllis Orrick (2)

27. Marc Hedlund

**Item #16: Budget Referral: Berkeley Food Network to Address Increase Demand**

- 28. Bob Flasher
- 29. Bob Whalen
- 30. Dona Boatright

**Item #17: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**

- 31. Revised material, submitted by Planning and Development

**Item #19: Referral to Rezone Gilman Street to Maximize Revenue Productivity Per Acre**

- 32. Revised material, submitted by Councilmember Kesarwani

## **Supplemental Communications and Reports 2**

**Urgent Item: Revised Resolution for a Joint Homekey Application and Urgency Ordinance to Amend Contract No 32200202 Extending the Lease for Real Property at 1461 University**

- 33. Urgency item, submitted by Health, Housing and Community Services
- 34. Eric Friedman

**Item #17: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**

- 35. Supplemental material, submitted by Councilmember Kesarwani
- 36. Supplemental material, submitted by Councilmember Wengraf, Councilmember Hahn and Mayor Arreguin
- 37. Richard Thomason
- 38. Catherine Huchting
- 39. Janice Schroeder
- 40. Tony Corman
- 41. Virginia Warheit
- 42. Vicki Sommer
- 43. Irene Rosenthal

## **Supplemental Communications and Reports 3**

**Item #17: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**

- 44. Presentation, submitted by Planning and Development Department
- 45. Presentation, submitted by the Fire Department
- 46. George Porter
- 47. Rosemary Hardy
- 48. Carol Hirth
- 49. Lovell Jarvis
- 50. Robin Kibby

51. Liinda Twilling and Basil Boutris
52. Meryl Siegal
53. Gregory Murphy
54. Sybil Hatch
55. Henry DeNero
56. Jan Knecht
57. Donna DeDiemar
58. Ellen Goldblatt
59. Michel Thouati
60. Jenny Wenk
61. Jonathan Khuner
62. Barbara Davis
63. Jon Moses Schickman
64. Bonnie Cediell
65. Nancy Rader
66. Steven Segal
67. Lisa and Tim Goodman
68. John Parman
69. Joann Sullivan
70. Megan Finaly
71. Christopher Kroll
72. David Brandon
73. Chrise de Tournay Birkhahn
74. Susan Nunes Fadley
75. Kathleen Giustino
76. Marjorie Lasky
77. Jonathan Khuner
78. Phyllis Orrick
79. Alexander Benn
80. Michael Katz
81. Judith Schelly
82. Bruce Smith
83. Paul Jacobs
84. Councilmember Hahn
85. Bruce and Bette Flushman
86. Peggy Radel
87. Aviv Nitsan
88. Bryce Nesbitt
89. Peggy Radel
90. Colby Olds
91. Julie Lamont and Phil Price
92. Candace Hyde-Wang
93. Kevin Casey
94. Tom Edwards
95. Becky Price
96. Thomas Plagge

97. Ian Meyers
98. Mary Lee Noonan
99. David Sherertz
100. Kelly Hammargren
101. John Parman
102. Debra Guckenheimer
103. Fan and Jim Albritton
104. Mary Stevens and Norbert Jeske
105. Joan Lester
106. Patrick Sheahan
107. Nick Eckenwiler
108. Jessica Abbe
109. Catherine Lazio
110. Virginia Warheit
111. Todd Andrew
112. S. Entwistle
113. Ellen Barth
114. Diane Kanegae
115. Candace Hyde-Wang
116. Becca Freed
117. Jeffrey Heller
118. Amelia Fernholz
119. Lori Perlstadt
120. Bianca Walser
121. Eric
122. Barbara Gilbert
123. Eric Snow
124. Lisa Goodman
125. Robert Clear
126. Dorothea Dorenz
127. Theo Posselt
128. 58 similarly-worded form letters
129. 288 similarly-worded form letters

**Item#19: Referral to Rezone Gilman Street to Maximize Revenue Productivity Per Acre**

130. Donna DeDiemar

**Communications**

131. Berkeley Launches Specialized Care Unit (SCU)
132. Debbie Notkin of Public Bank

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

**TUESDAY, SEPTEMBER 26, 2023**

**5:00 P.M.**

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

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – MARK HUMBERT

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1614522259>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 452 2259**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.*

## Preliminary Matters

**Roll Call:** 5:06 p.m.

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

**Absent:** Bartlett

**Public Comment - Limited to items on this agenda only** – 0 speakers

## CLOSED SESSION:

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

### 1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(3):

a. Claim of D.L. Falk Construction Inc.

The document constituting the threat of litigation under Government Code section 54956.9, subdivision (e)(3), is attached for public inspection.

**Action:** No reportable action taken.

## OPEN SESSION:

No reportable action taken.

## Adjournment

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

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

Adjourned at 5:37 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting of the City Council held on September 26, 2023.

\_\_\_\_\_  
Mark Numainville, City Clerk



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

**Tuesday, September 26, 2023  
6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – MARK HUMBERT

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## Preliminary Matters

**Roll Call:** 6:10 p.m.

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

**Absent:** None

## Action Calendar – Public Hearings

### 1. **ZAB Appeal: 705 Euclid Avenue, Use Permit #ZP2022-0104**

**From:** City Manager

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution to modify and approve the project approved by the Zoning Adjustments Board (ZAB) for Use Permit (# ZP2022-0104) to construct a new three-story, 4,528 square foot single family dwelling with two parking spaces and associated retaining walls located in the setbacks, on a 6,024 square foot vacant lot, and dismiss the appeal. The original project has been revised, as described in Response 1 of this report, to reduce the maximum building height by approximately two feet (from 41-foot, 11-inches to 39-feet, 5-inches).

**Financial Implications:** See report.

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

**Public Testimony:** The Mayor opened the public hearing. 3 speakers.

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

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

Councilmember Bartlett absent 7:01 p.m. – 7:08 p.m.

**Action:** M/S/C (Robinson/Humbert) to adopt Resolution No. 71,056–N.S. to modify and approve the revised project approved by the Zoning Adjustments Board (ZAB) for Use Permit (# ZP2022-0104) to construct a new three-story, 4,528 square foot single family dwelling with two parking spaces and associated retaining walls located in the setbacks, on a 6,024 square foot vacant lot, and dismiss the appeal. The original project has been revised, as described in Response 1 of this report, to reduce the maximum building height by approximately two feet (from 41-foot, 11-inches to 39-feet, 5-inches).

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

**2. ZAB Appeal: 1598 University Avenue, Use Permit #ZP2022-0099**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Use Permit ZP#2022-0099, to demolish a non-residential structure and construct a 127,492 square foot, eight-story (89 feet-2 inches) mixed-use residential building containing 207 dwelling units (21 Very Low-Income) and a 5,943 square foot commercial space, with 39 automobile parking spaces and 92 bicycle parking spaces, utilizing State Density Bonus Law, subject to revised conditions of approval.

**Financial Implications:** See report.

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

**Public Testimony:** The Mayor opened the public hearing. 12 speakers.

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

**Vote:** All Ayes.

**Action:** M/S/C (Harrison/Taplin) to adopt Resolution No. 71,057–N.S. affirming the decision of the Zoning Adjustments Board to approve Use Permit ZP#2022-0099, to demolish a non-residential structure and construct a 127,492 square foot, eight-story (89 feet-2 inches) mixed-use residential building containing 207 dwelling units (21 Very Low-Income) and a 5,943 square foot commercial space, with 39 automobile parking spaces and 92 bicycle parking spaces, utilizing State Density Bonus Law, subject to revised conditions of approval with the revised/added conditions of approval below.

- COA #65 Transportation – Utility Box. The applicant shall relocate the utility box structures located at the intersection of University Avenue and California Street with direction and approval from the City and utility providers.
- COA #66 Transportation-Loading Zone. Loading zone areas shall be located on California Street, adjacent to the southern portion of the parcel, with placement and length of loading zone subject to city traffic engineering approval.
- COA #70 Landscape Maintenance. All landscaping per the attached approved drawings dated May 3, 2023 shall be maintained in perpetuity with the project.

**Vote:** All Ayes.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 9:06 p.m.

I hereby certify that the forgoing is a true and correct record of the special meeting held on September 26, 2023.

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Mark Numainville, City Clerk

## Communications

### **Item #1: ZAB Appeal: 705 Euclid Avenue, Use Permit #ZP2022-0104**

1. Shona Armstrong, on behalf of Harper & Armstrong, LLP

### **Item #2: ZAB Appeal: 1598 University Avenue, Use Permit #ZP2022-0099**

2. Nancy Richerson
3. Elizabeth Sharada Kowal

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

### **Item #2: ZAB Appeal: 1598 University Avenue, Use Permit #ZP2022-0099**

4. David Ushijima
5. Toni Mester
6. Maha Parameswaran
7. Bentley Drake
8. Larry Mandella

## Supplemental Communications and Reports 3

### **Item #1: ZAB Appeal: 705 Euclid Avenue, Use Permit #ZP2022-0104**

9. Presentation, submitted by Planning and Development
10. Anonymous voice messages

### **Item #2: ZAB Appeal: 1598 University Avenue, Use Permit #ZP2022-0099**

11. Presentation, submitted by Planning and Development
12. Elizabeth Kowal (2)
13. Isaiah Stackhouse, on behalf of Trachtenberg Architects
14. Anonymous

### **Miscellaneous Communications**

15. Zoom Meetings – Todd Andrew
16. Doomsday Asteroid – Mr. Eid

## BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

**MONDAY, OCTOBER 2, 2023**

**3:00 P.M.**

REDWOOD ROOM – 2180 MILVIA STREET, BERKELEY, CA 94704

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

TELECONFERENCE LOCATION - 1619 EDITH STREET, BERKELEY, CA 94703

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – MARK HUMBERT

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1602668772>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 266 8772**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.*

## Preliminary Matters

**Roll Call:** 3:06 p.m.

**Present:** Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin

**Absent:** Kesarwani, Bartlett

**Public Comment - Limited to items on this agenda only – 1 speaker**

## CLOSED SESSION:

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

### 1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957(b):

- a. Title of position to be evaluated: City Attorney

**Action:** No reportable action taken.

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

Negotiators: Dee Williams-Ridley, City Manager, Anne Cardwell, Deputy City Manager, LaTanya Bellow, Deputy City Manager, Aram Kouyoumdjian, Human Resources Director, Dawud Brewer, Employee Relations Manager, Jonathan Holtzman, Renne Public Law Group

Employee Organizations: Berkeley Fire Fighters Association Local 1227 I.A.F.F., Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; Berkeley Police Association; SEIU 1021 Community Services and Part-time Recreation Activity Leaders, SEIU 1021 Maintenance and Clerical, Public Employee Union Local 1, Unrepresented Employees

**Action:** No reportable action taken.

## OPEN SESSION:

No reportable action taken.

## Adjournment

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

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

Adjourned at 5:27 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on October 2, 2023.

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Mark Numainville, City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, October 3, 2023**  
**6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – MARK HUMBERT

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1600539994> If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 053 9994**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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## **Preliminary Matters**

**Roll Call:** 6:11 p.m.

**Present:** Kesarwani, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin

**Absent:** Taplin, Bartlett

Councilmember Taplin present at 6:22 p.m.

Councilmember Bartlett present at 6:27 p.m.

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

### **Ceremonial Matters:**

1. Recognition of Dysautonomia Awareness Month
2. Recognition of Indigenous Peoples Day, October 9, 2023
3. Adjourned in Memory of Christopher Adams, Former City Commissioner
4. Adjourned in Memory of Maura Ghizzoni, Berkeley Resident

### **City Auditor Comments:**

The City Auditor condemned the recent incidents of hate speech at public meetings and thanked the Council for their response to the incidents.

**City Manager Comments:** None

**Public Comment on Non-Agenda Matters:** 20 speakers.

Recess 7:26 p.m. – 7:49 p.m.

**Public Comment by Employee Unions:** 1 speaker.



**Action:** M/S/C (Arreguin/Humbert) to accept an urgency item from Councilmember Wengraf pursuant to Government Code Section 54954.2(b)(2) entitled Resolution Re-Affirming City of Berkeley's Condemnation of Anti-Semitism and Other Expressions of Hate Speech.

**Vote:** All Ayes.

**Public Comment on Consent Calendar and Information Items Only:** 12 speakers.

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

**Vote:** All Ayes.

## Consent Calendar

**Urgent Item: Resolution Re-Affirming City of Berkeley's Condemnation of Anti-Semitism and Other Expressions of Hate Speech**

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

**Recommendation:** Adopt a Resolution Re-Affirming the City of Berkeley's Condemnation of Anti-Semitism and all forms of Hate Speech.

**Financial Implications:** None

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

**Action:** Adopted Resolution No. 71,058–N.S.

### 1. **Utility Easement: Bolivar Drive – East Bay Municipal Utility District**

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,883–N.S. authorizing and directing the City Manager to convey a utility easement to the East Bay Municipal Utility District along Bolivar Drive at Aquatic Park.

**First Reading Vote: Vote:** All Ayes.

**Financial Implications:** None

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

**Action:** Adopted second reading of Ordinance No. 7,883–N.S.

## Consent Calendar

- 2. 2024 Tax Rate: Transportation Network Company User Tax**  
**From: City Manager**  
**Recommendation:** Adopt a second reading of an Ordinance No. 7,886–N.S. setting the 2024 tax rate (effective January 1, 2024) for the transportation network company at the following rates: 56.162 cents on the user for each prearranged trip that originates in the City that is not part of a pooled prearranged trip and 27.424 for each pooled prearranged trip on each user who arranges each prearranged trip that originates in the City and which comprises part of the pooled prearranged trip.  
**First Reading Vote: Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Harrison.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted second reading of Ordinance No. 7,886–N.S.
- 3. Authorizing a Lease of 830 University Avenue to Lifelong Medical Care**  
**From: City Manager**  
**Recommendation:** Adopt a second reading of an Ordinance No. 7,887–N.S. authorizing the City Manager to enter into a lease for 830 University with Lifelong Medical Care (Lifelong).  
**First Reading Vote: Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Harrison.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted second reading of Ordinance No. 7,887–N.S.
- 4. Police Accountability Board – Appointment of New Member**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Robinson.  
**Financial Implications:** See report  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 71,059–N.S.
- 5. Revenue Contract with City of Emeryville for Animal Care Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a revenue contract and all necessary amendments with the City of Emeryville for a term of 33 months (Oct 6, 2023 – June 30, 2026) at a total amount not to exceed \$235,548.  
**Financial Implications:** See report  
Contact: Peter Radu, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 71,060–N.S.

## Consent Calendar

**6. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 3, 2023**

**From: City Manager**

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

**Financial Implications:** See report

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

**Action:** Approved recommendation.

**7. Contract No. 9791 Amendment: Environmental Systems Research Institute, Inc. (ESRI) for Enterprise Graphical Information Systems (GIS) Software License Maintenance and Support**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9791 with Environmental Systems Research Institute, Inc. (Esri) for Enterprise GIS software license maintenance and support, increasing the amount by \$279,750 for a not-to-exceed total of \$900,750 for the period of July 1, 2023 through June 30, 2026.

**Financial Implications:** See report

Contact: Kevin Fong, Information Technology, (510) 981-6500

**Action:** Adopted Resolution No. 71,061–N.S.

**8. Contract No. 114382-1 Amendment: M.C. Dean for UPS Maintenance**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 114382-1 with M.C. Dean, Inc. for Uninterrupted Power Supply (UPS) maintenance, increasing the amount by \$115,016 for a total not to exceed \$261,922 from July 1, 2014 to June 30, 2026.

**Financial Implications:** IT Cost Allocations Fund - \$115,016.

Contact: Kevin Fong, Information Technology, (510) 981-6500

**Action:** Adopted Resolution No. 71,062–N.S.

## Action Calendar – Public Hearings

### 9. Ambulance Transport Fee Increase

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution adjusting the Ambulance User Fee to match Alameda County's approved ambulance user fee schedule made effective July 1, 2023, for the Cities of Alameda, Albany, Berkeley, and Piedmont. The increase would be included as an updated addendum to the Ambulance Provider Agreement, and rescinding Resolution 70,726–N.S.

**Financial Implications:** See report

Contact: David Sprague, Fire, (510) 981-3473

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

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to adopt Resolution No. 71,063–N.S.

**Vote:** All Ayes.

### 10. Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development (Continued from September 19, 2023) (Item contains revised and supplemental material)

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of an ordinance amending Berkeley Municipal Code (BMC) Title 23, and repealing BMC Chapter 12.99, relating to Accessory Dwelling Units and Junior Accessory Dwelling Units.

**Financial Implications:** See report

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

**Action:** M/S/C (Arreguin/Kesarwani) to re-open the public hearing. 11 public speakers.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Taplin) to suspend the rules and extend the meeting to 11:15 p.m.

**Vote:** All Ayes.

**Action:** M/S/Carried (Wengraf/Hahn) on the severed portion of the substitute motion to accept Policy Alternative #1 regarding the front setback as proposed by Councilmember Wengraf in the Supplemental materials submitted for the October 3 meeting.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

**Action:** M/S/Failed (Wengraf/Hahn) on the severed portion of the substitute motion to accept Policy Alternative #2 regarding the time restrictions for conversions.

**Vote:** Ayes – Hahn, Wengraf; Noes – Kesarwani, Taplin, Bartlett, Harrison, Robinson, Humbert, Arreguin.

**Action:** M/S/Carried (Wengraf/Hahn) on the severed portion of the substitute motion to accept Policy Alternative #3 regarding neighbor noticing.

**Vote:** All Ayes.

**Action:** M/S/Failed (Wengraf/Hahn) to:

- 1) Adopt the Ordinance as proposed by the Planning and Development Department in Supplemental Communications Packet #2 for the October 3, 2023 meeting.
- 2) Adopt Policy Alternatives 1 and 3
- 3) Keep the height requirements as proposed by staff (not adopting 20-foot uniform height standard citywide).
- 4) Refer to the City Manager to consider changes to development standards with specific consideration for setbacks, height, and building separation, for accessory buildings and structures to promote fire safety citywide.
- 5) Request for an annual report on ADUs, JADUs, the rents of those units, and the utilization of those units in order to count ADUs for RHNA goals.

**Vote:** Ayes – Hahn, Wengraf; Noes – Kesarwani, Taplin, Bartlett, Harrison, Robinson, Humbert, Arreguin.

**Action:** M/S/Carried (Kesarwani/Humbert) on the severed portion of the main motion to include the 20-foot uniform height limit citywide.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Robinson, Humbert, Arreguin; Noes – Hahn, Wengraf.

**Action:** M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to accept Policy Alternative #1 regarding the front setback as proposed by Councilmember Wengraf in the Supplemental materials submitted for the October 3 meeting.

**Vote:** All Ayes.

**Action:** M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to reject Policy Alternative #2 regarding the time restrictions for conversions.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Robinson, Humbert, Arreguin; Noes – Hahn, Wengraf.

**Action:** M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to accept Policy Alternative #3 regarding neighbor noticing.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

**Action:** M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to use the definition of public transit in Government Code Section 65852.2(j)(11).

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Robinson, Humbert, Arreguin; Noes – Wengraf.

**Action:** M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to refer to the City Manager to conduct a resident survey or to use publicly available data on ADU rent levels to anticipate affordability, as described in the HCD ADU Handbook on pg. 26, contingent on available funding.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Robinson, Humbert, Arreguin; Noes – Wengraf.

**Action:** M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to refer to the City Manager to consider changes to development standards with specific consideration for setbacks, height, and building separation, for accessory buildings and structures to promote fire safety citywide.

**Vote:** All Ayes.

**Action:** M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to refer to the City Manager to return to Council when the evacuation study is completed.

**Vote:** All Ayes.

**Action:** M/S/C (Kesarwani/Humbert) to:

- 1) Adopt first reading of Ordinance No. 7,888–N.S. as proposed by the Planning and Development Department in Supplemental Communications Packet #2 for the October 3, 2023 meeting. Second reading scheduled for November 7, 2023.
- 2) Modify the language in the ordinance on transit to use the definition of public transit in subdivision (j)(11) of Government Code Section 65852.2.
- 3) Accept Policy Alternative 1 as proposed by Councilmember Wengraf in the Supplemental materials submitted for the October 3 meeting.
- 4) Reject Policy Alternative 2 (3-year restriction on conversion of AB to ADU).
- 5) Accept Policy Alternative 3 (neighborhood notice).
- 6) Adopt a 20-foot uniform height Citywide as recommended in the Supplemental materials from Councilmember Kesarwani submitted for the October 3 meeting.
- 7) Refer to the City Manager to return to Council with the results of the evacuation study specific to ADUs for the Hillside Overlay District for the purpose of considering any modifications to the ADU Ordinance.
- 8) Refer to the City Manager to conduct a resident survey or to use publicly available data on ADU rent levels to anticipate affordability, as described in the HCD ADU Handbook on pg. 26, contingent on available funding.
- 9) Refer to the City Manager to consider changes to development standards with specific consideration for setbacks, height, and building separation, for accessory buildings and structures to promote fire safety citywide.

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

## Action Calendar – Old Business

11. **Status Report - Berkeley's Financial Condition (FY 2012 – FY 2021): Pension Liabilities and Infrastructure Need Attention** (*Continued from June 27, 2023*)  
**From: City Manager**  
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000  
**Action:** Moved to Consent Calendar. Held over to October 10, 2023 meeting.

## Information Reports

12. **Sanctuary City Contracting Compliance Report for FY 2023**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Received and filed.
13. **Update on the Implementation of Fair and Impartial Policing Task Force Recommendations**  
**From: City Manager**  
Contact: Jennifer Louis, Police, (510) 981-5900  
**Action:** Received and filed.

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

## Adjournment

**Action:** M/S/C (Arreguin/Humbert) to adjourn the meeting.  
**Vote:** All Ayes.

Adjourned at 11:05 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting held on October 3, 2023.

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Mark Numainville, City Clerk

## Communications

### Garbage Rates

1. Melanie Lawrence and John Smail

### 2274 Shattuck

2. Melanie Lawrence

### Tool Lending Library

3. David Lerman

**Ohlone Park**

4. Walter Wood

**Police Matters**

5. Janice Schroeder

**Berkeley Marina**

6. Peter Kuhn

**Berkeley Commissioners**

7. Cameron Woo

**BART**

8. Jack Kurzweil

9. Melinda Howard-Herrarte, on behalf of the Sierra Club

**Staff Shortages**

10. Eric Friedman

**Lights and Paving**

11. Kathleen Davis

**BioTech Labs**

12. Ryian Adam Matthews

**Senior Citizen**

13. Sharon Turnoy

**Marina Dock Replacement**

14. Camille Antinori

**United Artist Theater**

15. Allen Michaan

**Gasoline Leaf Blowers**

16. Nina Sprecher

**Berkeley Diversity**

17. Sacha

**Longfellow School**

18. Anthony Vidal

19. Mara Greenaway



- 20. Liz Linden
- 21. James Angus

**Ohlone Greenway**

- 22. Mary Behm-Steinberg

**Hopkins Corridor**

- 23. Robion Kirby

**McGee Avenue and Allston Way**

- 24. Cheng Zhang

**Landlords**

- 25. Diana Bohn

**Waterfront Specific Plan**

- 26. Jim McGrath

**Youth Peace**

- 27. Youth Peace Program

**Fight Inequity**

- 28. Sylvia Mendez

**Berkeley Flag**

- 29. Aditya Prathap

**URL's Only**

- 30. Vivian Warkentin

**Supplemental Communications and Reports 1**

**Item #10: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**

- 31. Revised material, submitted by Planning and Development
- 32. Jamie Candelaria, on behalf of the Department of Housing and Community Development
- 33. Marvin Snow
- 34. Valerie Knepper
- 35. E. Louise
- 36. Joan Andersson
- 37. Bruce Feingold

**Supplemental Communications and Reports 2**

**Item #10: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**

- 38. Revised material, submitted by Planning and Development
- 39. Supplemental material, submitted by Councilmember Harrison
- 40. Supplemental material, submitted by Councilmember Wengraf
- 41. Supplemental material, submitted by Councilmember Kesarwani
- 42. Bret Peterson
- 43. Claire Broome
- 44. Ranjit Bharvirkar
- 45. Ryan O'Connell
- 46. Kelly Hammargren
- 47. George Porter
- 48. Robert Sonderegger
- 49. Christine Rosen
- 50. Shirley Dean

**Urgent Item: Adopt a Resolution Re-Affirming the City of Berkeley's Condemnation of Anti-Semitism and all forms of Hate Speech**

- 51. Urgent item, submitted by Councilmember Wengraf

**Supplemental Communications and Reports 3**

**Item #10: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**

- 52. California Housing Defense Fund
- 53. Virginia Browning
- 54. Alden Mudge
- 55. Ryan O'Connell
- 56. Richard Thomason
- 57. Alex Benn
- 58. David Mendelsohn
- 59. Phyllis Orrick
- 60. Lisa and Tim Goodman
- 61. Jan Knecht
- 62. Debra Sanderson (2)
- 63. Kelly Hammargren
- 64. Mary Stevens
- 65. George Porter
- 66. Zela Claiborne
- 67. J. Eric Barko
- 68. Steven Segal
- 69. Jonathan Bailey
- 70. Todd Andrew
- 71. Bryce Nesbitt
- 72. Todd Jersey

**Miscellaneous Communications**

73. Berkeley Specialized Unit (SCU)

74. Indigenous People's Day

75. Monstrous Housing Crises - Anonymous

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

**TUESDAY, OCTOBER 10, 2023**

**3:00 P.M.**

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

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – MARK HUMBERT

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## Preliminary Matters

**Roll Call:** 3:11 p.m.

**Present:** Hahn, Wengraf, Robinson, Humbert, Arreguin

**Absent:** Kesarwani, Taplin, Bartlett, Harrison

Councilmember Kesarwani present 3:15 p.m.

Councilmember Taplin present 3:29 p.m.

Councilmember Bartlett present at 3:38 p.m.

**Public Comment - Limited to items on this agenda only** – 0 speakers

## CLOSED SESSION:

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

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

Negotiators: Dee Williams-Ridley, City Manager, Anne Cardwell, Deputy City Manager, LaTanya Bellow, Deputy City Manager, Aram Kouyoumdjian, Human Resources Director, Dawud Brewer, Employee Relations Manager, Jonathan Holtzman, Renne Public Law Group

Employee Organizations: Berkeley Fire Fighters Association Local 1227 I.A.F.F., Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; Berkeley Police Association; SEIU 1021 Community Services and Part-time Recreation Activity Leaders, SEIU 1021 Maintenance and Clerical, Public Employee Union Local 1, Unrepresented Employees

**Action:** No reportable action taken.

## OPEN SESSION:

No reportable action taken.

## Adjournment

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

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

Adjourned at 4:19 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on October 10, 2023.

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Mark Numainville, City Clerk

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

**Tuesday, October 10, 2023  
4:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

JESSE ARREGUIN, MAYOR  
Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – MARK HUMBERT

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## Preliminary Matters

**Roll Call:** 4:42 p.m.

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

**Absent:** None

## Worksession

### 1. City Council Legislative Systems Redesign

#### **From: Agenda & Rules Committee**

Contact: Jesse Arreguin, Mayor, (510) 981-7100, Sophie Hahn, Councilmember, District 5, (510) 981-7150, Susan Wengraf, Councilmember, District 6, (510) 981-7160

**Action:** 3 speakers. Presentation made and discussion held. New and existing materials referred to the Agenda & Rules Committee for further consideration.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 6:31 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting held on October 10, 2023.

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Mark Numainville, City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

### **Item #1: City Council Legislative Systems Redesign**

1. Supplemental material, submitted by Councilmember Harrison, Robinson and Taplin
2. David Couch
3. Summer Brenner
4. Lori Kossowsky
5. Janice Schroeder
6. Bernard Marszalek
7. Beverly Crawford

8. Carol Hirth
9. Melanie Lawrence and John Smail
10. David Bacon
11. Eric Friedman
12. Lisa Bruce
13. Elana Auerbach

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

#### **Item #1: City Council Legislative Systems Redesign**

14. Presentation, submitted by Councilmember Hahn
15. Meryl Siegal
16. Gary McDole
17. Sally Nelson
18. Tse-Sung Wu



**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, October 10, 2023**  
**6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
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## Preliminary Matters

**Roll Call:** 6:32 p.m.

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

**Absent:** None

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

### Ceremonial Matters:

1. Adjourned in Memory of Lloyd A. Edwards II, Berkeley Native and Civic Leader
2. Adjourned in Memory of all persons who have died through acts of terrorism

### City Manager Comments:

The City Manager presented an update on the Homeless Response Team.

**Public Comment on Non-Agenda Matters:** 11 speakers.

**Action:** M/S/C (Arreguin/Harrison) to accept an urgency item from Councilmember Robinson pursuant to Government Code Section 54954.2(b)(2) entitled Opening the Dwight Triangle.

**Vote:** All Ayes.

**Public Comment on Consent Calendar and Information Items Only:** 11 speakers.

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

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

Councilmember Harrison absent 7:42 p.m. – 8:01 p.m.

Councilmember Bartlett absent 7:43 p.m. – 8:01 p.m.

## Consent Calendar

### **Urgent Item: Opening the Dwight Triangle**

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

**Recommendation:**

Refer to the City Manager to open the fence-enclosed space in the Dwight Triangle, at the intersection of Telegraph Avenue and Dwight Way, for public use and recreation. Additionally, refer to the City Manager to install permanent chess tables and benches and to consider any landscaping improvements deemed necessary by staff.

Refer \$25,000 to the November AAO #1 budget process for improvements to the Dwight Triangle, including but not limited to permanent chess tables, benches, landscaping improvements, traffic calming, and signage associated with opening the Dwight Triangle for public use and recreation. City staff should consider if existing funds are able to be utilized to allow the space to be improved sooner.

**Financial Implications:** See report

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

**Action:** Approved recommendation.

## Consent Calendar – Continued Business

**A. Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**

*(Continued from October 3, 2023)*

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,888-N.S. amending Berkeley Municipal Code (BMC) Title 23, and repealing BMC Chapter 12.99, relating to Accessory Dwelling Units and Junior Accessory Dwelling Units.

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

**Financial Implications:** See report

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

**Action:** Adopted second reading of Ordinance No. 7,888–N.S.

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

## Consent Calendar

**1. \*\*\*Item Removed by the City Manager\*\*\* City Council Rules of Procedure and Order Revisions**

**From: City Manager**

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

## Consent Calendar

**2. Write-Off of a Delinquent Revolving Loan Fund (RLF) Balance of \$25,000 Owed by Kidventurez, Inc.**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the write-off of the outstanding loan balance of \$25,000 owed by Kidventurez Inc. to the City's federally-funded Revolving Loan Fund (RLF) in accordance with the RLF Administrative Plan.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,064–N.S.

**3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 10, 2023**

**From: City Manager**

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

**Financial Implications:** See report

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

**Action:** Approved recommendation.

**4. Revenue Contracts: Aging Services Programs, Fiscal Years 2024 - 2026**

**From: City Manager**

**Recommendation:** Adopt five Resolutions authorizing the City Manager or her designee to execute any resultant revenue agreements and amendments with Alameda County to provide congregate and home-delivered meals, family caregiver support, senior center activities and information and assistance services to seniors for the following programs for Fiscal Year 2024 thru Fiscal Year 2026 (FY2024-FY2026):

a. Congregate Meals in an amount not to exceed \$213,000;

b. Home Delivered Meals in an amount not to exceed \$440,000;

c. Family Caregiver Support Program in an amount not to exceed \$126,500;

d. Senior Center Activities in an amount not to exceed \$136,000; and

e. Information and Assistance Services in an amount not to exceed \$460,000.

**Financial Implications:** See report.

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

**Action:** Adopted Resolution No. 71,065–N.S. (Congregate Meals), Resolution No. 71,066–N.S. (Home Delivered), Resolution No. 71,067–N.S. (Family Caregiver), Resolution No. 71,068–N.S. (Senior Center), Resolution No. 71,069–N.S. (Information and Assistance).

## Consent Calendar

**5. Develop and maintain Homelessness Prevention reporting module in City Data Services for Streamlined Community Agency Contract Administration and Monitoring**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32100038 with City Data Services (CDS) to allocate \$10,760 to develop and maintain a Homelessness Prevention module in the online data management system utilized by the Department of Health, Housing and Community Services (HHCS) for a total contract not to exceed amount of \$139,400.

**Financial Implications:** General Fund - \$10,760

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

**Action:** Adopted Resolution No. 71,070–N.S.

**6. Establish Classification and Salary Range – Graphic Designer**

**From: City Manager**

**Recommendation:** Adopt a Resolution establishing the unrepresented classification and salary range of Graphic Designer as outlined, with an hourly range of \$39.5233 - \$48.5000 and an annual salary range of \$82,208.4870 - \$100,880.0000.

**Financial Implications:** See report

Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

**Action:** Adopted Resolution No. 71,071–N.S.

**7. Contract: EdgeSoft for Data Automation Services and Support for Toxics Management Division**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments which align with the City of Fremont's existing contract and any amendments with EdgeSoft Inc., to provide data automation services and support for the Toxics Management Division from December 1, 2023 until November 31, 2028 in an amount not to exceed \$128,375.

**Financial Implications:** CUPA Fund - \$128,375

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

**Action:** Adopted Resolution No. 71,072–N.S.

## Consent Calendar

- 8. Contract: Flock Safety to Provide ALPR Cameras Services Pursuant to Resolution No. 71,013-N.S.**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Flock Safety to provide Automated License Plate Reader (ALPR) cameras services for the Berkeley Police Department (BPD), in an amount of \$344,500 for a total contract amount not to exceed \$425,000, and extending the term for a period of time of two years from the date of implementation.  
**Financial Implications:** See report  
Contact: Jennifer Louis, Police, (510) 981-5900  
**Action:** Adopted Resolution No. 71,073–N.S.  
**Vote:** Ayes – Kesarwani, Taplin, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – Hahn; Absent – Bartlett, Harrison.
- 9. Contract No. 32300191 Amendment: Pacific Site Management: Landscaping Services for Public Works and Health, Housing, and Community Services Department**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32300191 with Pacific Site Management to increase the spending authority by \$150,000 for a total not to exceed \$260,000.  
**Financial Implications:** See Report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 71,074–N.S.
- 10. Contract No. 108037-1 Amendment: MSR Mechanical, LLC for on-call heating, ventilation and air conditioning services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an Amendment to Contract No. 108037-1, with MSR Mechanical LLC: to increase the contract amount by \$350,000 for a total contract amount not to exceed \$480,000; and to extend the contract term through June 30, 2025.  
**Financial Implications:** Various Funds - \$350,000  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 71,075–N.S.

## Consent Calendar

**11. Grant Application: Safe Routes to BART Grant Program for the Ohlone Greenway Modernization and Safety Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or their designee to: Submit a grant application to Bay Area Rapid Transit (BART) to receive up to \$3 million from the Safe Routes to BART (SR2B) Grant Program to help close the funding gap for construction of safety-related improvements to the Ohlone Greenway shared-use pathway as part of the Ohlone Greenway Modernization and Safety Project; Accept the grants awarded; and Execute any resultant agreements and amendments.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,076–N.S.

**12. Purchase Order: Western Truck Center for Four Front Loaders**

**From: City Manager**

**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcwell contract bid procedures, and authorizing the City Manager to execute a purchase of four (4) Front Loaders with Western Truck Center in an amount not to exceed \$2,050,000.

**Financial Implications:** Equipment Replacement Fund - \$2,050,000

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

**Action:** Adopted Resolution No. 71,077–N.S.

**13. Renewal of the Elmwood Avenue BID for Calendar Year 2024**

**From: Elmwood Advisory Board**

**Recommendation:** Adopt a Resolution approving the Elmwood Business Improvement District Advisory Board’s (hereafter “Elmwood BID Advisory Board” or “the Advisory Board”) recommendation that Council: 1) approve the 2023 Annual Report and preliminary budget for proposed improvements in the District for calendar year 2024; 2) declare its intent to levy an assessment to finance improvements in the District for calendar year 2024 and 3) direct the City Clerk to schedule a public hearing on the renewal and expansion of the assessment area for November 14, 2023.

**Financial Implications:** See report

Contact: Kieron Slaughter, Commission Secretary, (510) 981-7530

**Action:** Adopted Resolution No. 71,078–N.S.

## Consent Calendar

### 14. **Renewal of the Solano Avenue BID for Calendar Year 2024**

**From: Solano Avenue BID Advisory Board**

**Recommendation:** Adopt a Resolution approving the Solano Avenue Business Improvement District Advisory Board's (hereafter "Solano BID Advisory Board" or "the Advisory Board") recommendation that Council: 1) approve the 2023 Annual Report and preliminary budget on proposed improvements in the District for calendar year 2024; 2) declare its intent to levy an assessment to finance improvements in the District for calendar year 2024; and 3) direct the City Clerk to schedule a public hearing on the renewal of the assessment for November 14, 2023.

**Financial Implications:** See report

Contact: Vincent McCoy, Commission Secretary, (510) 981-7530

**Action:** Adopted Resolution No. 71,079–N.S.

Recess 8:01 p.m. – 8:21 p.m.

## Action Calendar – Continued Business

### B. **Status Report - Berkeley's Financial Condition (FY 2012 – FY 2021): Pension Liabilities and Infrastructure Need Attention** *(Continued from October 3, 2023)*

**From: City Manager**

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

**Action:** 3 speakers.

## Information Reports

### 15. **Fiscal Year 2024 Civic Arts Grant Awards**

**From: City Manager**

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

**Action:** Received and filed.

## Public Comment – Items Not Listed on the Agenda - 2 speakers.

## Adjournment

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

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

Councilmember Wengraf absent 8:58 p.m. – 9:00 p.m.

Adjourned at 9:00 p.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting held on October 10, 2023.



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Mark Numainville, City Clerk

## **Communications**

### **Fire Lessons**

1. Barbara Gilbert
2. Susan Nunes
3. Kelly Hammargren

### **Parking Enforcement**

4. Jesse McCaffrey

### **Camping in Parks**

5. David Lerman

### **Waterfront Specific Plan**

6. Robert Ofsevit

### **Southside Complete Streets**

7. Dan Auten

### **Hazardous Waste Drop-off**

8. David Lerman

### **Ohlone Path**

9. Carol Denney

### **Bio Labs**

10. Anne Herrick (2)
11. Biolab Watch

### **Cannabis Assessment**

12. Ryan Whitacre

### **Golden Gate Fields**

13. Judd Goodman

### **Crime**

14. Melissa Jones
15. Nina Lyons

### **Event Signage**

16. Isabella

**Paving Funding**

17. Eric Friedman

**Signs Creating Blight**

18. Justine Tenzeldam

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19. Heather Ball

**Parking Ticket Error**

20. Constance Hale

**Electric Micromobility Permit**

21. Todd Andrew

**Trash Bills**

22. Paul Worthman

**Berkeley Today Event Invite**

23. Beth Roessner, on behalf of Berkeley Chamber

**URL's Only**

24. Vivian Warkentin

**Supplemental Communications and Reports 1**

**Item #8: Contract: Flock Safety to Provide ALPR Cameras Services Pursuant to Resolution No. 71,013-N.S.**

25. Jean Paul Bourdier

**Supplemental Communications and Reports 2**

**Item #A: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**

26. Todd Jersey

27. Theo Posselt

28. Kathleen Frumkin

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**Item #8: Contract: Flock Safety to Provide ALPR Cameras Services Pursuant to Resolution No. 71,013-N.S.**

- 29. Sandy Lee
- 30. Sabina Ghimire
- 31. Sagar Jethani
- 32. Sarika Shinde
- 33. Jill Travis
- 34. Roberto Reynoso
- 35. Karen Skinner
- 36. Melissa Jones

## **Urgent Items**

### **Relinquishment of Council Office Budget Funds to the General Fund and Grant of Such Funds to promote Chess on Telegraph Avenue**

37. Urgent item, submitted by Councilmember Robinson

### **Opening the Dwight Triangle**

38. Urgent item, submitted by Councilmember Robinson

## **Supplemental Communications and Reports 3**

### **City Manager Comments**

39. Presentation, Homeless Team Update

### **Item #A: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**

40. George Lakoff

### **Item #8: Contract: Flock Safety to Provide ALPR Cameras Services Pursuant to Resolution No. 71,013-N.S.**

- 41. Susan Dally
- 42. Talne
- 43. Lori Zavela
- 44. Jeannie Cecka
- 45. Grace Pokorny
- 46. Saralynn Ness
- 47. Ingrid Safranek

### **Item B: Status Report – Berkeley’s Financial Condition (FY 2012-FY 2021): Pension Liabilities and Infrastructure Need Attention**

- 48. Presentation, submitted by the Budget Office
- 49. Jenny Wong, City Auditor

## **Urgent Items**

### **Opening the Dwight Triangle**

- 50. Greg Hoff
- 51. Anawin Juntanamalaga

- 52. Doris Moskowitz, on behalf of Moe's Books
- 53. Marc Weinstein, on behalf of Amoeba Music

**Miscellaneous Communications**

- 54. Messages from Mr. Eid



Office of the City Manager

CONSENT CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: Police Accountability Board – Appointment of New Member

RECOMMENDATION

Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Kesarwani.

FISCAL IMPACTS OF RECOMMENDATION

All commissioners are eligible to receive a stipend of \$100 per meeting.

CURRENT SITUATION AND ITS EFFECTS

In June of 2021 the Mayor and Members of the City Council nominated and appointed the initial nine members of the PAB and also appointed one alternate commissioner.

There are currently two seats on the PAB that are vacant. The alternate seat is also vacant.

Councilmember Kesarwani has nominated Alexander Mozes to serve on the Police Accountability Board. Mr. Mozes meets the eligibility criteria in the City Charter and may be appointed by a majority vote of the Council.

| <b>Commissioner</b> | <b>Nominated By</b>     |
|---------------------|-------------------------|
| <i>vacant</i>       | Mayor Arreguin          |
| <i>vacant</i>       | Councilmember Kesarwani |
| Regina Harris       | Councilmember Taplin    |
| John Moore          | Councilmember Bartlett  |
| Kitty Calavita      | Councilmember Harrison  |
| Leah Wilson         | Councilmember Hahn      |
| Juliet Leftwich     | Councilmember Wengraf   |
| Joshua Cayetano     | Councilmember Robinson  |
| Brent Blackaby      | Councilmember Humbert   |
| <i>vacant</i>       | Alternate               |

The City Charter provides for the appointment of members to the Police Accountability Board. Article XVIII, Section 125, Part 6 states, “The Mayor and each City Councilmember shall nominate one candidate from an applicant pool at a meeting of the City Council and that each individual nominee must be approved by a majority vote of the City Council.”

Members of the Police Accountability Board must:

- Be a resident of the City;
- Be at least 18 years of age
- Not be an employee, officer, or contractor with the City, a current sworn police officer from any agency, or a current employee, official, or representative of an employee association representing sworn police officers; and
- Be fair minded and objective with a demonstrated commitment to community service.

The City Charter indicates that desirable qualities of a Board member are familiarity with human resources, law, police procedures, police oversight, or involvement in civil rights or community organizations and that the City Council shall endeavor to establish a Board that is broadly inclusive and reflective of race, ethnicity, age, gender identity, sexual orientation, economic status, neighborhoods, and various communities of interest in the City.

#### BACKGROUND

Measure II was adopted on November 3, 2020 by the voters of Berkeley to establish an Office of the Director of Police Accountability and create a new Police Accountability Board (hereafter “Board”), both of which are independent of the City Manager. The members of the Board are approved by vote of the full Council.

All applicants are reviewed and their eligibility is verified by city staff against the requirements of the Charter.

#### 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 appointment is provided for by the City Charter and pursuant to the nomination submitted by Councilmember Robinson.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

APPOINTMENT OF ALEXANDER MOZES TO THE POLICE ACCOUNTABILITY BOARD

WHEREAS, Measure II was adopted on November 3, 2020 by the voters of Berkeley to create a new Police Accountability Board; and

WHEREAS, Article XVIII, Section 125, Part 6 provides for the Council's appointment of board members; and

WHEREAS, the Councilmember Kesarwani submitted a nominee for appointment by the full council; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the following applicant is hereby appointed to the Police Accountability Board:

| <b>Nominee</b>  | <b>Nominated By</b>     |
|-----------------|-------------------------|
| Alexander Mozes | Councilmember Kesarwani |





Office of the City Manager

CONSENT CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David Sprague, Director, Fire Chief  
 Subject: Grant-Funded Expenditure Contract: O2X Human Performance to Hire a Behavioral Health and Nutritional Health Specialist in Support of NFPA 1582 and 1583

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with O2X Human Performance to provide full-time behavioral and nutritional health services for the Berkeley Fire Department) for a two (2) year contract period that starts November 8, 2023, and ends on November 8, 2025, in an amount not to exceed \$840,000 with the option to extend two (2) additional years via FEMA's amendment process to November 8, 2027.

FISCAL IMPACTS OF RECOMMENDATION

The City was awarded Assistance to Firefighters Grant (AFG) funds on August 7, 2023. The total grant award is \$840,000: Federal portion is \$763,636.36 and the Non-Federal portion, or cost share is \$76,363.64. The designated budget code for this grant is FEMA fund 340-72-742-836-0000-000-000-431110-/FUND\$ Revenue Code: 618-6404-331-1238.

CURRENT SITUATION AND ITS EFFECTS

The Department applied for and was awarded a FEMA Assistance to Firefighters Grant (AFG) in support of the Department's current Wellness and Fitness Program, specifically addressing the Nutrition and Behavioral Health as outlined in NFPA 1582/1583. The term of the grant is 24 months, but the term may be extended following approval from FEMA.

Excellence in emergency response requires more than just physical strength and technical expertise. It demands mental resilience, sharp decision-making skills, and a holistic approach to overall well-being.

Mental Performance Coaching involves training to develop mental skills such as focus, confidence, resilience, and managing emotions. These skills can help responders at all levels perform better under pressure, overcome obstacles, and manage stress and anxiety.

Nutrition coaching will focus on how individual responder's metabolism goals, nutritional intervention aimed at correcting a serious health problem, moderating or eliminating alcohol consumption, and moderating fluctuations in glucose and insulin levels.

### BACKGROUND

The Contractor, O2X Human Performance is currently providing wellness and fitness services for both the Police and Fire Departments procured via Specification No. 20-11380-C. Because this grant award specifically funds new programs directly associated with the current scope of O2X's work, but were not specifically detailed in the original RFP, these new services will be covered in a separate expenditure contract.

First responders experience higher rates of chronic medical and psychological injuries and illnesses than the general population. These issues are often directly correlated to shift work, traumatic experiences and stress, and exposure to carcinogens (Daniels, 2013) (Sritharan, 2017).

Over the past decades, more funding, along with increased media exposure on these topics, has made admissions that there are direct correlations between mental health conditions and public safety work more acceptable. Establishing and maintaining a complete annual physical and wellness program is critical in reducing lost time, befalling mental illness, abusing substances and preventing or detecting long-term chronic health conditions including diabetes, cancer and heart disease within the first responder population.

Wellness programs have reduced healthcare and workers compensation costs associated with injuries and illness. Additionally, responders that are healthy (medically and psychiatrically) are more resilient, make better decisions and are more likely to be at work. O2X Human Performance will provide services vital in continuing the Department's Wellness Program by adding onsite behavioral and nutritional health services. Both of these services increase job performance, support healthy lifestyles and increase the resilience of our emergency responders.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the action requested in this report.

### RATIONALE FOR RECOMMENDATION

The City conducted a competitive bid process in 2020 (Specification No. 20-113380-C) and O2X Human Performance successfully met the bid requirements and ranked highest among all bidders. They are also performing similar services for other agencies such as the City of West Palm Beach, Norfolk Fire-Rescue, Loudoun County Fire and Building Homes for Heroes.

The grant award will allow an enhancement to the current services O2X Human Performance provides. By affording a long-term relationship with a vendor that is committed to providing high quality physical and mental wellness programming that has

been proven to prevent acute and chronic conditions that may otherwise go unidentified by internal peer-based programs.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSONS

David Sprague, Fire Chief, (510) 981-3473

Attachments:

1. Resolution
2. FEMA Award Letter, EMW-2022-FG-00868

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

GRANT-FUNDED EXPENDITURE CONTRACT: O2X HUMAN PERFORMANCE, LLC FOR ADDITIONAL BEHAVIORAL AND NUTRITIONAL HEALTH SERVICES IN SUPPORT OF NFPA 1582/1583

WHEREAS, O2X Human Performance LLC was selected by the City via the RFP process in 2021 (Specification No. 20-11380-C), and their wellness and fitness services were contracted on March 3, 2022 (Contract No. 32200157), and they currently provide said services for both the Fire and Police Departments; and

WHEREAS, on August 8, 2023, FEMA awarded the City \$840,000 (\$763,636.36 in Federal funds and \$76,363.64 in Non-Federal funds). The Fire Department would like to enhance their current wellness and fitness goals by contracting additional related services offered by O2X Human Performance; and

WHEREAS, first responders have a higher rate of chronic medical and psychological injury and illnesses that have been directly correlated to shift work, traumatic experiences and stress, and exposure to carcinogens; and

WHEREAS, shift work has been associated with higher rates of certain types of cancer, type II diabetes, heart disease, stroke, metabolic disorders, sleep disorders, increased risk for reproductive issues, such as irregular menstrual cycles, miscarriage, and preterm birth, chronic stress and depression; and

WHEREAS, PTSD and depression rates among firefighters and police officers have been found to be as much as 5 times higher than the rates within the civilian population, which causes these first responders to commit suicide at a considerably higher rate (firefighters: 18/100,000; general population 13/100,000); and

WHEREAS, first responders that are healthy (medically and psychiatrically) are more resilient, make better decisions and are more likely to be at work; and

WHEREAS, wellness programs have been proven to reduce healthcare and workers compensation costs associated with injuries and illness.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a grant-funded contract and any amendments with O2X Human Performance, LLC (Contractor) to provide behavioral and nutritional health services for the Berkeley Fire Department) for a two (2) year contract period that starts November 8, 2023, and ends on November 8, 2025, in an amount not to exceed \$840,000 with the option to extend two (2) additional years via FEMA's amendment process to November 8, 2027.

## Award Letter

U.S. Department of Homeland Security  
Washington, D.C. 20472

Effective date: 08/07/2023

Cynthia McClellan  
CITY OF BERKELEY  
2180 MILVIA STREET 3RD FLOOR  
BERKELEY, CA 94704

EMW-2022-FG-00868

Dear Cynthia McClellan,



Congratulations on behalf of the Department of Homeland Security. Your application submitted for the Fiscal Year (FY) 2022 Assistance to Firefighters Grant (AFG) Grant funding opportunity has been approved in the amount of \$763,636.36 in Federal funding. As a condition of this grant, you are required to contribute non-Federal funds equal to or greater than 10.0% of the Federal funds awarded, or \$76,363.64 for a total approved budget of \$840,000.00. Please see the FY 2022 AFG Notice of Funding Opportunity for information on how to meet this cost share requirement.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award through the FEMA Grants Outcomes (FEMA GO) system. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Summary Award Memo - included in this document
- Agreement Articles - included in this document
- Obligating Document - included in this document
- 2022 AFG Notice of Funding Opportunity (NOFO) - incorporated by reference

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

Sincerely,

A handwritten signature in blue ink that reads "P. Williams". The signature is written in a cursive style.

PAMELA WILLIAMS  
Assistant Administrator, Grant Programs

## Summary Award Memo

**Program:** Fiscal Year 2022 Assistance to Firefighters Grant

**Recipient:** CITY OF BERKELEY

**UEI-EFT:** KC7DYLV9EF25

**DUNS number:** 076529924

**Award number:** EMW-2022-FG-00868

### Summary description of award

The purpose of the Assistance to Firefighters Grant program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards. After careful consideration, FEMA has determined that the recipient's project or projects submitted as part of the recipient's application and detailed in the project narrative as well as the request details section of the application - including budget information - was consistent with the Assistance to Firefighters Grant Program's purpose and was worthy of award.

Except as otherwise approved as noted in this award, the information you provided in your application for Fiscal Year (FY) 2022 Assistance to Firefighters Grants funding is incorporated into the terms and conditions of this award. This includes any documents submitted as part of the application.

### Amount awarded table

The amount of the award is detailed in the attached Obligating Document for Award.

The following are the budgeted estimates for object classes for this award (including Federal share plus your cost share, if applicable):

| <b>Object Class</b> | <b>Total</b>        |
|---------------------|---------------------|
| Personnel           | \$0.00              |
| Fringe benefits     | \$0.00              |
| Travel              | \$0.00              |
| Equipment           | \$0.00              |
| Supplies            | \$0.00              |
| Contractual         | \$840,000.00        |
| Construction        | \$0.00              |
| Other               | \$0.00              |
| Indirect charges    | \$0.00              |
| Federal             | \$763,636.36        |
| Non-federal         | \$76,363.64         |
| <b>Total</b>        | <b>\$840,000.00</b> |
| Program Income      | \$0.00              |

## Approved scope of work

After review of your application, FEMA has approved the below scope of work. Justifications are provided for any differences between the scope of work in the original application and the approved scope of work under this award. You must submit scope or budget revision requests for FEMA's prior approval, via an amendment request, as appropriate per 2 C.F.R. § 200.308 and the FY2022 AFG NOFO.

### Approved request details:

## Wellness and fitness programs

## Behavioral Health NFPA 1500 or equivalent

### DESCRIPTION

The Berkeley Fire Department (BFD) is implementing a holistic NFPA 1582/1583 compliant employee Wellness, Fitness and Human Performance Program and is requesting \$840,000 in grant funds for full-time behavioral health counseling and full-time nutritional counseling for the 24-month grant period. These services will be procured through a contract(s).

| QUANTITY | UNIT PRICE   | TOTAL        |
|----------|--------------|--------------|
| 2        | \$420,000.00 | \$840,000.00 |

### BUDGET CLASS

Contractual

### CHANGE FROM APPLICATION

**Item from Additional funding to Behavioral Health NFPA 1500 or equivalent**

### JUSTIFICATION

The award reflects an update in line-item from Additional Funding to Behavioral Health.



## Agreement Articles

**Program:** Fiscal Year 2022 Assistance to Firefighters Grant

**Recipient:** CITY OF BERKELEY

**UEI-EFT:** KC7DYL9EF25

**DUNS number:** 076529924

**Award number:** EMW-2022-FG-00868

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**Article 1 Assurances, Administrative Requirements, Cost Principles, Representations and Certifications**

I. DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the awarding agency. II. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200 and adopted by DHS at 2 C.F.R. Part 3002. III. By accepting this agreement, recipients, and their executives, as defined in 2 C.F.R. § 170.315, certify that their policies are in accordance with OMB’s guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

**Article 2****General Acknowledgements and Assurances**

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. I. Recipients must cooperate with any DHS compliance reviews or compliance investigations conducted by DHS. II. Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities or personnel. III. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports. IV. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance. V. Recipients (as defined in 2 C.F.R. Part 200 and including recipients acting as pass-through entities) of federal financial assistance from DHS or one of its awarding component agencies must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award for the first award under which this term applies. Recipients of multiple awards of DHS financial assistance should only submit one completed tool for their organization, not per award. After the initial submission, recipients are required to complete the tool once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to [CivilRightsEvaluation@hq.dhs.gov](mailto:CivilRightsEvaluation@hq.dhs.gov). This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>. DHS Civil Rights Evaluation Tool | Homeland Security. The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to [CivilRightsEvaluation@hq.dhs.gov](mailto:CivilRightsEvaluation@hq.dhs.gov) prior to expiration of the 30-day deadline.

**Article 3****Acknowledgement of Federal Funding from DHS**

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

**Article 4****Activities Conducted Abroad**

Recipients must ensure that project activities performed outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

|                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Article 5</b></p> | <p><b>Age Discrimination Act of 1975</b><br/> Recipients must comply with the requirements of the Age Discrimination Act of 1975, Public Law 94-135 (1975) (codified as amended at Title 42, U.S. Code, § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p><b>Article 6</b></p> | <p><b>Americans with Disabilities Act of 1990</b><br/> Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101– 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>Article 7</b></p> | <p><b>Best Practices for Collection and Use of Personally Identifiable Information</b><br/> Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.</p>                                                                                                                                                                                                                                                                                                                                      |
| <p><b>Article 8</b></p> | <p><b>Civil Rights Act of 1964 – Title VI</b><br/> Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.</p>                                                                                                                                                                                                                                                                                                                                                                                               |
| <p><b>Article 9</b></p> | <p><b>Civil Rights Act of 1968</b><br/> Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. § 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)</p> |

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| <p><b>Article 10</b></p> | <p><b>Copyright</b><br/> Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p><b>Article 11</b></p> | <p><b>Debarment and Suspension</b><br/> Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3002. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.</p>                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p><b>Article 12</b></p> | <p><b>Drug-Free Workplace Regulations</b><br/> Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p><b>Article 13</b></p> | <p><b>Duplication of Benefits</b><br/> Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons.</p> |
| <p><b>Article 14</b></p> | <p><b>Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX</b><br/> Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. § 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.</p>                                                                                                                                                                                                                                                                                          |

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| <p><b>Article 15</b></p> | <p><b>E.O. 14074 – Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety</b><br/> Recipient State, Tribal, local, or territorial law enforcement agencies must comply with the requirements of section 12(c) of E.O. 14074. Recipient State, Tribal, local, or territorial law enforcement agencies are also encouraged to adopt and enforce policies consistent with E.O. 14074 to support safe and effective policing.</p>                                                                         |
| <p><b>Article 16</b></p> | <p><b>Energy Policy and Conservation Act</b><br/> Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. 94- 163 (1975) (codified as amended at 42 U.S.C. § 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.</p>                                                                                                                                                                                           |
| <p><b>Article 17</b></p> | <p><b>False Claims Act and Program Fraud Civil Remedies</b><br/> Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. §§3729- 3733, which prohibit the submission of false or fraudulent claims for payment to the Federal Government. (See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.)</p>                                                                                                                                                                               |
| <p><b>Article 18</b></p> | <p><b>Federal Debt Status</b><br/> All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)</p>                                                                                                                                                                                                                                                                                    |
| <p><b>Article 19</b></p> | <p><b>Federal Leadership on Reducing Text Messaging while Driving</b><br/> Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the Federal Government.</p>                                                                                                                                                                     |
| <p><b>Article 20</b></p> | <p><b>Fly America Act of 1974</b><br/> Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C.) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.</p> |



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| <p><b>Article 21</b></p> | <p><b>Hotel and Motel Fire Safety Act of 1990</b><br/> Recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p><b>Article 22</b></p> | <p><b>John S. McCain National Defense Authorization Act of Fiscal Year 2019</b><br/> Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute – as it applies to DHS recipients, subrecipients, and their contractors and subcontractors – prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons</p>                                                                                                                                                                                              |
| <p><b>Article 23</b></p> | <p><b>Limited English Proficiency (Civil Rights Act of 1964, Title VI)</b><br/> Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <a href="https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited">https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited</a> and additional resources on <a href="http://www.lep.gov">http://www.lep.gov</a>.</p> |
| <p><b>Article 24</b></p> | <p><b>Lobbying Prohibitions</b><br/> Recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.</p>                                                                                                                                                                                                                                                                                                                                                                |
| <p><b>Article 25</b></p> | <p><b>National Environmental Policy Act</b><br/> Recipients must comply with the requirements of the National Environmental Policy Act of 1969, (NEPA) Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq. and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans</p>                                                                                                                                                                                                                                    |

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| <b>Article 26</b> | <p><b>Nondiscrimination in Matters Pertaining to Faith-Based Organizations</b></p> <p>It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.</p> |
| <b>Article 27</b> | <p><b>Non-Supplanting Requirement</b></p> <p>Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.</p>                                                                                                                                                                                                                                                                                                                  |
| <b>Article 28</b> | <p><b>Notice of Funding Opportunity Requirements</b></p> <p>All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.</p>                                                                                                                                                                                                                                                      |
| <b>Article 29</b> | <p><b>Patents and Intellectual Property Rights</b></p> <p>Recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.</p>                                                                                                                                                 |
| <b>Article 30</b> | <p><b>Procurement of Recovered Materials</b></p> <p>States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.</p>                  |
| <b>Article 31</b> | <p><b>Rehabilitation Act of 1973</b></p> <p>Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (1973), (codified as amended at 29 U.S.C. § 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.</p>                                                                                                    |

**Article 32 Reporting of Matters Related to Recipient Integrity and Performance**  
 General Reporting Requirements: If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

**Article 33 Reporting Subawards and Executive Compensation**  
 Reporting of first tier subawards. Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

**Article 34 Required Use of American Iron, Steel, Manufactured Products, and Construction Materials**  
 Recipients must comply with the “Build America, Buy America” provisions of the Infrastructure Investment and Jobs Act and E.O. 14005. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless: (1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project. Waivers When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. Information on the process for requesting a waiver from these requirements is on the website below. (a) When the federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the

application of the domestic content procurement preference in any case in which the agency determines that: (1) applying the domestic content procurement preference would be inconsistent with the public interest; (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent. A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office. There may be instances where an award qualifies, in whole or in part, for an existing waiver described at “Buy America” Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov. The awarding Component may provide specific instructions to Recipients of awards from infrastructure programs that are subject to the “Build America, Buy America” provisions. Recipients should refer to the Notice of Funding Opportunity for further information on the Buy America preference and waiver process.

**Article 35 SAFECOM**

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

**Article 36 Terrorist Financing**

Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

**Article 37 Trafficking Victims Protection Act of 2000 (TVPA)**

Trafficking in Persons. Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106 (g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. § 7104. The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated here by reference.

**Article 38 Universal Identifier and System of Award Management**

Requirements for System for Award Management and Unique Entity Identifier Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

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| <b>Article 39</b> | <p><b>USA PATRIOT Act of 2001</b><br/> Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Article 40</b> | <p><b>Use of DHS Seal, Logo and Flags</b><br/> Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Article 41</b> | <p><b>Whistleblower Protection Act</b><br/> Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Article 42</b> | <p><b>Environmental Planning and Historic Preservation (EHP) Review</b><br/> DHS/FEMA funded activities that may require an Environmental Planning and Historic Preservation (EHP) review are subject to the FEMA EHP review process. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires the recipient to comply with all federal, state and local laws. DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP review process, as mandated by: the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and any other applicable laws and executive orders. General guidance for FEMA's EHP process is available on the DHS/FEMA Website. Specific applicant guidance on how to submit information for EHP review depends on the individual grant program and applicants should contact their grant Program Officer to be put into contact with EHP staff responsible for assisting their specific grant program. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP laws, executive orders, regulations, and policies. If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archaeological resources are discovered the applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.</p> |

**Article 43**

**Applicability of DHS Standard Terms and Conditions to Tribes**

The DHS Standard Terms and Conditions are a restatement of general requirements imposed upon recipients and flow down to sub-recipients as a matter of law, regulation, or executive order. If the requirement does not apply to Indian tribes or there is a federal law or regulation exempting its application to Indian tribes, then the acceptance by Tribes of, or acquiescence to, DHS Standard Terms and Conditions does not change or alter its inapplicability to an Indian tribe. The execution of grant documents is not intended to change, alter, amend, or impose additional liability or responsibility upon the Tribe where it does not already exist.

**Article 44**

**Acceptance of Post Award Changes**

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/ GMD Call Center at (866) 927-5646 or via e-mail to: ASK-GMD@fema.dhs.gov if you have any questions.

**Article 45**

**Disposition of Equipment Acquired Under the Federal Award**

For purposes of original or replacement equipment acquired under this award by a non-state recipient or non-state sub-recipients, when that equipment is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. section 200.313. State recipients and state sub-recipients must follow the disposition requirements in accordance with state laws and procedures.

**Article 46****Prior Approval for Modification of Approved Budget**

Before making any change to the FEMA approved budget for this award, you must request prior written approval from FEMA where required by 2 C.F.R. section 200.308. For purposes of non-construction projects, FEMA is utilizing its discretion to impose an additional restriction under 2 C.F.R. section 200.308(f) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget FEMA last approved. For purposes of awards that support both construction and non-construction work, FEMA is utilizing its discretion under 2 C.F.R. section 200.308(h)(5) to require the recipient to obtain prior written approval from FEMA before making any fund or budget transfers between the two types of work. You must report any deviations from your FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

**Article 47****Indirect Cost Rate**

2 C.F.R. section 200.211(b)(15) requires the terms of the award to include the indirect cost rate for the federal award. If applicable, the indirect cost rate for this award is stated in the budget documents or other materials approved by FEMA and included in the award file.

**Article 48****Award Performance Goals**

FEMA will measure the recipient's performance of the grant by comparing the number of items requested in its application, the numbers acquired (ordered, paid, and received) within the period of performance. In order to measure performance, FEMA may request information throughout the period of performance. In its final performance report submitted at closeout, the recipient is required to report on the recipients compliance with the applicable industry, local, state and national standards described in the NOFO.

## Obligating document

|                                                                                                                                                                                                                                     |                                                 |                                                                                                                                              |                                                                                         |                                                                                                                                 |                                         |                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|------------------------------------------|
| <b>1. Agreement No.</b><br>EMW-2022-FG-00868                                                                                                                                                                                        | <b>2. Amendment No.</b><br>N/A                  | <b>3. Recipient No.</b><br>946000299                                                                                                         | <b>4. Type of Action</b><br>AWARD                                                       | <b>5. Control No.</b><br>WX01191N2023T                                                                                          |                                         |                                          |
| <b>6. Recipient Name and Address</b><br>CITY OF BERKELEY<br>2180 MILVIA ST<br>BERKELEY, CA 94704                                                                                                                                    |                                                 | <b>7. Issuing FEMA Office and Address</b><br>Grant Programs Directorate<br>500 C Street, S.W.<br>Washington DC, 20528-7000<br>1-866-927-5646 |                                                                                         | <b>8. Payment Office and Address</b><br>FEMA, Financial Services Branch<br>500 C Street, S.W., Room 723<br>Washington DC, 20742 |                                         |                                          |
| <b>9. Name of Recipient Project Officer</b><br>Cynthia McClellan                                                                                                                                                                    |                                                 | <b>9a. Phone No.</b><br>510-9093182                                                                                                          | <b>10. Name of FEMA Project Coordinator</b><br>Assistance to Firefighters Grant Program |                                                                                                                                 | <b>10a. Phone No.</b><br>1-866-274-0960 |                                          |
| <b>11. Effective Date of This Action</b><br>08/07/2023                                                                                                                                                                              | <b>12. Method of Payment</b><br>OTHER - FEMA GO | <b>13. Assistance Arrangement</b><br>COST SHARING                                                                                            |                                                                                         | <b>14. Performance Period</b><br>08/14/2023 to 08/13/2025<br><b>Budget Period</b><br>08/14/2023 to 08/13/2025                   |                                         |                                          |
| <b>15. Description of Action a. (Indicate funding data for awards or financial changes)</b>                                                                                                                                         |                                                 |                                                                                                                                              |                                                                                         |                                                                                                                                 |                                         |                                          |
| <b>Program Name Abbreviation</b>                                                                                                                                                                                                    | <b>Assistance Listings No.</b>                  | <b>Accounting Data(ACCS Code)</b>                                                                                                            | <b>Prior Total Award</b>                                                                | <b>Amount Awarded This Action + or (-)</b>                                                                                      | <b>Current Total Award</b>              | <b>Cumulative Non-Federal Commitment</b> |
| AFG                                                                                                                                                                                                                                 | 97.044                                          | 2023-F2-GB01 - P410-xxxx-4101-D                                                                                                              | \$0.00                                                                                  | \$763,636.36                                                                                                                    | \$763,636.36                            | \$76,363.64                              |
| Totals                                                                                                                                                                                                                              |                                                 |                                                                                                                                              | \$0.00                                                                                  | \$763,636.36                                                                                                                    | \$763,636.36                            | \$76,363.64                              |
| <b>b. To describe changes other than funding data or financial changes, attach schedule and check here:</b><br>N/A                                                                                                                  |                                                 |                                                                                                                                              |                                                                                         |                                                                                                                                 |                                         |                                          |
| <b><del>16. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address)</del></b><br>This field is not applicable for digitally signed grant agreements |                                                 |                                                                                                                                              |                                                                                         |                                                                                                                                 |                                         |                                          |



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| <b>17. RECIPIENT SIGNATORY OFFICIAL (Name and Title)</b><br>Cynthia McClellan                                   | <b>DATE</b><br>08/11/2023 |
| <b>18. FEMA SIGNATORY OFFICIAL (Name and Title)</b><br>PAMELA WILLIAMS, Assistant Administrator, Grant Programs | <b>DATE</b><br>08/07/2023 |





Office of the City Manager

CONSENT CALENDAR

November 7, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David Sprague Chief, Fire Department  
 Subject: Purchase Order: Water Tender from Golden State Fire Apparatus, Inc.

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a purchase order with Golden State Fire Apparatus, Inc in an amount not to exceed \$504,110.40 for the purchase of 3,000-gallon water tender to support the City's efforts improve its capacity to respond to wildfire.

FISCAL IMPACTS OF RECOMMENDATION

The purchase price of water tender will not exceed \$504,110.40. This total includes state and local sales taxes. Funding for the purchase of this piece of apparatus is available in the Department's baseline budget in Measure Q.

CURRENT SITUATION AND ITS EFFECTS

On October 4, 2022 the Department was contacted by Golden State with the opportunity to purchase a Stock/Demo unit for a Pierce Manufacturing, Inc. STOCK Kenworth 3,000 Gallon Tender under HGAC Consortium Purchase – Contract FS12-19, Product Code FS19VE09.

BACKGROUND

The Department has identified water supply, or lack thereof, as a critical issue for any post-earthquake fire suppression activity and/or any fire suppression that needs to occur specifically in the adjacent wildland areas to the City. While these lands are not within the City's jurisdiction, City firefighters will be some of the first on scene to support firefighters from the East Bay Regional Park District and other regional departments. It is also in the City's best interest to deploy a large number of resources to such incidents because – in the right weather conditions – a fire ignited in this area could move quickly West in to the City proper.

For three years the Department has been trying to acquire a vehicle that is capable of storing 3,000 gallons of water that can be deployed immediately to any location within or adjacent to the City to make a quick attack on a fire. Due to Pandemic related supply chain shortages, the chassis this type of vehicle is built upon has not been available.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This acquisition contributes to our social responsibility to conserve natural resources and protect our ecosystem by supporting its health and wellbeing now and in the future.

RATIONALE FOR RECOMMENDATION

Acquiring a vehicle to transport a large volume of firefighting water has been a longstanding goal for the Department, a goal within the City’s Community Wildfire Protection Plan (CWPP), and helps support the following goals within the City’s Strategic Plan:

- Be a global leader in addressing climate change, advancing environmental justice, and protecting the environment
- Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities
- Create a resilient, safe, connected, and prepared City

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

David Sprague, Fire Chief, 510-981-3473

Attachments:

1: Resolution

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

PURCHASE ORDER: WATER TENDER FROM GOLDEN STATE FIRE APPARATUS,  
INC.

WHEREAS, the Department has identified water supply, or lack thereof, as a critical issue for any post-earthquake fire suppression activity and/or any fire suppression that needs to occur specifically in the adjacent wildland areas to the City, and

WHEREAS, while these lands are not within the City's jurisdiction, City firefighters will be some of the first on scene to support firefighters from the East Bay Regional Park District and other regional departments, and

WHEREAS, it is also in the City's best interest to deploy a large number of resources to such incidents because – in the right weather conditions – a fire ignited in this area could move quickly West in to the City proper, and

WHEREAS, for three years the Department has been trying to acquire a vehicle that is capable of storing 3,000 gallons of water that can be deployed immediately to any location within or adjacent to the City to make a quick attack on a fire. Due to Pandemic related supply chain shortages, the chassis this type of vehicle is built upon has not been available, and

WHEREAS, on October 4, 2022 the Department was contacted by Golden State with the opportunity to purchase a Stock/Demo unit for a Pierce Manufacturing, Inc. STOCK Kenworth 3,000 Gallon Tender under HGAC Consortium Purchase – Contract FS12-19, Product Code FS19VE09.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a purchase order with Golden State Fire Apparatus, Inc in an amount not to exceed \$504,110.40 for the purchase of 3,000-gallon water tender to support the City's efforts improve its capacity to respond to wildfire.





Office of the City Manager

CONSENT CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Dr. Lisa Warhuus, Director, Health, Housing, & Community Services  
 Subject: Appointment of Interim Health Officer

RECOMMENDATION

Adopt a Resolution ratifying the action taken by the City Manager to appoint Dr. Anju Goel, M.D., as the Interim Health Officer for the City of Berkeley.

FISCAL IMPACTS OF RECOMMENDATION

A full-time, career benefited Health Officer position is budgeted for the current and subsequent fiscal years. After an interim period assessing the current needs for this position and work unit, the position will eventually be filled with a permanent appointment.

CURRENT SITUATION AND ITS EFFECTS

In accordance with state law, as a recognized local health jurisdiction the City Council must appoint a local Health Officer who has a medical degree and holds a license issued by the Medical Board of California.

Dr. Goel is a board-certified internist and public health specialist. She graduated from Stanford Medical School and has an MPH from Columbia University. Since 2004, she has worked in multiple California county health departments; addressing a wide range of public health issues. For the last 3.5 years, she has worked with the Centers for Disease Control and Prevention on the COVID-19 response; most recently on vaccine safety research studies.

BACKGROUND

Dr. Lisa Hernandez, the former Health Officer, vacated the position on July 4, 2023, becoming the Santa Cruz County Health Officer after five years of service to the City. Because the City is required to have a Health Officer, the Alameda County Health Officer has been providing coverage for the City of Berkeley Health Officer during the search for the Interim Health Officer.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

State Law requires City Council appoint a physician Health Officer for our local health Jurisdiction. The Department of Health, Housing, and Community Services (HHCS) identified Dr. Goel as the best qualified candidate through a competitive hiring process.

ALTERNATIVE ACTIONS CONSIDERED

None, the City is required to appoint a physician Health Officer.

CONTACT PERSON

Amy Davidson, Deputy Director, Health, Housing & Community Services

Attachments:

1: Resolution



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

APPOINTMENT OF LOCAL HEALTH OFFICER

WHEREAS, City of Berkeley has performed local public health functions since 1890 and is one of three city health jurisdictions in California; and

WHEREAS, local health jurisdictions must include a physician health officer; and

WHEREAS, mandatory functions of a local health jurisdiction include communicable disease control, tuberculosis control, public health emergency preparedness and response, and registration of births and deaths; and

WHEREAS, these functions can only be performed under the authority of a physician health officer; and

WHEREAS, the previous health officer vacated the position effective July 4, 2023; and

WHEREAS, Dr. Goel is a board-certified internist who has worked in multiple California county health departments; addressing a wide range of public health issues and has accepted the position of Interim Health Officer, beginning work on September 18, 2023.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley by the Council of the City of Berkeley that it ratifies the action taken by the City Manager to appoint Dr. Anju Goel, M.D. as the Interim Health Officer for the City of Berkeley, Department of Health, Housing & Community Services,





Office of the City Manager

CONSENT CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services  
 Subject: Reallocation of Unspent FY 2023 Child Care Subsidy Funding

RECOMMENDATION

Adopt three Resolutions authorizing the City Manager or her designee to reallocate \$232,362 in unspent child care subsidy funds awarded through the FY 2020 community agency contract process and amend three existing contracts by increasing their contract limits for the period beginning July 1, 2023 and ending June 30, 2024 by \$77,454 per agency, as follows: BAHIA, Inc. (from \$82,143 to \$159,597); Ephesian Children's Center (from \$45,507 to \$122,961); and Nia House (from \$39,999 to \$117,453).

FISCAL IMPACTS OF RECOMMENDATION

This recommendation is to reallocate \$232,362 in Fund 011 General Funds awarded to BANANAS, Inc., through the community agency contracting process. This contract is part of the Berkeley Youth Equity Partnership's (YEP, formerly Berkeley's 2020 Vision) Affordable Child Care portfolio. The funds are designated for providing child care subsidies to African American/Black and Latinx families with 0-5 year old children in Berkeley. BANANAS advised the City that it is unable to fully expend its FY 2023 allocation. This fiscally neutral recommendation will maintain the overall spending level on child care subsidies by expanding existing contracts with three Berkeley child care contractors. These three contracts were approved for four years of funding by City Council on June 25, 2019, as part of the FY 2020 budget. City Council approved extending these contracts through June 30, 2024 at the FY 2020 annual funding levels on June 27, 2023, as part of the FY 2024 budget. If approved, the total not-to-exceed amount of the combined contracts would increase from \$167,649 to \$400,011.

CURRENT SITUATION AND ITS EFFECTS

The high cost of child care makes quality care out of reach for many Berkeley families. For this reason, the City of Berkeley has long subsidized child care. In line with this priority, YEP's Kindergarten Readiness strategy includes subsidizing child care to low-income African American/Black and Latinx families in Berkeley through the community agency contracts process.

In June 25, 2019, Berkeley City Council adopted the FY 2020 budget, including authorizing the City Manager or designee to execute contracts for continued child care subsidies to four longstanding contractors. BANANAS, Inc., was awarded \$269,835 in General Funds per year for four years to provide child care subsidies to 15 African American/Black and Latinx Berkeley children (ages 0–5) annually. BANANAS continued to provide subsidies to a core group of children through the pandemic, but has not been able to spend down the full amount of its contract. To try to increase the eligible population, YEP staff worked with BANANAS to expand the age of eligible participants (including siblings up to 8 years old for afterschool care) and provider criteria (including informal providers, such as friends, family, and neighbors). Even with the larger pool of eligible participants, BANANAS recognized that the accumulated carryover was too significant to expend in FY 2024 along with its current year allocation for child care subsidies. BANANAS recommended returning the funds to the City of Berkeley.

YEP staff worked with three other established child care providers (BAHIA, Inc., Ephesian Children’s Center, and Nia House, all of which already have contracts with the City to provide childcare services as part of YEP) to determine their interest and capacity to expand the number of African American/Black and Latinx young people they serve.

If approved, this recommendation will provide subsidized child care to an additional 13 Black and Brown children in Berkeley (increasing availability from 36 to 49 infant, toddlers and preschoolers). This arrangement will also increase the level of subsidies offered by these three providers to maintain a pool of highly subsidized slots for African American/Black and Latinx families of more limited means (consistent with the terms of BANANAS’ contract).

#### RATIONALE FOR RECOMMENDATION

The purpose of the BANANAS’ child care subsidy funding was to make child care more available and affordable for low-income African American/Black and Latinx families in Berkeley. Redirecting these unspent funds will help to maintain these important supports to Berkeley families. For this reason, staff turned to BAHIA, Inc., Ephesian Children’s Center, and Nia House, who have existing contracts with the City, are experienced child care providers to Black and Brown children in Berkeley, and who had the ability to take on additional students.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff considered issuing an RFP for the child care subsidies. However, the RFP process would have entailed further delays, placed an administrative burden on applicants, and may have resulted in the same or similar outcomes. Staff determined that ensuring the availability of slots as soon as possible to families in need was the priority.

CONTACT PERSON

Nina Goldman, Senior Management Analyst, HHCS, 510.981.5420

Attachments:

1: Resolutions

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

REALLOCATION OF UNSPENT FY 2023  
CHILD CARE SUBSIDY FUNDING TO BAHIA, INC.

WHEREAS, on June 25, 2019, City Council approved Berkeley's FY 2020-2024 community agency contracts as part of the FY 2020 budget; and

WHEREAS, the approved budget included an annual allocation of \$269,835 in General Funds to BANANAS, Inc. to provide child care subsidies to African American/Black and Latinx families in Berkeley; and

WHEREAS, in FY 2023, BANANAS, Inc. had accumulated a carryover funding that BANANAS, Inc., recognized it would be unable to spend along with its FY 2024 allocation; and

WHEREAS, staff worked with three current community agency contractors with expertise in serving African American/Black and Latinx infants, toddlers, and preschoolers in Berkeley and combined capacity to absorb additional subsidized students; and

WHEREAS, the cost of supporting these subsidized students would be \$77,454 per agency or \$232,362 total.

WHEREAS, the combined impact of reallocating these funds would expand the pool of African American/Black and Latinx children receiving Berkeley-funded subsidies from 36 to 49 and maintain a pool of higher subsidy slots for families of more limited means; and

WHEREAS, funds in the amount of \$77,454 is available for FY 2024 in Fund 011 General Funds.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to reallocate \$77,454 in unspent FY 2023 funds to amend its contract with BAHIA, Inc., through June 30, 2024, to an amount not to exceed \$159,597. A record signature copy of said contract and any amendments shall be on file in the Office of the City Clerk.

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

REALLOCATION OF UNSPENT FY 2023  
CHILD CARE SUBSIDY FUNDING TO EPHESIAN CHILDREN'S CENTER

WHEREAS, on June 25, 2019, City Council approved Berkeley's FY 2020-2024 community agency contracts as part of the FY 2020 budget; and

WHEREAS, the approved budget included an annual allocation of \$269,835 in General Funds to BANANAS, Inc. to provide child care subsidies to African American/Black and Latinx families in Berkeley; and

WHEREAS, in FY 2023, BANANAS, Inc. had accumulated a carryover funding that BANANAS, Inc., recognized it would be unable to spend along with its FY 2024 allocation; and

WHEREAS, staff worked with three current community agency contractors with expertise in serving African American/Black and Latinx infants, toddlers, and preschoolers in Berkeley and combined capacity to absorb additional subsidized students; and

WHEREAS, the cost of supporting these subsidized students would be \$77,454 per agency or \$232,362 total.

WHEREAS, the combined impact of reallocating these funds would expand the pool of African American/Black and Latinx children receiving Berkeley-funded subsidies from 36 to 49 and maintain a pool of higher subsidy slots for families of more limited means; and

WHEREAS, funds in the amount of \$77,454 is available for FY 2024 in Fund 011 General Funds.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to reallocate \$77,454 in unspent FY 2023 funds to amend its contract with Ephesian Children's Center, through June 30, 2024, to an amount not to exceed \$122,961. A record signature copy of said contract and any amendments shall be on file in the Office of the City Clerk.

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

REALLOCATION OF UNSPENT FY 2023  
CHILD CARE SUBSIDY FUNDING TO NIA HOUSE

WHEREAS, on June 25, 2019, City Council approved Berkeley's FY 2020-2024 community agency contracts as part of the FY 2020 budget; and

WHEREAS, the approved budget included an annual allocation of \$269,835 in General Funds to BANANAS, Inc. to provide child care subsidies to African American/Black and Latinx families in Berkeley; and

WHEREAS, in FY 2023, BANANAS, Inc. had accumulated a carryover funding that BANANAS, Inc., recognized it would be unable to spend along with its FY 2024 allocation; and

WHEREAS, staff worked with three current community agency contractors with expertise in serving African American/Black and Latinx infants, toddlers, and preschoolers in Berkeley and combined capacity to absorb additional subsidized students; and

WHEREAS, the cost of supporting these subsidized students would be \$77,454 per agency or \$232,362 total.

WHEREAS, the combined impact of reallocating these funds would expand the pool of African American/Black and Latinx children receiving Berkeley-funded subsidies from 36 to 49 and maintain a pool of higher subsidy slots for families of more limited means; and

WHEREAS, funds in the amount of \$77,454 is available for FY 2024 Fund 011 General Funds.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to reallocate \$77,454 in unspent FY 2023 funds to amend its a contract with Nia House through June 30, 2024, to an amount not to exceed \$117,453. A record signature copy of said contract and any amendments shall be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services  
 Subject: Northern California Land Trust – 2321 Tenth Street Housing Trust Fund  
 Reservation

RECOMMENDATION

Adopt a Resolution:

1. Reserving an additional \$1,703,585 in Housing Trust Fund program funds for a development loan for Northern California Land Trust (NCLT)'s 2321-2323 Tenth Street and:
  - a) waiving Sections I.A.1 and IV.C.1 of the Housing Trust Fund Guidelines;
  - b) applying the Small Sites Program standards to the project's development and operating budgets; and
  - c) requiring partial repayment of the loan through the energy efficiency rebates NCLT pursues.
2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate these actions.

FISCAL IMPACTS OF RECOMMENDATION

The attached resolution would reserve an additional \$1,703,585 for NCLT's 2321 Tenth Street property. There are currently sufficient funds in the Housing Trust Fund (HTF) program to fund the request. Staff will determine the exact mix of funds from the HTF closer to the loan closing; which could include the following funds: Affordable Housing Mitigation Fee (Fund #120), Inclusionary Housing Fee (Fund #122), Condo Conversion Fee (Fund #123), and Commercial Housing Mitigation Fee (Fund #331). Funding is subject to appropriations in the HTF FY 2024 budget.

CURRENT SITUATION AND ITS EFFECTS

In July 2023, the Health, Housing, and Community Services Department (HHCS) received a funding request to support urgent rehab needs from NCLT for its Tenth Street property. 2321-2323 Tenth Street is an 8-unit occupied project that NCLT acquired in 2019. The City Regulatory Agreement restricts occupancy to households earning up to 80% area median income. Since taking ownership, NCLT's inspections

revealed that the property's rehabilitation needs are significantly more extensive than initially known. The property has deferred maintenance, and the rehabilitation work completed by the prior owner was substandard. There are structural and habitability issues that need to be addressed, and the original budget is insufficient.

NCLT requested \$1,703,585 in new funding, and proposed repaying the City up to \$324,225 through energy efficiency upgrade rebates after the renovation is complete. NCLT estimates the project will be eligible for up to \$324,225 in rebates, though the actual amount will be based on the final rehab scope and results of post-rehab energy efficiency testing. The balance of the loan not repaid through rebates would be repaid through the project's ongoing residual receipts, as is standard for the City's development loans.

NCLT originally applied for funding through the City's 2019 HTF Request for Proposals process, and was awarded \$1,620,640 to support predevelopment, acquisition, and renovation activities at this property. Like many acquisitions of occupied, unsubsidized housing, this is an anti-displacement project, and NCLT converted the property to long-term, deed-restricted affordable housing. With the proposed funding, the project's total City subsidy would be \$3,324,225.

#### BACKGROUND

The HTF Guidelines allow consideration of funding for at-risk projects outside of a competitive funding process. As a previously funded project with urgent health and safety needs, 2321 Tenth Street meets the definition of at-risk (HTF Guidelines V.D.1).

Renovations always have some inherent risk, as the full extent of a property's condition is not revealed until after acquisition and construction has started. In their requests for funding, NCLT provided property reports and a detailed scope and budget. Staff reviewed the submissions to ensure that NCLT's budget would address the major scope items identified in the inspections. The City also requires that renovation projects include a 15% construction contingency to help cover any new issues identified during the course of construction. While NCLT pursued other funding opportunities to leverage the City's contribution, there are limited resources available to projects of this size.

NCLT does not technically meet the HTF Guidelines threshold (I.A.1) for developer experience; which requires applicants to have completed three comparable projects within the past ten years. To award funding, Council would need to approve a waiver of this section. The City will require a third-party construction inspector to review pay apps and provide monthly reports to the City on construction progress. If the City is concerned about NCLT's construction management, staff may require NCLT to hire a third-party construction manager.

The recommendation also includes a condition to apply the Small Sites Program budget standards to the project, as those standards are tailored to smaller projects with limited cash flow and resources.

If the additional funding is approved, the City would be providing the majority (62%) of the project's funding; exceeding the subsidy limit in the HTF guidelines (Section IV.C.1) which caps the City's contribution at 40% of a project's total development costs. The project also exceeds the Small Sites Program limits, which caps City subsidy at \$375,000 per unit, or \$3M for an 8-unit project. Therefore, a waiver of Section IV.C.1 is also required.

These waivers and requirements are consistent with Council's actions related to their 2019 approvals of funding for NCLT's project.

On September 7, 2023, the Housing Advisory Commission took the following action:

Action: M/S/C (Ortiz-Cedeño/ Rodriguez) to recommend that City Council reserve \$1,703,585 in housing trust funds for NCLT's 2321 Tenth Street property and waive Sections I.A.1 and IV.C.1 of the HTF Guidelines; apply the Small Sites Program standards to the project's development and operating budgets; and require partial repayment of the loan through the energy efficiency rebates NCLT pursues.

Vote: Ayes: Braslaw, Fain, Mendonca, Ortiz-Cedeño, Rodriguez. Noes: None. Abstain: None. Absent: Calavita (unexcused), Johnson (excused), Potter (excused), Simon-Weisberg (excused).

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

To the extent feasible, NCLT will incorporate energy and water efficiency upgrades that will benefit ongoing operations for NCLT and its residents and support the City's environmental sustainability goals. NCLT will be taking advantage of programs that provide financial incentives for deep energy and emissions savings and has applied for rebates incentivizing energy efficiency upgrades and California Energy Commission's EPIC grant.

#### RATIONALE FOR RECOMMENDATION

The project is considered at-risk under the HTF Guidelines (V.D.1), and approving additional funds supports the City's goal of preserving affordable housing and funding the rehab of an occupied, affordable housing projects. Without this City funding, NCLT would not be able to address the project's capital needs, including urgent health and safety issues.

#### ALTERNATIVE ACTIONS CONSIDERED

The City could opt not to provide additional funding, which would leave the property with unaddressed habitability and structural needs that NCLT does not have other funding to support.

CONTACT PERSONS

Asavari Devadiga, Community Development Project Coordinator, HHCS, 510-981-5426  
Jenny Wyant, Senior Community Development Project Coordinator, HHCS, 510-981-5228

Attachments:

1: Resolution

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

APPROVAL OF THE FUNDING RESERVATION FOR THE 2321-2323 TENTH STREET PROJECT

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

WHEREAS, City Council adopted guidelines (HTF Guidelines) as revised on January 19, 2021, and authorized the City Manager to implement the HTF program in accordance with the Guidelines; and

WHEREAS, on October 29, 2019 by Resolution No. 69,163-N.S., Council approved \$50,000 in predevelopment funding for Northern California Land Trust's (NCLT) acquisition and renovation of 2321-2323 Tenth Street; and

WHEREAS, on December 10, 2019 by Resolution No. 69,231-N.S., Council approved \$1,570,640 for 2321-2323 Tenth Street; applied the City's Small Sites Program standards to the project; and waived Section III.A.1 (now, I.A.1) of the HTF Guidelines approving NCLT as an eligible developer and Section V.B.7 (now, IV.C.1) of the HTF Guidelines approving HTF funds in excess of 40% of project costs; and

WHEREAS, the City's HTF Guidelines allow funding requests to be submitted at any time for projects at imminent risk, including previously funded projects with urgent health and safety needs; and

WHEREAS, the City received a funding request on July 20, 2023 from NCLT for 2321-2323 Tenth Street, a project that meets the HTF Guideline's definition of at-risk; and

WHEREAS, on September 7, 2023, the Housing Advisory Commission recommended Council approve NCLT's funding request of \$1,703,585 for 2321-2323 Tenth Street; and

WHEREAS, the Housing Advisory Commission's motion included recommendations to waive certain sections of the Housing Trust Fund Guidelines in order to fund NCLT's project; and

WHEREAS, the Housing Advisory Commission's motion included a recommendation to apply the City's Small Sites Program Standards to 2321-2323 Tenth Street, since that program includes development and operating budget requirements designed to support the long-term viability of smaller multifamily projects with limited cash flow.

November 7, 2023

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council approves the \$1,703,585 development funding reservation of HTF funds for 2321-2323 Tenth Street.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley waives the requirements of Section I.A.1 of the HTF Guidelines and approves Northern California Land Trust as an eligible developer with demonstrated capacity to complete the rehabilitation of 2321-2323 Tenth Street, though NCLT has not completed the number of projects required by the developer eligibility criteria.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley waives the requirements of Section IV.C.1 of the HTF Guidelines and approves HTF funds in excess of 40% for NCLT's 2321-2323 Tenth Street project, due to the nature and urgency of the development and unavailability of alternative financing.

BE IT FURTHER RESOLVED that Small Sites Program operating and development budget standards will be applied to 2321-2323 Tenth Street.

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

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

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

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



Human Resources

CONSENT CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Aram Kouyoumdjian, Director of Human Resources

Subject: Resolution of Intention to Amend the Miscellaneous CalPERS Contract Pursuant to California Government Code Section 20516 to Reduce the Additional Cost Share Contribution Made by Unrepresented Employees on Behalf of the City

RECOMMENDATION

1. Adopt the Resolution of Intention to eliminate the additional cost share contribution made by Unrepresented Employees, who are classified as Public Employees Pension Reform Act (PEPRA) members of the California Public Employees' Retirement System (CalPERS), on behalf of the City to CalPERS pursuant to California Government Code Section 20516.

FISCAL IMPACTS OF RECOMMENDATION

Based on this action, the additional cost share contributions made on behalf of the City by Unrepresented Employees, outlined below, will be eliminated, and the City will begin making those contributions on the affected employees' behalf:

- FY 2024-25: 2% reduction of cost share (reducing the remaining cost share to 3%), effective July 7, 2024
- FY 2025-26: 2% reduction of cost share (reducing the remaining cost share to 1%), effective July 6, 2025
- FY 2026-27: 1% reduction of cost share (reducing the cost share to 0%), effective July 5, 2026

There are approximately 75 Unrepresented Employees who are PEPRA members of CalPERS and affected by this resolution, and the total cost to approve the ramp down for Unrepresented Employees is approximately \$247,957.

CURRENT SITUATION AND ITS EFFECTS

Council adopted Resolution #70,156 N.S. at its December 14, 2021 meeting, authorizing the amendments to the City's CalPERS Miscellaneous contract to reduce over the course of five fiscal years the additional cost share borne by Unrepresented Employees who are classified as PEPRAs members of CalPERS. While the reductions have occurred on schedule, the City has decided to accelerate the cost share reduction pace of the remaining years (through FY 2027). As a result, Council must now pass a Resolution of Intention to approve a contract amendment between the City and the CalPERS Board of Administration. (See Cal. Gov. Code § 20516.) The contract amendment process includes the following steps:

- The City shall provide CalPERS with the Resolution and a cover letter indicating the exact percentage of change, total cost-share percentage, and to whom it's applicable;
- CalPERS will contact the City to establish the Anticipated Schedule of Agency Actions and send the required documents;
- Over a time period specified by CalPERS, the City will:
  - Adopt a Resolution of Intention (which will be satisfied by the approval of this resolution);
  - The City shall approve the final reading of an ordinance or final resolution and complete certification forms.
- Once the documents are received and approved, the contract amendment becomes effective and is updated with the effective date in MyCalPERS.
- CalPERS sends a fully executed contract to the City.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

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

RATIONALE FOR RECOMMENDATION

Cost share contributions on behalf of the City have now been eliminated for all represented employees. This accelerated cost share reduction for Unrepresented Employees will ensure internal equity with those in represented classifications and assist in the recruitment and retention of Unrepresented Employees who have PEPRAs status within CalPERS.

ALTERNATIVE ACTIONS CONSIDERED

Continue with the existing cost share reduction schedule, which would lead to inequity between represented and unrepresented employees.



CONTACT PERSON

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

Attachment:

1. Resolution of Intention to Amend the Miscellaneous CalPERS Contract Pursuant to California Government Code Section 20516 to Reduce the Additional Cost Share Contribution Made by Unrepresented Employees on Behalf of the City

RESOLUTION NO. XXX  
RESOLUTION OF INTENTION TO AMEND THE MISCELLANEOUS CALPERS  
CONTRACT PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 20516  
TO REDUCE THE ADDITIONAL COST SHARE CONTRIBUTION MADE BY  
UNREPRESENTED EMPLOYEES ON BEHALF OF THE CITY

WHEREAS, the Unrepresented Employees group of the City of Berkeley are not covered by a Memorandum of Understanding; and

WHEREAS, CalPERS requires that the City of Berkeley adopt a resolution that specifically identifies the cost sharing information for Unrepresented Employees in order to amend the contract with CalPERS to reduce the cost share for the following employees:

- Unrepresented Employee Group who are designated as CalPERS New Members (PEPRA);
- The employees in this group are currently paying an additional five percent (5%) cost share towards the employer rate per Government Code Section 20516;
- The additional cost share shall be reduced to zero, effective the first full pay period that begins thirty (30) days after approval by CalPERS;

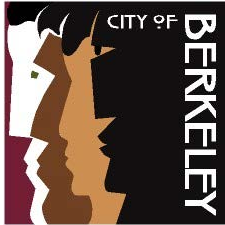
WHEREAS, this resolution is an agreement between the City of Berkeley and its Unrepresented Employees who have New Member status with CalPERS to reduce the cost share contributions pursuant to Government Code Section 20516;

NOW THEREFORE, BE IT RESOLVED that the City Council approves this Resolution of Intention to amend the existing contract between the City of Berkeley and CalPERS under Government Code Section 20516 and reduce the additional cost share contribution made by Unrepresented Employees on behalf of the City to zero, effective the first full pay period which begins thirty (30) days after approval by CalPERS.

PASSED AND ADOPTED by the governing body of the City of Berkeley on this 7<sup>th</sup> day of November 2023.

By \_\_\_\_\_  
(Signature of Official)

\_\_\_\_\_  
(Title of Official)



CONSENT CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council  
 From: Tess Mayer, Director of Library Services  
 Submitted by: Tess Mayer, Director of Library Services  
 SUBJECT: Appointment of Tanir Ami to the Board of Library Trustees

RECOMMENDATION

Adopt a Resolution appointing Tanir Ami to the Board of Library Trustees (“BOLT”) for a term of four years beginning November 8, 2023.

FISCAL IMPACTS OF RECOMMENDATION

No fiscal impacts.

CURRENT SITUATION AND ITS EFFECTS

At the October 4, 2023 regular meeting of the Board of Library Trustees, Trustees voted to recommend that the City Council appoint Tanir Ami for a 4-year term on the Board.

BACKGROUND

Pursuant to Section 30 of the Charter of the City of Berkeley, “[f]ive Library Trustees shall be appointed and may be removed by a vote of five members of the Council.” BMC Section 3.04.010 further provides that “[t]he term of office of the members of the board shall be four (4) years.” In addition, it is traditional that BOLT formally recommends to the City Council a preferred candidate for appointment.

The process BOLT undertakes to identify and recommend a candidate is to broadly promote the Board vacancy to the general public, review questionnaire responses, interview all candidates at a public meeting or meetings, and vote to recommend an applicant to the City Council for appointment. The current vacancy was created when Trustee Diane Davenport’s second four-year term ended May 15, 2023. The vacancy was widely publicized and the City Clerk’s Office of the City of Berkeley received 25 applications from interested candidates by the April 17, 2023 deadline, indicating a record high level of community interest in serving our libraries as a Trustee. An ad hoc subcommittee consisting of Trustee Davenport, President Roth, and Director Mayer (serving as Secretary to the Board), was appointed at the April 19 regular BOLT meeting to review applications and select candidates to interview. Per the Board of Library Trustees Nomination Policy, the subcommittee reviewed each application based on the applicant’s submitted information, and identified nominees that met the search objectives, will be able to carry out the duties and functions of the Trustee as stated in the Bylaws, will advance the Vision and Mission of the Library, will be a resource for

collaboration and partnerships on behalf of the Library, and meet the criteria as described in the BOLT Selection Criteria Summary. The ad hoc subcommittee recommended six candidates for BOLT to interview. One of the six candidates withdrew their application. Five applicants were interviewed at BOLT Regular Meeting on May 3, 2023. Following the interviews, Trustees discussed the candidates, noting the many highly qualified individuals who applied and were interviewed. The Trustees voted to recommend Lupe Gallegos-Diaz to serve as Trustee.

It was later determined that this candidate was not eligible to serve under Section 9.5 of the Berkeley City Charter.

At the June 7 Board meeting, Trustees Hahn, Greene, Roth and Selawsky discussed how to proceed with the current vacancy, given the fact that the BOLT Bylaws do not explicitly address what occurs in the event that someone is selected by BOLT and is unable to serve. For this reason, it was necessary for the Board to act to delineate the process. If this did not occur, the process would have defaulted to the existing process enumerated for new vacancies in the BOLT Vacancies Policy. A motion to follow the following process carried at the June 7 BOLT meeting:

**Process:**

- The President appoints a new nomination subcommittee
- Staff sends a letter to all current applicants (or a specific subset) and asks if they would like to be considered again, due to the change in the original recommendation
- The new Subcommittee reviews the applicants still in the pool, and either:
  - Recommends up to five for consideration by the full board - OR -
  - Recommends that a new process be initiated, that would allow both past applicants, and new applicants, to participate
- On the basis of the recommendation by the subcommittee, the staff either coordinates interviews for the next possible BOLT meeting, or reinitiates the recruitment process.
- Additionally, President Roth appointed a new ad hoc subcommittee including herself and Vice President Hahn.

President Roth, Vice President Hahn, and Secretary Mayer met on Wednesday June 21, 2023 and determined that staff would send an inquiry to all current applicants, inquiring as to whether they still want to be considered for the current vacancy. Then, the subcommittee met on August 3 to review the applications of those expressing continued interest and prepare to recommend to BOLT a subset of candidates to interview at an upcoming BOLT meeting.

BOLT scheduled a special meeting on September 21 to conduct interviews of the candidates selected to participate that have confirmed their participation.

CURRENT SITUATION AND ITS EFFECTS

The Library originally received and reviewed 25 applications for the vacancy. 17 candidates responded and confirmed that they still wanted to continue to participate in the process. The ad hoc subcommittee consisting of President Roth, Vice President Hahn, and Director Mayer (serving as Secretary to the Board), reviewed applications and selected six candidates to interview.

Four people participated in the interviews scheduled on September 21.

On October 4, BOLT engaged in an informal discussion of the candidates, followed by a vote.

BOLT's recommendation will be referred to City Council. A majority vote of all the members of the City Council is required to appoint a member to the board.

The new Trustee's term is anticipated to begin November 8, 2023.

After thoughtful consideration, BOLT voted to approve Resolution No. R23-047 (Attachment 2), recommending that the City Council appoint the preferred candidate, Tanir Ami, to the Board of Library Trustees. Vote: Ayes: Trustees Hahn, Roth and Selawsky. Noes: None. Abstentions: Greene.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

RATIONALE FOR RECOMMENDATION

The City Council needs to appoint a new Trustee for a 4-year term to fill the current vacancy, fulfilling the Charter requirement that the Board consist of five members. Tanir Ami has been recommended by the BOLT and exceeds the stated qualifications and experience desired in a Trustee, including (1) a demonstrated commitment to equity, diversity and inclusion, (2) executive leadership, business, financial and administrative skills, (3) leadership experience in community-based, non-profit, or government agencies, and (4) strong public library advocacy and a passion for lifelong learning and community engagement.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Tess Mayer, Director of Library Services and Secretary to the Board of Library Trustees  
510-981-6195

## Attachments:

1. Resolution to Appoint Tanir Ami to the Board of Library Trustees
2. Board of Library Trustees Resolution No. R23-047
3. Tanir Ami BOLT application
4. Board of Library Trustees Nomination Policy

5. BOLT Selection Criteria Summary

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

APPOINTMENT OF TANIR AMI TO THE BOARD OF LIBRARY TRUSTEES

WHEREAS, the Board of Library Trustees consists of five members appointed by the City Council to serve four-year terms; and

WHEREAS, the Board of Library Trustees currently has an open position to be filled by the City Council; and

WHEREAS, the Board of Library Trustees undertook a robust recruitment effort to identify a candidate to recommend for appointment by the City Council to fill the current opening on the Board; and

WHEREAS, at a regular meeting of the Board of Library Trustees on May 3, 2023, the Trustees voted unanimously to recommend Lupe Gallegos-Diaz be appointed to the Board of Library Trustees to serve a four-year term; and

WHEREAS, the Lupe Gallegos-Diaz was not able to serve; and

WHEREAS, the Board established a process and conducted a new round of interviews; and

WHEREAS, at a regular meeting of the Board of Library Trustees on October 4, 2023, the Trustees voted (Vote: Ayes: Trustees Hahn, Roth and Selawsky. Noes: None. Absent: None. Abstentions: Trustee Greene.) to recommend Tanir Ami be appointed to the Board of Library Trustees to serve a four-year term; and

WHEREAS, the Board recommends Council set the conditions for this appointment as a 4-year term with the effective date of November 8, 2023; and

WHEREAS, Tanir Ami exceeds the qualifications, experience, and passion for public libraries desired in a Library Trustee.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Tanir Ami be appointed to a four-year term on the Board of Library Trustees beginning on November 8, 2023.

**BOARD OF LIBRARY TRUSTEES  
RESOLUTION NO: R23-047**

**RECOMMENDATION TO THE CITY COUNCIL OF THE CITY OF BERKELEY  
REGARDING THE PREFERRED CANDIDATE TO FILL THE TRUSTEE VACANCY  
ON NOVEMBER 8, 2023 ON THE BOARD OF LIBRARY TRUSTEES**

WHEREAS, Trustee Davenport’s four-year term ended on May 15, 2023; and

WHEREAS, during the March 1, 2023 meeting of the Board of Library Trustees (BOLT), the Board instructed staff to begin solicitation for applications to fill the upcoming vacancy; and

WHEREAS, the Board of Library Trustees directed staff to issue a press release, advertise on website, at all library locations, in newsletter, and as an insert with City Councilmember communications to constituents.

WHEREAS, the City Clerk’s Office of the City of Berkeley received 25 applications from interested parties; and

WHEREAS, the Board of Library Trustees interviewed 6 of the applicants during the regular BOLT meeting on May 3, 2023; and

WHEREAS, the first candidate nominated was not able to serve; and

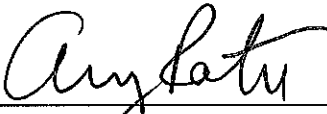
WHEREAS, the Board established a process and conducted a new round of interviews; and

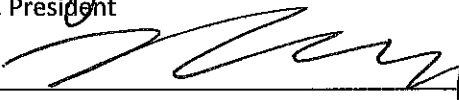
WHEREAS, the Board recommends Council set the conditions for this appointment as a 4-year term with the effective date of November 8, 2023; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Library Trustees of the City of Berkeley recommends to the City Council of the City of Berkeley that the preferred candidate Tanir Ami be appointed to the Board of Library Trustees beginning November 8, 2023.

ADOPTED by the Board of Library Trustees of the City of Berkeley during a regular meeting held on October 4, 2023.

|              |                                   |
|--------------|-----------------------------------|
| AYES:        | Trustees Hahn, Roth, and Selawsky |
| NOES:        | None                              |
| ABSENT:      | None                              |
| ABSTENTIONS: | Trustee Greene                    |

  
\_\_\_\_\_  
Amy Roth, President

  
\_\_\_\_\_  
Tess Mayer, Director of Library Services  
Serving as Secretary to the Board of Library Trustee





APPLICATION FOR APPOINTMENT TO BERKELEY BOARDS AND COMMISSIONS

CITY OF BERKELEY - CITY CLERK

2023 APR 3 PM 2:13

NAME: Tanir Ami

PREFERRED PRONOUN(S): She/Hers

RESIDENCE ADDRESS: [Redacted] Street City Zip

BUSINESS NAME/ADDRESS: Tanir Ami Coaching [Redacted] Street City Zip

EMAIL ADDRESS: [Redacted]

OCCUPATION/PROFESSION: Non-Profit Administrator and Professional Coach

HOME PHONE: [Redacted] BUSINESS PHONE: [Redacted]

I have been a resident of Berkeley since: 1997

I am interested in being considered for appointment to the following Berkeley board(s)/commission(s):

Name of board/commission: Berkeley Public Library Board of Library Trustees

Name of board/commission: [Redacted]

List any qualifications (work experience, education, attributes and training) which you feel would provide positive input to the work of the commission and the reason why you are interested in being appointed: See attached separate sheet of paper.

Please use another sheet of paper, if necessary.

The following individuals are qualified to comment on my capabilities:

Table with 3 columns: NAME, ADDRESS, PHONE NO. Rows include Jane Sperling Wise, Tamar Kurlaender, Seonaid Dickinson, and Jodi Ravel.

\*\*\*PLEASE COMPLETE DEMOGRAPHIC SURVEY\*\*\*

Demographic survey form with checkboxes for gender, student status, and racial/ethnic categories.

\*The City of Berkeley's Conflict of Interest Code requires members of all City of Berkeley Commissions except the Youth Commission and Commission on Status of Women to file Statements of Economic Interests – FPPC Form 700. The Form 700 is a public document. For more information, please contact the City Clerk's Department at 981-6900, or visit our website at <https://berkeleyca.gov/your-government/public-records/conflict-interest-reports>.

**AFFIDAVIT OF RESIDENCY\***

I, Tanir Ami, hereby declare, under penalty of perjury, that I am a resident of the City of Berkeley. I understand that, with the exception of a temporary relocation outside of Berkeley not to exceed six months, I may no longer serve on a Berkeley Commission should this cease to be true.

Signature of Applicant: [Signature] Date: March 29, 2023

\*Not required for Police Review Commission, Loan Administration Board, Elmwood BID, Solano BID, or BUSD appointees

**Return this form to the City Clerk Department: 2180 Milvia Street, Berkeley, 94704**



**APPOINTMENT FORM - BOARDS AND COMMISSIONS**  
(For Mayor and Council use only)

MAYOR/COUNCILMEMBER \_\_\_\_\_

NAME OF APPOINTEE \_\_\_\_\_

RESIDENCE ADDRESS  
Street \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

BUSINESS NAME/ADDRESS  
Name \_\_\_\_\_  
Street \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

OCCUPATION/PROFESSION \_\_\_\_\_

HOME PHONE: \_\_\_\_\_ BUSINESS PHONE: \_\_\_\_\_

Check appropriate box:  New Appointment  Reappointment  Temporary Appt.

Temporary Appt.: From (date) \_\_\_\_\_ To (date) \_\_\_\_\_  
(only if appointing for more than one meeting)

Please send mail to:  Home  Business

Please indicate the name of the board/commission to which you are appointing this individual

Board/Commission Name: \_\_\_\_\_

\*\*\*Please indicate the SPECIAL CATEGORY being fulfilled, if appointment is to ANY of the following boards or commissions: Elmwood BID Advisory Board, Human Welfare & Community Action Commission, Loan Administration Board, Solano Avenue BID Advisory Board.

Special Category \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Mayor/Councilmember

**For Mayor/Councilmember and City Use Only:**

|                |               |              |
|----------------|---------------|--------------|
| Interview Date | Appoint. Date | Process Date |
|                |               |              |

**List any qualifications (work experience, education, attributes and training) which you feel would provide positive input to the work of the commission and the reason why you are interested in being appointed:**

I would love to join the library board of trustees for the city of Berkeley. I grew up locally (in Albany) and then raised my three children here in Berkeley and have been a long-time and heavy user of the library's services and programming. As I state in my supplemental questionnaire, I am deeply passionate about books and the democratization of access to information. Beyond even those two feelings, I hold a vision of the library as a central and critical hub of a community and place where needs get met and questions get answered. When I think about new immigrants, or people experiencing homelessness, or young people without a safe place to be – I imagine the library as a haven for all of them.

I think my work and volunteer experience make me well suited for the role because I have served on many non-profit boards, and even some quasi-public agency boards. In my paid professional career, I got my MBA at UC Berkeley and have been working in non-profit administration every since. The focus of my work has been on providing health care services for historically underserved populations, including migrant farm workers and people experiencing homelessness. I was the CEO of a Federally Qualified Health Center and spent many years thinking about how to broaden services to populations who lack traditional resources. I am now the CEO of a health care foundation that focuses on improving EMS services throughout California with a racial equity lens. All of this is to say that in my day jobs, I have vast experience with boards of directors and know very well what the role of a board is, and what makes a great board member. I have had many opportunities to fine tune this by volunteering on boards, both through my work (ex. Trustee on the Board of the Partnership Health Plan, the Medicaid service insurance plan for Northern California) and in my personal life (ex. Urban Adamah the Jewish Farm in Berkeley).

I have comfort reading financial statements, and serving in board leadership roles as well as doing the important work of board committees like executive, finance, and nominating. I also know what a good partnership with library's CEO could look like and would build strong relationships with the other Trustees. Finally, I have been a part of many strategic planning processes and very much enjoy the visionary thinking that this process allows for.

As is evident in my application, I identify as a White, Jewish woman. I deeply appreciate my own privilege and have done extensive learning and self-reflection on how I hold and use my power. The journey is by no means over and I am always open to opportunities for continued learning. My adult life has been devoted to manifesting equity in my community, state and country and I would bring that to the work of Library board as well.

It would be a privilege to serve my community in this very special way.



SUPPLEMENTAL QUESTIONNAIRE  
FOR THE  
BERKELEY BOARD OF LIBRARY TRUSTEES

In addition to filling out the “Application for Appointment to Berkeley Boards and Commissions”, candidates are requested to provide additional information to assist the Board of Library Trustees in their process to recommend names to the City Council.

1. Describe your interest in serving as a Library Trustee.  
I have a long-standing commitment and passion for public libraries. Some of my earliest and fondest memories are getting lost in stacks of books for hours, running my hands over titles and finding treasures I could not have imagined existed. Later, in college, a friend and I fashioned a cross country road trip with small town libraries as the rest stops along the way. When I became a parent, I savored children's story time and art project afternoons with my kids. Not only do I love the libraries themselves, but I believe that libraries sit at the core of a solid democratic society, standing proudly as a statement that information should belong to everyone. I would love to help preserve this resource for our community.
  
2. What qualities do you consider necessary for an effective Trustee, and how do you demonstrate those qualities?  
I think good board members are engaged in board processes. An ideal trustee will ensure the basics are being met, like; showing up to all meetings, being on time, reading materials in advance, participating actively in discussions, debates and decisions, while all the while being very mindful of respectful discourse. Above and beyond that, a good Trustee will support the executive leader by serving on a committees as needed, being a sounding board for difficult decisions, and going above and beyond as the organization demands it. A good board member can offer feedback appropriately and can step up and do things that are asked of them like building relationships in the community and being a great ambassador for the work of the library
  
3. Provide examples of current or previous community service and leadership roles.  
Although I do not currently serve on a board, I have served on many boards over the past 20 years, including several in the city of Berkeley. I was a founding board member of Urban Adamah, served as a trustee of the Berkwood Hedge School, the Redwood Community Health Coalition, and the Partnership Health Plan. On all of those boards I eventually served on the Executive Committee and served as Board Chair and or Treasurer
  
4. What do you see as the Library's role in the community now and in the future?  
I think the Library's role in the community now and even more so in the future, will be to provide a consistent, neutral community hub. A place where people go to feel safe, and to access resources well beyond books. I love the addition of the cafe to the Central branch and would support more social service programming, education classes for new immigrants and other community training programs like civic engagement. I think the library could serve as non-religious version of how some folks feel about their church - a place to gather, learn and be a central point of contact and communication for a vibrant and engaged population.

*Please return this form and the **Application for Appointment to Berkeley Boards and Commissions** to the Office of the City Clerk*

**BERKELEY PUBLIC LIBRARY  
POLICIES****SUBJECT: Board of Library Trustees Vacancies  
Policy**

|                    |            |
|--------------------|------------|
| ORIGINAL DATE:     | 05/04/2022 |
| BOLT Resolution #: | R22-025    |
| REVISED DATE:      | 05/04/2022 |
| PAGE:              | 1 of 2     |

**I. PURPOSE**

Pursuant to Section 30 of the Charter of the City of Berkeley (the “Charter”), “five Library Trustees shall be appointed and may be removed by a vote of five members of the Council and one of such trustees must be appointed by the Council from its own members.”

When a Board of Library Trustees (“BOLT”) vacancy has occurred or is planned to occur, the Board of Library Trustees can assist the City Council by facilitating a nomination process. This policy enumerates that process.

**II. POLICY**

- A. **Ad-hoc Trustee Nominating Sub-committee** - When a BOLT vacancy has occurred or is planned to occur, the President of BOLT will appoint an ad hoc trustee nominating sub-committee to identify candidates. The Library Director as Secretary to BOLT will assist the sub-committee.
- B. **Candidate Search Objectives** - The sub-committee’s purpose will be to ensure that nominations are inclusive and broadly represents the diverse perspectives of the community. The sub-committee will seek candidates with varied backgrounds, knowledge, abilities, expertise, and networks that can advance the Mission and Vision of the Library. The search objectives include finding candidates able to carry out the trustee role, functions, and duties, as described in the BOLT Bylaws.
- C. **Search Process** - The sub-committee will convene to take account of current BOLT needs and to schedule the process for its purposes. The process will include the creation and posting of a vacancy announcement, the application period, the review of candidates, the recommendation to BOLT, and action taken by BOLT.
- D. **Vacancy Announcement** - The sub-committee will write an announcement that BOLT is seeking interested parties, including the requirements thereof, the manner and form of applying, and the due date for submission of applications; the sub-committee, working with the Library Director and the City, and with the approval of BOLT, will advertise the call for interest.
- E. **Application Procedure** - For consideration, any applicant must be a resident of the City of Berkeley, California. Applicants must submit a resume and a supplemental statement

of interest that addresses questions or topics enumerated by the ad hoc trustee nominating sub-committee.

- F. **Review of Candidates** - The sub-committee will review each application based on the applicant’s submitted information. The purpose of the review is to identify nominees that meet the search objectives, will be able to carry out the duties and functions of the Trustee as stated in the Bylaws, will advance the Vision and Mission of the Library, and will be a resource for collaboration and partnerships on behalf of the Library.
- G. **Nominations** – The sub-committee will provide a summary of its process, evaluation, and recommendation for one or more nominees to BOLT for action and furtherance to the Council. A recommendation from the ad hoc trustee nominating sub-committee is not binding.

|                         |                                  |      |
|-------------------------|----------------------------------|------|
| <b>Reviewed by:</b>     | _____                            |      |
|                         | Director of Library Services     | Date |
| <br><b>Approved by:</b> | <br>_____                        |      |
|                         | Chair, Board of Library Trustees | Date |

## **Board of Library Trustees, Selection Criteria Summary**

### **Desired Qualifications:**

- Candidates should be public library champions, passionate about lifelong learning and community engagement.
- A demonstrated commitment to equity, diversity and inclusion is essential.
- Candidates with executive leadership, technology, business, financial management and/or administrative skills are encouraged to apply.
- Candidates with leadership experiences in community-based, non-profit, or government agencies

### **General Qualifications**

- Demonstrated interest in and enthusiasm for the library
- Readiness to devote time and effort
- An open mind coupled with respect for the opinion of others and, a steadfast belief in intellectual freedom and privacy.
- Ability to plan creatively.
- Courage to withstand pressures and resist influences based on prejudice
- Ability to analyze the business and administrative procedures, and to be part of the accountability process to the public and provide oversight.
- Possession of common sense
- Reflects the diversity of the Berkeley community, including a diversity of experiences working in different sectors of the community as well as age, ethnicity, religion, gender identities, abilities, and sexual orientation
- Willing and able to work with management, staff and the union.

### **Practical background and/or direct experience in one or more of these areas is desirable:**

- Involvement in community organizations
- An understanding of local government operations, of public boards, and commissions; previous experience highly valued
- An interest in long-range planning
- Personal experience in one or more of these areas:
  - Education
  - Architecture/Construction Accounting/Finance Business
  - Personnel management Technology Law/Government
  - Humanities
  - The Arts
- Availability and openness to the public







Office of the City Manager

CONSENT CALENDAR

November 7, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Chief of Police

Subject: Audit Recommendation Status - Data Analysis of the City of Berkeley's Police Response

CURRENT SITUATION AND ITS EFFECTS

The City Auditor's report included 2 recommendations. Both of the recommendations have been implemented and the audit is closed. This item was referred to the Public Safety Policy Committee by a Councilmember at the City Council meeting on 5/23/23.

POLICY COMMITTEE RECOMMENDATION

On September 18, 2023, the Public Safety Committee adopted the following action: M/S/C (Taplin/Wengraf) to forward the item to Council with a positive recommendation. Vote: All Ayes.

BACKGROUND

On July 2, 2021, the City Auditor's Office issued its audit, *Data Analysis of the City of Berkeley's Police*<sup>1</sup> This audit report included 2 recommendations. The purpose of this report is to update the Public Safety Policy Committee on the Police Department's completion of the City Auditor's recommendations. In brief, multiple datasets including Crime Mapping, Use of Force, Calls for Service, RIPA, the Arrest and Booking Logs are now published and available on the BPD Transparency Hub. The Transparency Hub also information where there was a documented mental health or homelessness component involved: <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/>.

ENVIRONMENTAL SUSTAINABILITY

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

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<sup>1</sup> City Auditor's Office Data Analysis Audit (7/2/2021)

<https://berkeleyca.gov/sites/default/files/2022-01/Data-Analysis-Berkeley-Police-Response.pdf>

FISCAL IMPLICATIONS

Staff time for various members of BPD and the Department of Information Technology.

CONTACT PERSON

Captain Kevin Schofield, Police Department, (510) 981-5815

ATTACHMENTS

1. Data Analysis Recommendation Table
2. Audit Recommendations PowerPoint
3. Original Information Report to Council from May 23, 2023



| Audit Title: Data Analysis of Berkeley's Police Response                                          |                                                                                                                                                                                                                                                                                                                                                                                       |                 |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Finding                                                                                           | Recommendation                                                                                                                                                                                                                                                                                                                                                                        | Lead Department | Expected or Actual Implementation Date | Status of Audit Recommendations, Corrective Action Plan, and Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| The City can improve the transparency of Police Department activity data on the Open Data Portal. | 1.1 To improve access to data, we recommend the Berkeley Police Department make calls for service data available on the City's Open Data Portal for all call types allowable by Berkeley Police Department policy and law, and update regularly to facilitate transparency. This data should be published in machine ready format, and contain as many years of data as is available. | Police          | Ongoing                                | <p><u>Status: Partly Implemented</u></p> <p>The outside vendor assigned to this project, GTG, is still working with staff to implement the recommended solutions. As of August 12, 2022, the project is over 80% completed. This is the most recent update from the vendor:</p> <p>ITEMS THAT ARE COMPLETED:</p> <ul style="list-style-type: none"> <li>Police Department ArcGIS Hub <ul style="list-style-type: none"> <li>•AGOL Access provided</li> <li>•ArcGIS Hub design and configuration <ul style="list-style-type: none"> <li>oMet with Berkeley PD and will proceed with adding a new page to the existing PD Transparency Hub rather than building a whole new Hub site</li> <li>oOpen Data configuration to replace Socrata</li> </ul> </li> <li>•Addition of web applications to Hub</li> </ul> </li> <li>Crime Mapping solution replacement <ul style="list-style-type: none"> <li>•SQL Query Update</li> <li>•Verification of GIS data update from SQL <ul style="list-style-type: none"> <li>oBerkeley to create enterprise geodatabase</li> <li>oUpdate to include additional fields from CAD export</li> </ul> </li> <li>•Deployment of scheduled scripts <ul style="list-style-type: none"> <li>oUpdated script to accommodate new CAD fields in export</li> </ul> </li> <li>•Publishing GIS data <ul style="list-style-type: none"> <li>oAwaiting necessary access from City of Berkeley to publish GIS data to the ArcGIS Server</li> </ul> </li> </ul> </li></ul> |

|                                                                                   |     |                                                                                                                                                                                                                                                              |        |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------------------------------------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                   |     |                                                                                                                                                                                                                                                              |        |           | <ul style="list-style-type: none"> <li>• Development of Berkeley Crime Viewer application Parcel Condition Widget</li> <li>• Rebuild widget in ArcGIS Online <ul style="list-style-type: none"> <li>o Develop new GIS web application to replace the current 'Portal'</li> <li>o Rebuild custom widget in AGOL using COTS tools and Arcade expressions, rather than custom code</li> </ul> </li> <li>• Provide new web application to City of Berkeley for website and Hub</li> <li>• Update application reference once PROD server has been upgraded to 10.9 City-wide ArcGIS Hub</li> <li>• Provided spreadsheet for content</li> </ul> <p>ITEMS STILL A WORK IN PROGRESS:</p> <ul style="list-style-type: none"> <li>• Spreadsheet filled out with Berkeley content to include in the Hub <ul style="list-style-type: none"> <li>o Applications</li> <li>o Open Data Layers</li> <li>o Other Hub links</li> <li>o External Links</li> </ul> </li> <li>• ArcGIS Hub site completed with all requested content, items, links, and materials Training</li> <li>• Training on deployed GIS solutions</li> <li>• Documentation on deployed GIS solutions</li> </ul> |
| Berkeley Police Department can better track mental health and homelessness calls. | 2.1 | To improve access to data, we recommend the Berkeley Police Department identify all calls for service where there is an apparent mental health issue and/or homelessness component in a manner that protects the privacy rights of the individuals involved. | Police | 6/29/2022 | <p><u>Status: Implemented</u></p> <p>Starting July 1, 2021, the department formally began utilizing "H" homeless and "MH" mental health disposition codes when closing out any call involving a homeless person or a person with mental health issues. Officers were instructed that they were not required to ask people what their housing status is unless necessary for identification purposes. Unless there are mental health issues which are related to the call, they are not required to ask them what their mental health status is either. Officers are expected to use their best judgement / perception in determining if a call is related to a homeless issue or someone suffering from a mental health issue. If so, they are directed to add the "H" and/or "MH" disposition to the CAD disposition.</p>                                                                                                                                                                                                                                                                                                                                        |

# Update on Audit Recommendations

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DATA ANALYSIS OF BERKELEY'S POLICE RESPONSE

# Findings

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1. Berkeley Police Department can better track mental health and homelessness calls.
2. The City can improve the transparency of Police Department activity data on the Open Data Portal.

# Implementation Status Overview

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2 total recommendations

 2 implemented



# Recommendation 1.1

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To improve access to data, we recommend the Berkeley Police Department identify all calls for service where there is an apparent mental health issue and/or homelessness component in a manner that protects the privacy rights of the individuals involved..

- Starting July 1, 2021, the department formally began utilizing “H” homeless and “MH” mental health disposition codes when closing out any call involving a homeless person or a person with mental health issues. Officers were instructed that they were not required to ask people what their housing status is unless necessary for identification purposes. Unless there are mental health issues which are related to the call, they are not required to ask them what their mental health status is either. Officers are expected to use their best judgement / perception in determining if a call is related to a homeless issue or someone suffering from a mental health issue. If so, they are directed to add the “H” and/or “MH” disposition to the CAD disposition.



# Recommendation 2.1

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To improve access to data, we recommend the Berkeley Police Department make calls for service data available on the City's Open Data Portal for all call types allowable by Berkeley Police Department policy and law, and update regularly to facilitate transparency. This data should be published in machine ready format, and contain as many years of data as is available.

- Multiple datasets including Crime Mapping, Use of Force, Calls for Service, RIPA, the Arrest and Booking Logs are published and available on the BPD Transparency Hub: <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/>.





INFORMATION CALENDAR  
May 23, 2023

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Jennifer Louis, Interim Chief of Police  
Subject: Audit Recommendation Status - Data Analysis of the City of Berkeley's Police Response

CURRENT SITUATION AND ITS EFFECTS

The City Auditor's report included 2 recommendations. Both of the recommendations have been implemented.

BACKGROUND

On July 2, 2021, the City Auditor's Office issued its audit, *Data Analysis of the City of Berkeley's Police*<sup>1</sup> This audit report included 2 recommendations. The purpose of this report is to update the City Council on the Police Department's progress on implementing the City Auditor's recommendations. This is the second and final status report for this audit. In brief, multiple datasets including Crime Mapping, Use of Force, Calls for Service, RIPA, the Arrest and Booking Logs are now published and available on the BPD Transparency Hub. The Transparency Hub also information where there was a documented mental health or homelessness component involved: <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/>.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

FISCAL IMPLICATIONS

Staff time for various members of BPD and the Department of Information Technology.

CONTACT PERSON

Captain Kevin Schofield, Police Department, (510) 981-5815

ATTACHMENTS

1: Data Analysis Recommendation Table

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<sup>1</sup> City Auditor's Office Data Analysis Audit (7/2/2021)  
<https://berkeleyca.gov/sites/default/files/2022-01/Data-Analysis-Berkeley-Police-Response.pdf>

| <b>Audit Title: Data Analysis of Berkeley's Police Response</b>                                   |                       |                                                                                                                                                                                                                                                                                                                                                                                   |                   |                            |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------------------------|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Finding</b>                                                                                    | <b>Recommendation</b> |                                                                                                                                                                                                                                                                                                                                                                                   | <b>Department</b> | <b>Last Period: Status</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Audit Recommendations, Corrective Plan, and Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Berkeley Police Department can better track mental health and homelessness calls.                 | 1.1                   | To improve access to data, we recommend the Berkeley Police Department identify all calls for service where there is an apparent mental health issue and/or homelessness component in a manner that protects the privacy rights of the individuals involved.                                                                                                                      | Police            | Implemented                | 6/29/2022                                     | <u>Implemented:</u><br>Starting July 1, 2021, the department formally began utilizing “H” homeless and “MH” mental health disposition codes when closing out any call involving a homeless person or a person with mental health issues. Officers were instructed that they were not required to ask people what their housing status is unless necessary for identification purposes. Unless there are mental health issues which are related to the call, they are not required to ask them what their mental health status is either. Officers are expected to use their best judgement / perception in determining if a call is related to a homeless issue or someone suffering from a mental health issue. If so, they are directed to add the “H” and/or “MH” disposition to the CAD disposition. |
| The City can improve the transparency of Police Department activity data on the Open Data Portal. | 2.1                   | To improve access to data, we recommend the Berkeley Police Department make calls for service data available on the City’s Open Data Portal for all call types allowable by Berkeley Police Department policy and law, and update regularly to facilitate transparency. This data should be published in machine ready format, and contain as many years of data as is available. | Police            | Partly Implemented         | 1/11/2023                                     | <u>Implemented:</u><br>Multiple datasets including Crime Mapping, Use of Force, Calls for Service, RIPA, the Arrest and Booking Logs are published and available on the BPD Transparency Hub: <a href="https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/">https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/</a> .                                                                                                                                                                                                                                                                                                                                                                                                                                                              |



Office of the Mayor

CONSENT CALENDAR  
November 7, 2023

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Sophie Hahn, Councilmember Susan Wengraf

Subject: United Against Hate Week 2023

RECOMMENDATION

1. Adopt a Resolution declaring November 12<sup>th</sup> – 18<sup>th</sup>, 2023 as United Against Hate Week.
2. Adopt a Resolution approving the D-13 expenditure in an amount not to exceed \$500 per Councilmember, to support the cost associated with the Berkeley event at the UC Theatre. The total cost is \$3,000.

BACKGROUND

Starting in Berkeley in 2017 in response to far-right rallies, United Against Hate was originally a poster campaign and spread throughout Alameda County. It has since transformed into an annual statewide event. The goal for United Against Hate Week is to provide communities with the tools, resources, and support they need to create locally driven actions to stand united against growing intolerance. This annual week of activities and follow up events are designed to not just raise awareness about the dangers of hate and the need for respect and civil discourse, but to help community members build stronger connections with civic leaders, businesses, and schools, so that deeper engagement can continue year-round. ([www.unitedagainsthateweek.org](http://www.unitedagainsthateweek.org))

Not in Our Town ([www.niot.org](http://www.niot.org)) is a non-profit that serves communities across the country working to build safety, inclusion and equity for all. They are, once again, facilitating the organization for United Against Hate Week, and have recently received a Stop the Hate grant award from the State of California for the ongoing administration of United Against Hate Week for the next 2 years. This will be the foundation for a long-term and sustainable week of action.

Additionally, this year, United Against Hate Week has formed a new partnership with CA vs. Hate, an initiative out of the California Civil Rights Department, who will be helping with coordinating outreach and amplifying the work across the state.

Berkeley will be hosting an event on Monday, November 13<sup>th</sup> in partnership with Berkeley Unified School District at 3pm at the UC Theatre that will include a short film and panel discussion for teachers, students and their families. Proceeds from Council

United Against Hate Week 2023

CONSENT CALENDAR

November 7, 2023

office contributions will be used to offset the cost of expenses associated with the set-up and labor for the event. The UC Theatre is donating the venue.

FINANCIAL IMPLICATIONS

\$500 from the Mayor's D-13 account and up to \$500 from other Councilmembers who wish to contribute.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with adopting this recommendation.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

- 1: Resolution Proclaiming November 12 – 18, 2023 as United Against Hate Week
- 2: D-13 Resolution

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

COMMEMORATING UNITED AGAINST HATE WEEK 2023

WHEREAS, the United States is a nation of immigrants, whose strength comes from its diversity; and

WHEREAS, the Constitution enshrines equality on all individuals, regardless of race, gender, orientation, religion, or political view; and

WHEREAS, rhetoric continues to generated a toxic environment that encourages the propagation of racist, xenophobic, anti-Semitic, sexist, homophobic, Islamophobic, and other bigoted views by emboldened hate groups and individuals;

WHEREAS, deep divisions within our country are the result of extreme ideology, further strengthening a cycle of mistrust and suspicion fueled by fear, anxiety, and insecurity; and

WHEREAS, the number of hate crimes across the United States continues to increase with hate crimes against African Americans and Asian Americans especially increasing; and

WHEREAS, the City of Berkeley is dedicated to preventing and opposing hate and intolerance in our communities. Berkeley started United Against Hate Week in 2017, which has since expanded into a national movement; and

WHEREAS, education, compassion, and cooperation are key to unlocking understanding and embracing differences between people, with United Against Hate Week an important step in bridging divisions and strengthening our communities.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby proclaims November 12 - 18, 2023 as United Against Hate Week in the City of Berkeley.

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR NOT IN OUR TOWN'S UNITED AGAINST HATE WEEK

WHEREAS, Mayor Jesse Arreguin has surplus funds in his office expenditure account; and

WHEREAS, Berkeley will be hosting an event on Monday, November 13<sup>th</sup> in partnership with Berkeley Unified School District at 3pm at the UC Theatre that will include a short film and panel discussion for teachers, students and their families. Proceeds from Council office contributions will be used to offset the cost of expenses associated with the set-up and labor for the event at the UC Theatre. The UC Theatre is donating the venue.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that up to \$3,000 in funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$500 per office shall be granted to the UC Theatre.





Office of the Mayor

CONSENT CALENDAR

November 7, 2023

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Sophie Hahn,  
Councilmember Susan Wengraf

Subject: Berkeley Holiday Fund: 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 Mayor Arreguin to the Berkeley Holiday Fund's annual campaign with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.

BACKGROUND

The Berkeley Holiday Fund has helped make the holiday season happier for hundreds of Berkeley's neediest residents for 110 years. An all-volunteer organization, the Berkeley Holiday Fund has been partnering with 27 social service agencies to identify Berkeley citizens in need of help during the holidays. By keeping operating costs to a minimum, the Berkeley Holiday Fund ensures that all contributions go directly to help those who need it the most. Last year, they were able to bring a little cheer into the lives of more than 1,100 Berkeley families distributing almost \$167,000.

The Mayor's office has actively participated in this program for over 25 years, along with generous support from the City Council. This year the Berkeley Holiday Fund anticipates distributing approximately 1,200 checks to individuals and families. This item requests the City Council approve an expenditure, not to exceed \$500 of funds from the from the Mayor's office budget to help cover these costs.

FINANCIAL IMPLICATIONS

No General Fund impact. \$500 is available from the Mayor's office budget discretionary account.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with adopting this recommendation.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Berkeley Holiday Fund 2020

CONSENT CALENDAR  
November 7, 2023

Attachments:

1: Resolution

2: Letter from Berkeley Holiday Fund

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

BERKELEY HOLIDAY FUND 2023

WHEREAS, the Berkeley Holiday Fund has been making small grants to Berkeley's neediest citizens for 110 years; and

WHEREAS, last year, the Berkeley Holiday Fund distributed almost \$167,000 to more than 1,100 Berkeley families; and

WHEREAS, Berkeley Holiday Fund partners with 27 social service agencies to identify Berkeley citizens in need of help during the holidays; and

WHEREAS, the Berkeley Mayor's Office has supported the Berkeley Holiday Fund's efforts for over 25 years, along with generous support from the City Council; and

WHEREAS, Mayor Arreguín has surplus funds in his office expenditure account; and

WHEREAS, the Berkeley Holiday Fund seeks funds in the amount of \$500 to help cover the costs of providing checks to Berkeley Holiday Fund recipients; and

WHEREAS, the provision of such services would fulfill the following municipal public purpose of providing services to low-income residents of the City of Berkeley.

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 \$500 per office shall be granted to the Berkeley Holiday Fund for helping cover the costs of providing checks to Berkeley Holiday Fund recipients.



# BERKELEY HOLIDAY FUND

Post Office Box 9779 ♦ Berkeley, California 94709

www.BerkeleyHolidayFund.org

HONORARY CHAIRPERSON  
Jesse Arreguin, Mayor of Berkeley

EXECUTIVE BOARD  
Andrew T. Williams, Co-Chairman  
Linda V. Williams, Co-Chairman  
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Janice Kelly  
Rashi Kesarwani  
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Ruth Muschel and Gillies McKenna  
Jane and Bill Neilson  
Mike and Carina O'Brien  
Martin Paley  
J. Park  
James and Ruth Reynolds  
Marc A. Rieffel  
Rigel Robinson  
Bruce and Teddy Schwab  
Margaret and Contee Seely  
Robert Smith and Janet Huseby  
Timothy Stokes and Andrea Lewis  
Bibi Tiphane  
Susan Wengraf  
William and Mary Alice Yund

September 18, 2023

The Honorable Jesse Arreguin  
Mayor of Berkeley  
2180 Milvia Street  
Berkeley, CA 94704

Dear Mayor Arreguin:

On behalf of the Board of the Berkeley Holiday Fund, I want to thank the Mayor's office for its continuing, generous support for the Fund's annual disbursement of holiday gifts to Berkeley's neediest citizens. And to you personally for serving as the Honorary Chairperson of the Fund. For 110 years the Fund has solicited donations from the citizens of Berkeley and now partners with twenty-seven local social service agencies to identify Berkeley citizens in need of help during the holidays.

Last year, with your help, we were able to offer much needed cheer during the holiday season by sending checks totaling almost \$167,000 and to more than 1,100 individuals and families in Berkeley.

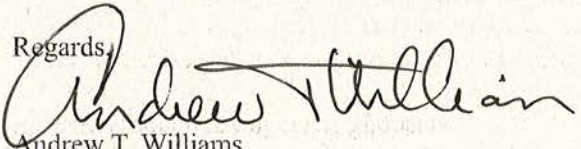
We are requesting that you continue your longstanding support for our efforts. For more than twenty-five years the Mayor's Office has aided the Holiday Fund. We are grateful for your support of the Berkeley Holiday Fund as our Honorary Chairman and the support of the City Council members as Sponsors.

This year we anticipate distributing approximately 1,200 checks to individuals and families. While we fund every request we receive, the number of requests from agencies varies from year-to-year, and we only send one check to individuals families recommended by multiple agencies.

Since this expenditure requires Council approval, we are formally requesting \$500 in support and are asking for your help in obtaining that approval.

In past years some council members have added funds from their office accounts. We deeply appreciate their support.

Thank you again for all the support and encouragement you have provided in the past to this truly unique Berkeley institution.

Regards,  
  
Andrew T. Williams  
Co-Chairperson



Office of the Mayor

CONSENT CALENDAR

November 7, 2023

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Sophie Hahn,  
Councilmember Rigel Robinson, Councilmember Susan Wengraf

Subject: Budget Referral: Supplemental Funding for Housing Retention Program

RECOMMENDATION

Refer \$1,000,000 from Measure P tax receipts to the Fiscal Year 2024 AAO1 Budget Process to augment the Housing Retention Program, (administered by the Eviction Defense Center, EDC) as part of the City's anti-displacement programs (launched in 2017), for the purpose of providing rental assistance to tenants.

BACKGROUND

The Housing Retention Program is an essential tool in preventing tenant displacement and preserving Berkeley's racial, economic and cultural diversity. In 1993, the City of Berkeley began the Homeless Prevention Grants Program, which in 2008 became the Housing Retention Program (HRP).

The program was reconstituted and bolstered in 2017 with an increased allocation of \$250,000 annually which was continued in all budgets since FY 2019. The City Council's annual allocation of General Fund revenues was made possible due to the passage of Measure U1 in 2016 which increased the business license tax for large rental properties, generating between \$4-7 Million annually.

At the onset of the COVID-19 pandemic and resulting shelter in place order, the City Council launched the Berkeley Relief Fund and allocated \$3 Million to initially capitalize the fund, to be split three ways between rental assistance, grants for arts non-profits and grants to small businesses. Tenant rent assistance was funded \$1,000,000 to expand the Housing Retention Program during this emergency with an additional \$900,000 added as private donations came in through the East Bay Community Foundation. Approved households were eligible to receive up to \$5,000 as a one-time grant, and an additional one-time grant of up to \$10,000 during the specified COVID-19 emergency. Additional funding was provided through a CBDG CARES grant from the Federal Government. A separate budget referral to continue funding of the COVID Emergency Rental Assistance Program with funds available through the American Rescue Plan Act (ARPA) was approved at the April 26, 2022 City Council meeting. Additional funding of \$1,800,000 (\$900,000 annually) was added to the programs in the FY2023 - 2024 budget cycle.

Funding for this program is needed as many low-income households remain in massive debt that has accrued over the course of the pandemic. As Berkeley's eviction moratorium has ended, people can be evicted for lack of payment of rent. Additionally, there are tenants who owe back rent that accrued during the moratorium. Inflation and cost of living, which disproportionately impacts low-income households, could put some people in a position of falling behind on rent in the coming months.

In March 2023, Council approved a budget referral to include an additional \$2 million to supplement the Housing Retention Program, which was included in the budget approved in June. Given both the high success and high demand of the program, it is anticipated that funding will run out by January 2024. Therefore, additional funding in the amount of \$1 million is needed to continue this vital program and prevent evictions.

With the end of the eviction moratorium on September 1<sup>st</sup>, data from the Rent Stabilization Board shows a sharp increase in eviction notices. Between September 1<sup>st</sup> and September 29<sup>th</sup>, the Rent Board received 130 eviction notices. For comparison, in 2019, the last year before the eviction moratorium went into effect, there was an average of 70 eviction notices a month. In 2021, when the eviction moratorium was in full effect, there was an average of 10 a month. During the Transition Period between May and August 2023, there was an average of 40-50 a month. While many of these notices are three day or thirty-day notices to pay rent or quit – a precursor to an unlawful detainer (a lawsuit to evict a tenant) – six of the notices are for unlawful detainers. In many of the cases where a notice to pay rent or quit were made, tenants have relied on the Housing Retention Program to resolve the situation.

#### FINANCIAL IMPLICATIONS

Total allocation of \$1,000,000 from Measure P tax receipts.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100



CONSENT CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin (Author) and Councilmember Rashi Kesarwani and Councilmember Sophie Hahn (Co-Sponsors)

Subject: Transgender Awareness Month and Day of Remembrance Resolution

RECOMMENDATION

Adopt a resolution declaring November as Transgender Awareness Month and November 20 as Transgender Day of Remembrance in the City of Berkeley

BACKGROUND

Between 1995 and 1998, Chanelle Pickett, Monique Thomas, and Rita Hester, three Black transgender women, were murdered in acts of anti-transgender violence. In 1999, the first Transgender Day of Remembrance was held to honor their lives. Additionally, the week leading up to this occasion is observed as Transgender Awareness Week to honor, celebrate, and uplift the transgender community while addressing the numerous issues they face. The City of Berkeley stands with our transgender community members and is proud to raise the Transgender Pride Flag throughout the month of November.

ENVIRONMENTAL IMPACTS

N/A

FISCAL IMPACTS

Costs associated with staff time necessary to organize the flag raising ceremony.

CONTACT

Councilmember Terry Taplin, District 2, (510) 981-7120, [TTaplin@cityofberkeley.info](mailto:TTaplin@cityofberkeley.info)

ATTACHMENTS

1. Resolution

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

**DECLARING THE MONTH OF NOVEMBER AS TRANSGENDER AWARENESS  
MONTH AND NOVEMBER 20 AS TRANSGENDER DAY OF REMEMBRANCE IN  
THE CITY OF BERKELEY**

**WHEREAS**, Transgender Day of Remembrance, November 20, is an annual observation that began in 1999 with a vigil honoring the memories of Chanelle Pickett, Monique Thomas, and Rita Hester, three Black transgender women murdered in years prior, and honors the memory of those whose lives were lost in acts of violence; and

**WHEREAS**, Transgender Awareness Week, observed from November 13 to 19, is an annual occasion to honor, celebrate, and uplift the transgender community while addressing the numerous issues they face, including, but limited to, barriers in receiving medical treatment, discriminatory housing and employment practices, and a lack of adequate and appropriate representation across various facets of society; and

**WHEREAS**, since 2013, the Human Rights Campaign has tracked incidents of fatal transgender violence, the same year that the Federal Bureau of Investigation began reporting on hate crimes motivated by anti-transgender bias, and in 2023 so far, at least 19 transgender and gender non-conforming lives have been tragically and inhumanely taken through violent means, including through gun and interpersonal violence; and

**WHEREAS**, although the City of Berkeley honors the bravery and resilience of the transgender individuals who live in their authentic gender and is proud of the existing protections we have in place for transgender individuals to pursue their lives free from discrimination in the San Francisco Bay Area, we reaffirm our commitment to ongoing efforts to promote full inclusion of transgender individuals in Berkeley and beyond; and

**WHEREAS**, the City of Berkeley is grateful to the organizations that provide valuable resources to transgender individuals, such as care navigation, counseling, mentorship, and legal services, including, but not limited to, the Berkeley Free Clinic, East Bay Sanctuary Covenant, Oasis Legal Services, Pacific Center for Human Growth, Partnerships for Trauma Recovery, and UC Berkeley's Gender Equity Resource Center.

**THEREFORE, BE IT RESOLVED**, that the Berkeley City Council does hereby declare the month of November as Transgender Awareness Month and November 20 as Transgender Day of Remembrance in the City of Berkeley and authorizes the city manager to fly the Transgender Pride Flag annually at the Civic Center in November.





Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR  
November 7, 2023

To: Honorable Members of the City Council

From: Councilmember Harrison, Councilmember Taplin

Subject: Budget Referral: Refer \$6,000 to the November 2023 AAO #1 for Two Pilot Special Mentoring and Violence Prevention Events for Berkeley Youth

RECOMMENDATION

Refer \$6,000 to the November AAO #1 to fund two pilot special mentoring and violence prevention events for Berkeley youth as organized by the Berkeley Jr. Jackets and the Young Lives Matter Foundation.

BACKGROUND

The Berkeley Junior Jackets was founded in 2017 and is a division of the Young Lives Matter Foundation, an all-volunteer-supported nonprofit 501(c)3 NorCal American Youth Football and Cheer sanctioned football and cheer program. These programs serve more than 150 Black and Latino underserved youth through competitive football and cheerleading—the majority of whom attend school within Berkeley Unified School District (BUSD). The Jr. Jackets is the largest organized gathering of Black students and parents across the district.

Jr. Jackets community events are used as an opportunity to (1) bring in a wide range of services and activities to meet the needs of the families and (2) listen to the families and help organize the desired changes they wish to see within BUSD and the wider community. Their programs are open to everyone regardless of gender, sexual orientation, gender identity, or ability to pay. The collective power of the Jr. Jackets community has only begun to be realized to leverage the changes that Berkeley needs to implement to bring peace to our streets, schools, homes, and families.

Berkeley Jr. Jackets and the Young Lives Matter Foundation are requesting funding from the City of Berkeley to support two additional special mentoring and violence prevention events for Berkeley youth. Both organizations have a proven track record of delivering critical mentoring and violence prevention events throughout the year, such as football and cheer program practices and games. Their use of the Berkeley Unified School District fields is currently subsidized by the City of Berkeley.

While existing sports programs deliver mentoring and violence prevention throughout

the year, these two special events underscore the deeper mission of the organization: to support underserved youth with life skills and culturally attuned relationships that teach life skills and promote positive development.

The two annual events are described below and will be piloted next year. In the future, Jr. Jacket and the Young Lives Foundation would like to provide ongoing dedicated programming in these areas in support of the City’s violence prevention and community building programs.

**Boys2Men** is an evening dinner event designed to inspire and instruct the boys in Berkeley Jr. Jackets and Young Lives Matter to grow into healthy, strong, purposeful men. The boys and their parents dress up for the event, enjoy a catered meal, and hear from a range of speakers on the topics of: conflict resolution, childhood trauma and mental health, violence prevention, and emotional intelligence. The coaches and leaders of Jr. Jackets and the guest speakers model healthy manhood while teaching the young men the life skills to grow into their best selves.

|                                                    |
|----------------------------------------------------|
| Space rental: \$250                                |
| Catered meal: \$2000                               |
| DJ: \$300                                          |
| 2 guest speakers, 1 singer: \$600 (\$200 each)     |
| Decorations (table clothes, balloons, etc.): \$500 |
| <b>Total: \$3,650</b>                              |

**Girl Talk** is a girls empowerment program for the girls in Berkeley Jr. Jackets cheer program. The event is designed to empower girls to become the strong leaders they can be. Through speakers and a presentation, art journal processing, and small group discussion, leaders address topics such as conflict resolution, violence prevention, mental health, childhood trauma, and emotional intelligence.

|                                                    |
|----------------------------------------------------|
| Space rental: \$150                                |
| Catered meal: \$1000                               |
| Art supplies and journals: \$150                   |
| Trainers: \$300                                    |
| DJ: \$300                                          |
| Singer: \$200                                      |
| Decorations (table clothes, balloons, etc.): \$100 |
| <b>Total: \$2,200</b>                              |

It is in the public interest to ensure that underserved youth in Berkeley receive the support they need to thrive and prevent violence.

**FISCAL IMPACTS OF RECOMMENDATION**

\$6,000 in General Funds for two community events to provide youth with training in conflict resolution, childhood trauma and mental health, violence prevention, and emotional intelligence.

Budget Referral: Refer \$6,000 to the 2023 AAO #1 for Pilot Special Mentoring and Violence Prevention Events for Berkeley Youth

CONSENT CALENDAR  
November 7, 2023

ENVIRONMENTAL SUSTAINABILITY

No identifiable impact.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140





Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR  
November 7, 2023

To: Honorable Members of the City Council

From: Councilmember Harrison

Subject: Budget Referral: Refer \$800,000 to the November 2023 AAO #1 for Matching Funds to Repair Eight Deficient Tide Tubes to Avoid Catastrophic Structural Failure and Escalating Construction Costs

RECOMMENDATION

Refer \$800,000 to the November 2023 AAO #1 to repair eight deficient tide tubes to avoid catastrophic structural and transportation failure, escalating construction costs, certain climate and sea level rise impacts, and further environmental catastrophe by providing the Parks, Recreation & Waterfront Department matching funds for a Federal Highway Administration (FHWA) PROTECT or other available grants.

BACKGROUND

The City's tide tubes connect the lagoon at Aquatic Park created as part of the construction of I-80 in the 1930s and the San Francisco Bay. The lagoon combines storm water run-off along with water from the Bay, creating brackish water that has hosted a wide variety of marine life.

Well-functioning tide tubes not only help collect influxes of storm water (increasing because of climate change), but also help flush toxins from the lagoon and attract salt water species such as leopard sharks, bat rays, and pelicans.<sup>1</sup> The City is also subject to a U.S. Environmental Protection Agency directive to improve water quality, particularly in the Bay, which Aquatic Park is a part, and spends tens of millions per year to prevent storm water infiltration and the release of partially treated sewage into the Bay.

The tubes are prone to blockage from invasive tubeworm species, contributing to poor water quality, flooding, and further harm to species and ecosystems. According to the City Manager and the Parks, Recreation & Waterfront Department, thanks to the evaluation and structural repair of the five main tide tubes (completed in 2022 under

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<sup>1</sup> Aquatic Park Webpage, City of Berkeley, <https://berkeleyca.gov/community-recreation/parks-recreation/parks/aquatic-park>.

Budget Referral: Refer \$800,000 to the November 2023 AAO #1 for Matching Funds to Repair Eight Deficient Tide Tubes to Avoid Catastrophic Structural Failure and Escalating Construction Costs

T1), more fish and other creatures live in the lagoon than before the renovation.<sup>2</sup> Part of this project included partial dredging and repairs to the tide gates and the ends of the tubes.<sup>3</sup> Despite recent upgrades to the five main tubes, three other tubes are still not fully functional. During the January 2023 atmospheric river event, the lagoon the City saw a mass die off of sharks and rays. The City's consultants indicated that a deluge of fresh water from the storm draining into the lagoon changed the salinity and created a toxic environment for aquatic life. However, ill-functioning tubes are likely to have exacerbated the event as only five of the eight tubes are fully functional.



Credit: Berkeleyside and Citizen reporter



Credit: Berkeleyside and Citizen reporter

During the Measure T1 evaluation, the City found that a large portion of the five main Tide Tubes are clay walls that are failing. The evaluation recommended the City replace or sleeve the tubes as soon as possible and that the City could expect complete failure in no later than 10 years from 2020. Additionally, there are three other tide tubes that need repair. Two of the tubes travel from the Aquatic Park lagoon to the Model Yacht Basin and another from the basin to the Bay. Each are significantly clogged and likely require sleeving. Renovating all eight Tide Tubes will help improve the water quality in the lagoon and help eliminate fecal matter by regular flushing of the lagoon with bay water. Renovated tide tubes will also prevent the collapse of Interstate 80 that is projected to occur due to the scouring effects of water flowing through the tide tubes, which will worsen with increased storms and rising tides associated with climate change.

To help fund these expensive repairs, the Parks, Recreation & Waterfront Department is pursuing a variety of grant possibilities. The 2021 Bipartisan Infrastructure Law

<sup>2</sup> Update on Aquatic Park, Dee Williams-Ridley, City Manager, February 15, 2023, <https://berkeleyca.gov/sites/default/files/documents/2023-02-15-PRW-aquatic%20park.pdf>.

<sup>3</sup> Aquatic Park Central Tide Tubes Repair Sediment Removal Webpage, City of Berkeley <https://berkeleyca.gov/your-government/our-work/capital-projects/aquatic-park-central-tide-tubes-repair-sediment-removal>.

Budget Referral: Refer \$800,000 to the November 2023 AAO #1 for Matching Funds to Repair Eight Deficient Tide Tubes to Avoid Catastrophic Structural Failure and Escalating Construction Costs

established the Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Program to “help make surface transportation more resilient to natural hazards, including climate change, sea level rise, flooding, extreme weather events, and other natural disasters....” The PROTECT Program includes over \$8.7 billion over five years (FY22 – FY26) through competitive grants to State DOTs, metropolitan planning organizations, local governments, Indian tribes, Territories and other eligible entities.<sup>4</sup> All construction grant applications for this funding source require at least 20% in local matches.

In August 2023 the City submitted an initial \$466,000 grant application to the FHWA PROTECT Discretionary Grant Program for the Interstate 80 and Aquatic Park Lagoon Subsurface Culvert Resiliency and Habitat Project, and will provide a 12% local cash match of \$63,600 from the Parks Tax. This planning and design project will investigate feasible methods to renovate the existing failing subsurface culverts (tide tubes) that connect Aquatic Park to the Bay underneath I-80, and to the Model Yacht Basin. The planning effort, when paired with construction, will increase the resilience of I-80, Bolivar Drive at Aquatic Park, and the adjacent local City roads (e.g., 2nd Street) from the impacts of sea-level rise and increased storms due to climate change.

This grant only includes the planning and environmental process for the needed maintenance on all eight tide tubes. The Parks, Recreation & Waterfront Department is currently prevented from applying for the larger grant to perform construction work due to lack of readily available local matching funds as required. Additionally, the Public Works Department has determined that such a project is not eligible for the City’s Sanitary Sewer or Storm Water Funds as matching funds for these grants. It is unclear whether the City could use Solid Waste funds.

The total cost for repairing the eight tubes and all the related costs is estimated to be \$3.6-\$4.0M with a required 20% local match. This budget referral would provide a 20% match with an option to adjust the amount as needed at the Budget Committee or Council through the budget process if this price increases.

Contractors and environmentalists indicate that it is in the public interest to address outstanding repairs “as soon as possible.” It is also critical to leverage any available state or federal funding immediately to perform the needed repairs ahead of likely additional inflation, structural failure, and additional environmental catastrophes. The PROTECT grant funding is in place only through Fiscal Year 2026.

FISCAL IMPACTS OF RECOMMENDATION  
\$800,000 from the General Fund.

ENVIRONMENTAL SUSTAINABILITY

Properly-functioning tide tubes allow saltwater from the Bay to flow into the lagoon with the daily tide cycle and also allow fresh water from storms to drain quickly from the

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<sup>4</sup> FHWA PROTECT Grant Program Webpage, <https://www.fhwa.dot.gov/environment/protect/>.

Budget Referral: Refer \$800,000 to the November 2023 AAO #1 for Matching Funds to Repair Eight Deficient Tide Tubes to Avoid Catastrophic Structural Failure and Escalating Construction Costs

lagoon into the Bay, helping maintain a high-quality aquatic habitat at the lagoon. In addition, the renovated tide tubes will prevent the collapse of Interstate 80 that is projected to occur due to the scouring effects of water flowing through the tide tubes, which will worsen with increased storms and rising tides associated with climate change.

CONTACT PERSON

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**SOPHIE HAHN**

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CONSENT CALENDAR

November 7, 2023

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Sophie Hahn (Author); [Mayor Arreguin, Councilmembers Bartlett and Taplin (Co-Sponsors)]  
 Subject: Resolution Supporting Efforts to Exonerate the Port Chicago 50

RECOMMENDATION

Adopt a new resolution supporting local, State, and federal efforts to exonerate the Port Chicago 50; 50 Black sailors who were wrongfully convicted of mutiny during WWII in the wake of a massive, devastating explosion at the Port Chicago naval base near Concord, CA.

SUMMARY

The Port Chicago Disaster, a deadly munitions explosion that occurred in 1944 and killed 320 mostly-African American sailors and civilians, led to the wrongful and racist convictions of 50 Black sailors for so-called mutiny. President Bill Clinton granted the Port Chicago 50 a Pardon in 1999, which excuses but does not undo a wrongful conviction. There is a movement to set the record straight by obtaining a full exoneration for the wrongful and racist convictions.

The Port Chicago 50 were not responsible for the disastrous explosion and loss of life, and their refusal to continue working under the same hazardous conditions was an act of extreme courage, not mutiny. This item asks Berkeley City Council to join the cities of Albany, Antioch, Brentwood, Concord, Danville, Lafayette, Martinez, Orinda, Pittsburg, Pleasant Hill and Walnut Creek by adopting a resolution in support of formal exoneration of the Port Chicago 50, and encourages other Alameda County jurisdictions to do the same.

BACKGROUND<sup>1</sup>**The Port Chicago Disaster and the Protest of Port Chicago Sailors**

During World War II, nearly a million Black Americans served in the U.S. Armed Forces, but the military at that time was racially segregated, and Black servicemen in the Navy were restricted to non-combat assignments. These assignments were usually the least desirable duties deemed unfit for White sailors, which ranged from menial tasks to the most back-breaking work. At Port Chicago Naval Magazine near Concord, California, newly-arriving Black sailors hoped to serve at sea and engage in combat, but quickly learned their duties would be limited to the hazardous task of loading ammunition and explosives into Navy ships.

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<sup>1</sup> "The Port Chicago Disaster and the Protest of the Port Chicago Sailors." Port Chicago Alliance. Accessed October 16, 2023. <https://portchicago50.com/history.html>.

The naval base was racially segregated, so the commanding officers at Port Chicago were all White and the sailors loading were all Black. The work was grueling, and Jim Crow segregation policies were strictly enforced. For example, Black sailors were prohibited from using the "Whites only" restrooms aboard the ships they were loading, so they were made to walk a half-mile to use the restroom. Although loading bombs and explosives is extremely dangerous work, the Navy neglected to provide the sailors with adequate resources to safely carry out their duties. The sailors were not given specialized training in handling explosives. Basic gear like gloves to grip the grease-slathered bombs were not provided. Sailors who looked to officers for guidance on safest methods for carrying explosives were erroneously told the munitions could not explode because they had no fuses or detonators.

Ships were loaded non-stop, 24 hours a day with sailors working in three 8-hour shifts. Commanders at Port Chicago wanted the ships loaded as quickly as possible, and following Naval safety regulations slowed production, so federally-mandated safety codes were ignored. Sailors lifted live bombs by hand and were encouraged to roll heavier bombs along the dock. Powered winches were used to lift heavy loads, and although the machinery was often in disrepair — with broken levers, valves, and even brakes — sailors were instructed to load these devices beyond their weight capacity to speed up the process. Naval officers also raced divisions of sailors against each other, betting on which group could load explosives the fastest.

Practices that prioritized speed over safety led to a dangerous working environment at Port Chicago, and many sailors felt the working conditions were unacceptable. Actor, singer, and civil rights icon Harry Belafonte, who served briefly at Port Chicago in 1944, wrote in 2011 about the dangers of loading munitions:

"Not only was this menial work, it was incredibly dangerous, the more so because none of us had had any training for it. We knew exactly why we'd been chosen. This was scut work for the lowliest and most expendable sailors in the U.S. Navy: the black ones."

The sailors filed complaints with the Navy about unsafe procedures, requested a change of assignment, and asked to be transferred. Complaints and requests were ignored or denied. A year before the disaster, in a letter to a local attorney asking for assistance, the sailors wrote: "We, the Negro sailors of the Naval Enlisted Barracks of Port Chicago, California, are waiting for a new deal. Will we wait in vain?"

### **The Port Chicago Disaster**

On the night of July 17, 1944, two Liberty ships, the SS Quinault Victory and SS E.A. Bryan, were being loaded with explosive incendiary bombs, depth charges, and ammunition. At 10:18pm, two massive explosions at the docks, just seconds apart, lit up the sky. Fiery debris and chunks of metal rained down on the base and surrounding areas. Smoke and fire extended nearly two miles into the air.

All 320 of the men on duty that night died instantly, almost two thirds of whom were African American, amounting to 15% of all Black American military deaths during World War II. 390

civilians and military personnel were injured, many seriously. The Naval Magazine was completely destroyed.

As Port Chicago sailor Robert Routh recalled, "These were the kind of young Blacks that made the conditions tolerable because of their attitude and ready to joke and make you glad to be alive. And now to know that in three to four seconds their lives were just snuffed out... There was nothing said about this, the tragic loss of life. Where was the reporters then, writing about that?"

The nearby town of Port Chicago was severely damaged and the blast caused structural damage and broken windows in surrounding communities. The explosions were felt as far away as Nevada. It was the largest homefront disaster of the war.

The surviving Black sailors were off-duty that night, and many of them were injured from the blast as windows shattered in their barracks. Uninjured sailors fought valiantly to put out fires and contain the damage caused by the explosions. Afterwards, a Rear Admiral proclaimed, "I am gratified to learn that, as was expected, Negro personnel performed bravely and efficiently in the emergency."

In the days that followed, many of the surviving injured Black sailors, still shaken from the traumatic event, were tasked with cleaning up the remnants of the disaster, including the body parts of their brothers-in-arms. Port Chicago 50 sailor Jack Crittenden described the traumatic experience:

"It was a sight that you don't want to talk about. Arm here, leg here, head here, a shoe with a foot in it. This is on the water and on the ground and, oh man. Awful."

Meanwhile, as the Black sailors were made to clean up the grisly scene, their White counterparts were granted a 30-day survivor's leave to return home, heal from their wounds, and visit family and loved ones. The Black sailors were never granted such a leave.

### **The Port Chicago Protest**

Within days after the gruesome cleanup, with the war raging on and our troops still needing munitions overseas, the sailors were sent to Mare Island Naval Shipyard about 25 miles from Port Chicago in Vallejo, California. There they learned they would soon be again tasked with loading explosives onto ships. The Navy's investigation into the cause of the disaster was not yet complete, so sailors and commanding officers did not know what precautions to take in order to prevent another disaster. The sailors would be serving under the same leadership responsible for previous safety violations and there would be no changes to procedures, conditions, or safety practices.

On August 9, 1944, when 328 sailors were directed to march toward the ships to load munitions, the sailors all stopped in their tracks. When asked if they would resume handling explosives, the majority of them resisted. Some sailors were too traumatized from the events to continue

working with explosives. Others wanted to be assigned to different duties. Still others were tormented by the fact that White sailors were granted leave while Black sailors were not only denied leave but made to clean up body parts after the explosions. They all wanted their lives to be valued the same as the White sailors who were being safeguarded from the dangers of loading munitions.

When asked individually if they would follow orders to load, about 70 of the sailors agreed to return to loading duties. The remaining sailors explained to the officers they would serve their country performing other duties, they'd accept transfers, or fight overseas in combat, but would not continue loading munitions under the same dangerous conditions.

Rather than train the sailors, bring working conditions up to code, or reassign White sailors to loading duties, the Naval officers packed 258 of the Black sailors onto a prison barge and threatened them with death-by-firing-squad if they did not return to loading munitions. After over two days on the overcrowded barge, 208 of the sailors reluctantly returned to loading.

In an act of nonviolent civil disobedience, fifty of the sailors, now known as the Port Chicago 50, stood firm and refused to continue loading munitions until the Navy changed their policies and practices.

As sailor Freddie Meeks later recalled, "We said, 'If we're going to be shot, we'll be shot.' We were not going back to those conditions."

For this, the fifty sailors were to be charged with mutiny. Although the standard charge for disobeying an order is "insubordination," which carries a punishment of forfeiture of pay and dishonorable discharge, Port Chicago leadership pushed for a more severe charge of "mutiny" which carried a maximum wartime punishment of death.

### **The Navy's Court of Inquiry**

A Naval Court of Inquiry, or official investigation, began on July 21 but wasn't completed until August 29, twenty days after the sailors were directed to return to loading munitions. As part of the investigation, three senior officers and a judge advocate interviewed 125 witnesses over a month, only five of whom were Black sailors.

The inquiry report found Port Chicago leadership had shown a "general failure to foresee and prepare for the tremendous increase in explosive shipments." It also cited leadership's "failure to provide an adequate number of competent petty officers or even personnel of petty officer caliber."

In regard to hazardous working conditions and practices on the base, the report confirmed leadership's "failure to assemble and train the officers and crew for their specialized duties prior to the time they were required for actual loading." It found that Port Chicago leadership had violated safety code and regulations, encouraged competition, and promoted criminalized loading practices.

The facts and evidence included in the report were interpreted by Navy captains and commanders in a final "opinions" section. Although the report was unable to find evidence of a specific cause for the explosions, the "opinion" section theorized that if the explosions were caused by human error, it was likely caused by the deceased Black sailors themselves. Specifically, the opinion was that the explosions were caused by "rough or careless handling by an individual or individuals", not any failures of leadership. To back this theory, Naval leadership included a racist theory that Black sailors were inherently inferior to White sailors, including the opinion that Black sailors were "neither temperamentally [nor] intellectually capable of handling high explosives."

The report ultimately absolved all White officers of wrongdoing by stating the aforementioned illegally-unsafe practices "were contrary to the Coast Guard ship loading regulations [but] were not dangerous and did not increase the hazards."

### **The Mutiny Trial**

Following the release of the inquiry report on August 29, which confirmed negligence and hazardous working conditions at Port Chicago, it became clear to many why the sailors were hesitant to return to loading explosives. On September 2, just three days after the inquiry report was released, President Franklin D. Roosevelt sent a letter to Secretary of the Navy James Forrestal outlining his opinion on the sailors. The President's letter read:

"It seems to me we should remember in the summary court martials of these 208 men that they were motivated by mass fear and that this was understandable. Their punishment should be nominal."

Although the reasons for the sailors' collective disobedience was understandable to President Roosevelt, the Navy would grant no leniency for the Port Chicago 50. The mutiny trial was scheduled to take place at Treasure Island in the San Francisco Bay on September 14, 1944. It would be the largest mass mutiny trial in American history.

The U.S. military does not typically send public invitations to military trials, however the Navy made an exception in order to invite the national press to cover the mutiny trial. One member of the public attending the trial was future Supreme Court Justice Thurgood Marshall, then a young civil rights lawyer for the National Association for the Advancement of Colored People (NAACP), who observed the trial and heard statements from each of the sailors. He publicly stated that the Navy was mishandling the case and was attempting to cover up its racist policies and blatant negligence by shifting blame for the disaster onto the Black sailors. Unfortunately, as a civilian lawyer, Marshall could not represent the sailors in a military trial.

The fifty sailors were not granted the right to choose their own representation, and were denied their right to individual counsel, as the Navy appointed five Naval attorneys who represented blocks of ten sailors each. Additionally, the Navy-appointed attorneys were all made to play by Navy rules, which barred evidence of hazardous conditions and necessitated the young men be

instructed not to testify about things that could incriminate the Navy or Port Chicago leadership. This left the sailors with very little recourse to prove their innocence, as the reasons they spontaneously refused to load munitions had much to do with hazardous working conditions caused by Port Chicago leadership's negligence and disregard for the Black sailors' safety. As a result, subjects like safety violations, unsafe practices, and racial discrimination were disallowed from the trial and not part of witness examination.

As the sailors were instructed to limit their answers to their own actions and behavior and not the mistakes of Naval leadership, many sailors could only respond to questioning with testimony of their personal feelings of fear and confusion or what we would now call post-traumatic stress disorder or PTSD. These testimonies of fear and confusion were used to further Port Chicago leadership's racist narrative that Black sailors were inherently emotionally unstable, unintelligent, untrainable, and mistake-prone. To this end, officers testified about the sailors' mishandling of bombs and inability to be trained. From a legal perspective, this narrative had very little to do with proving a mutiny occurred, and more to do with establishing that the Black sailors, and not the Navy, were responsible for the Port Chicago disaster. Although this narrative had no bearing on the trial itself – and inadvertently made the sailors' case for granting them reassignment – the narrative of blame would be a stigma the sailors would find hard to shake.

After weeks of proceedings, evidence of a mutiny was scant, as an attempt to usurp power had not occurred and the sailors continued to follow all orders other than loading munitions. The "mutiny" narrative was especially hard to maintain once officers testified that sailors were respectful and followed every order except requests to load munitions. With the prosecution unable to present sufficient evidence of a mutiny, one would expect the Navy to proclaim the sailors innocent of mutiny, however the prosecution changed tactics mid-trial and attempted to prove the sailors were guilty of "conspiracy to commit mutiny." This charge inherently suggests that a mutiny never occurred, so prosecution would try to prove the sailors planned to eventually attempt a mutiny.

Reaching a verdict about collective planned action would theoretically require a careful examination of evidence and testimony for each sailor's alleged role in that action; a complicated task with fifty individual defendants. Additionally, a conspiracy charge would require the prosecution to show evidence of private conversations and alleged agreements, of which there were none. Making the task more difficult, was Naval leadership's inability to match the faces of the Black sailors to specific actions or events. Sailors testified that commanders never gave them direct orders to load munitions, only asked them questions about their willingness to perform the duties. A petty officer backed up the sailors' claims, saying he had never heard his division officer give the men an order to load ammunition. When the sailors' lead attorney asked a Naval commander if he could identify any of the fifty men he gave an order to, he replied, "No, I cannot."

In a flagrant violation of the sailors' rights to a fair trial, judges allowed the prosecution to submit unsubstantiated hearsay evidence and coerced involuntary confessions, while the defense was

not allowed to submit evidence of illegally-unsafe working conditions or unlawful orders. As Port Chicago sailor Joseph Small once said:

"That's why I always knew that the verdict was mandatory. The Navy was coming up with it regardless of what was brought out during the trial or what testimony was brought out, or who was found to be guilty of what, the verdict would have been the same. Not because the verdict would have been justified, but because it was the only way to save face."

On October 24, 1944, after six weeks and 32 days of proceedings, the 7-member jury, composed of an Admiral and six high-ranking Navy officers, would need to arrive at a verdict. There was insufficient evidence of a mutiny, insufficient evidence there was a plot to eventually attempt mutiny, and insufficient evidence that the sailors present in the courtroom were ever given a direct order at all. Nevertheless, the Naval jury deliberated for 80 minutes over lunch – which amounts to about 96 seconds deliberation per sailor – before delivering their verdict. The men were pronounced guilty of "conspiracy to commit mutiny" and were indiscriminately sentenced to 15 years prison and hard labor.

### **Desegregating the Navy**

Mainstream press coverage of the mutiny trial widely reported the Navy's point-of-view that the sailors were cowards and traitors to their country. It also opened the Navy up to scrutiny for its policies of racial segregation. Many Black and liberal publications questioned the Navy's treatment of the Black sailors, as many Americans were unaware that segregation was being so strictly enforced in states like California where Jim Crow segregation was outlawed. These publications focused on the unethical treatment the sailors were subjected to because of the color of their skin. For many, the post-traumatic stress the sailors were experiencing after the disaster and cleanup was understandable, and some believed their request to be reassigned to alternative duties following the disaster was a reasonable request and should have been granted.

The ongoing trial was exposing racial inequality in the Navy for the first time. Under intense scrutiny, Naval leadership realized it needed to take steps to avoid future incidents like the one at Port Chicago. They concluded the Port Chicago protest could have been handled differently, and so in extreme cases commanders should be encouraged to assign Black sailors to alternative assignments, even if that means serving alongside White sailors.

As a result, on October 9, 1944, while the mutiny trial was still being conducted, the Navy's Bureau of Personnel released a directive titled "Negro Enlisted Personnel - Abolishment of Restrictions on the Assignment Of" which lifted restrictions for Black American assignments where "personnel problems" were present:

"In order to enable overall commands to deal successfully with personnel problems brought about by changing conditions and needs, authority is hereby granted addressees to assign Negroes under their cognizance to such activities, and in such numbers, as they see fit."

As a result, while the Port Chicago 50 were still on trial, the Navy ordered the formation of two divisions of White sailors to load munitions at Port Chicago and Mare Island. The racial integration of the Navy had officially begun, and it was in direct response to the Port Chicago protest.

For Black American military personnel around the world, the mutiny trial and verdict had a profound effect. It reinforced the perception that Black lives were not valued by the military, and it resulted in morale dropping to new lows. In the months following the verdict, resentment and frustrations with racially-discriminatory policies led to acts of protest throughout the military. These acts of protest included a race riot in Guam in December 1944, a hunger strike of 1000 Navy Seabees in Port Hueneme in March 1945, and the Freeman Field "Mutiny" of April 1945 in which Black airmen refused to leave an all-White officers club.

The case of the Port Chicago sailors began to serve as an example of everything that was wrong with racial segregation in the military. The Navy's mistreatment of the sailors was being written about and published across the country with photographs, and it didn't sit well with many Americans, including those in military leadership.

Many in the Navy were becoming convinced that segregating enlisted men by race was no longer viable, and integrating personnel only under extreme circumstances was simply not enough. Some believed integration was good for national morale and harmony, while others believed all-Black divisions needed to end because they increased the potential for collective action and protest. Regardless of the reason, there was agreement on what needed to be done, and plans to fully integrate the Navy were underway.

In the months following the verdict, the NAACP publicly advocated for the Port Chicago 50 to be released from prison with their widely-distributed Mutiny pamphlet. The publication was distributed far and wide, including to First Lady Eleanor Roosevelt who supported the campaign to have the men released. Letters from organizations were calling for justice for the Port Chicago 50 while organized drives were being held at churches to sign petitions to end segregation in the military.

In April 1945, on behalf of the fifty sailors, Thurgood Marshall appealed the case directly to the Navy's Judge Advocate General's Office in Washington DC. Although the Navy refused to publicly concede that racial discrimination and bias influenced its judgment of the sailors, just 205 days after Marshall's appeal case was denied, the sailors' sentences were commuted and they were quietly released from prison. Rather than allow the sailors to go home and join their families, the young men were given the "opportunity to complete their enlistments" serving the Navy overseas performing menial tasks like sweeping, picking up trash, and other menial tasks.

Just one month after they were released from prison, in February 1946, after intense public pressure initiated by the Port Chicago protest, subsequent protests, and a public appeal campaign, the Navy became the first branch of the military to end racial segregation. Two years later, the remaining branches of the U.S. Armed Forces integrated.



### **The 1994 Navy Review**

45 years later, with the release of Robert Allen's definitive book "The Port Chicago Mutiny" in 1989, people were hearing the full history of Port Chicago for the first time. Many felt the sailors were unfairly treated and wrongfully convicted. Advocates like Robert Allen, Sandra Evers-Manly, and Reverend Diana McDaniel were joined by lawmakers Rep. George Miller, Senator Dianne Feinstein, and Senator Barbara Boxer in urging the Navy to re-examine the mutiny case.

In 1992, after much advocacy from supporters – including high-profile entertainers Morgan Freeman, Danny Glover, and Louis Gossett Jr. – the Navy agreed to "examine all aspects of the allegations of racial prejudice and discrimination." Following a two year review, the final report found that "racial discrimination did play a part in the assignment of African-American sailors to load munition." According to the Navy's report, assignments were the only aspect of Naval life that was affected by racial discrimination. The report concluded that "neither racial prejudice nor other improper factors tainted the original investigations and trials" and "no error or injustice occurred."

At the time, one of the Port Chicago survivors said the Navy's ruling was "like saying it's raining everywhere but right here." Port Chicago sailor Harry Belafonte said "The Port Chicago mutiny was one of America's ugliest miscarriages of justice and a national disgrace. Those sailors were court-martialed... because they'd dared to stand up to blatant institutional racism."

Advocates continued to make the case that, despite the Navy's conclusions, policies of racial segregation didn't just affect working assignments, but normalized racial discrimination throughout the Navy and encouraged behavior that devalued Black sailors. They maintained that documented racial prejudice and bias tainted the original investigation, charges, and trial.

### **Repairing the Sailors' Legacies**

Unrelenting in their goal to bring the sailors of Port Chicago justice, advocates next approached the sailors with the idea of requesting pardons from the President of the United States. Many of the sailors turned it down. On that subject, Port Chicago sailor Joseph Small once said, "We don't want a pardon because that means, 'You're guilty, but we forgive you.' We want the decisions set aside and reimbursement of lost pay."

By 1999, 47 of the 50 sailors had died. As one of the last three survivors, sailor Freddie Meeks believed seeking a presidential pardon would be a meaningful and lasting way to set the record straight and bring public attention to this little-known history. "After all these years, the world should know what happened at Port Chicago," he said. In December 1999, President Bill Clinton honored the Port Chicago 50 by granting Freddie Meeks a presidential pardon. The remaining two sailors declined, with sailor Jack Crittenden explaining that he refused to ask forgiveness for a crime he didn't commit.

Today, the sailors have all passed away, yet efforts to seek justice for their legacies continue. Naval historians now say the heroic actions of the 50 sailors probably prevented another

disaster and likely saved lives. Acknowledging the racism the sailors experienced, President Barack Obama once wrote, "Faced with tremendous obstacles, they fought on two fronts – for freedom abroad and equality at home."

A growing chorus of Americans believe our nation owes the sailors a debt of gratitude for drawing attention to issues of racial inequality within the Navy and our society as a whole.

### **Celebrating the Sailors**

The Port Chicago 50 are now being honored and celebrated as heroes in schools, parks, and public institutions. In 2021, the East Bay Regional Park District, the largest park district in the country, named a regional park in honor of Thurgood Marshall and the Port Chicago 50. The 2,540-acre Thurgood Marshall Regional Park - Home of the Port Chicago 50 in Concord, California will teach of the Port Chicago 50's courage and how their act of protest, and Marshall's public appeal campaign, forever changed our country for the better.

In 2022, Treasure Island Museum announced they are working with the National Park Service to honor and memorialize the fifty sailors at Yerba Buena Island in the San Francisco Bay where the mutiny trial took place. Plans for a hilltop park on the island include exhibits, panels, plaques, and an American flag waving in their honor.

Through education and advocacy, the legacies of the Port Chicago 50 and the brave fallen sailors of Port Chicago Naval Magazine lives on.

### **Previous action by the Berkeley City Council**

In 2015, the Berkeley City Council adopted a resolution calling on President Obama to support justice for the Port Chicago 50 and exoneration for the convicted Port Chicago sailors. In light of renewed interest and momentum for exoneration, this item seeks to provide a more robust and updated statement of continued support.

### FISCAL IMPACTS

N/A

### ENVIRONMENTAL SUSTAINABILITY

N/A

### CONTACT

Sophie Hahn, Council District 5, (510) 981-7150

**RESOLUTION TO SUPPORT LOCAL, STATE, AND FEDERAL EFFORTS TO EXONERATE  
THE PORT CHICAGO 50**

WHEREAS, on July 17, 1944, the deadliest home front disaster of World War II took place when a tragic explosion occurred at the Port Chicago Naval Magazine killing 320 men (of whom 202 were African American) and wounding 390 (of whom 233 were African American); and

WHEREAS, Port Chicago Naval Magazine was racially segregated and all sailors loading munitions at the time of the explosion were African American; and

WHEREAS, the surviving sailors were entitled to standard survivors' leave but were denied leave and ordered to clean up after the disaster; and

WHEREAS, the surviving sailors were ordered back to handling high explosives before an investigation could determine the cause of the deadly explosion; and

WHEREAS, 258 ammunition handlers engaged in peaceful work stoppage rather than return under the same unsafe working conditions; and

WHEREAS, fifty of these men were unlawfully charged with mutiny, prosecuted as guilty and sentenced to prison; and

WHEREAS, three weeks after the work stoppage, a Naval Court of Inquiry report confirmed working conditions and practices enforced by Port Chicago leadership were in violation of Naval safety regulations and federal safety code; and

WHEREAS, the actions of the sailors, the public mutiny trial, and public advocacy from their champion Thurgood Marshall, initiated the desegregation of the Navy in February 1946; and

WHEREAS, there have been several attempts over the years to appeal the decision, but all have failed; and

WHEREAS, starting in the 1990s, Congressman George Miller worked to preserve the history of the Port Chicago 50 and worked towards their exoneration, and in 1992, his legislation designated the site of the Port Chicago Naval Magazine as a national memorial, which is managed by the National Park Service; and

WHEREAS, in 2009, President Obama signed legislation to incorporate Port Chicago Naval Magazine National Memorial as a full and permanent unit of our National Park System; and

WHEREAS, the East Bay Regional Park District received part of the Concord Naval Weapons Station through a Public Benefit Conveyance on July 19, 2019, and has named the park the Thurgood Marshall Regional Park – Home of the Port Chicago 50, which honors the courage

and legacy of the Port Chicago 50 and all those who sacrificed their lives in our nation's ongoing struggle for social justice, racial equality, and workers' rights; and

WHEREAS, Naval historians now recognize the actions of the Port Chicago 50 potentially saved lives and changed the Navy for the better; and

WHEREAS, in 2022, the City of Concord, the City of Albany, the Contra Costa County Board of Supervisors passed resolutions supporting local, state, and federal efforts to exonerate the sailors wrongfully convicted of mutiny following the Port Chicago disaster of 1944.

WHEREAS, in 2022, the State of California successfully passed SJR-15 urging the President of the United States and Congress to restore honor to the sailors unjustly blamed for, and the sailors convicted of mutiny following, the Port Chicago disaster, and to rectify any mistreatment by the military of those sailors, including the full exoneration of those who were convicted at court-martial; and

WHEREAS, in 2023, US Representative Mark DeSaulnier (CA-11), US Representative Barbara Lee (CA-12) and US Representative John Garamendi (CA-08) introduced a resolution recognizing the victims of the Port Chicago disaster and calling for the exoneration of the Port Chicago 50; and

WHEREAS, in June 2023, the Philadelphia 15 were exonerated by Assistant Secretary of the Navy Franklin Parker. This case serves as an example and pathway to exonerate the Port Chicago 50.

WHEREAS, in August 2023, Vice President Kamala Harris praised the Port Chicago 50, writing that they "pushed for progress, and our Armed Forces are stronger today because they reflect the diversity of our country."

NOW, THEREFORE, The City of Berkeley DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City of Berkeley does hereby support all efforts to exonerate the Port Chicago 50 and recognize their service to our country.

Section 2. The City of Berkeley recognizes the efforts that this case presents in our nation's struggle for social justice, racial equity, and workers' rights.

Section 3. The City of Berkeley urges all Alameda County cities and the County of Alameda to adopt similar resolutions of support, and directs the City Manager to share this Resolution with all such jurisdictions and with Berkeley's State and Federal representatives.

Section 4. The City of Berkeley affirms support for all future efforts which urge the President, Congress of the United States, and Secretary of the Navy to take all necessary actions to restore honor to, and rectify the mistreatment by the United States Military of, any sailors who were unjustly blamed for and convicted of mutiny after the Port Chicago disaster, which occurred in the town of Port Chicago, California, in 1944.



Office of the City Manager

ACTION CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: Initiative Petition – Initiative Ordinance Prohibiting Concentrated Animal Feeding Operations in the City of Berkeley

RECOMMENDATION

1) Take action on the initiative petition to:

a) Adopt the provisions of the measure without alteration.

-OR-

b) Adopt a Resolution submitting the measure, without alteration, to a vote of the people at the November 5, 2024 General Municipal Election.

2) Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

FISCAL IMPACTS OF RECOMMENDATION

No direct fiscal impacts related to the recommended action.

CURRENT SITUATION AND ITS EFFECTS

An initiative petition titled “Initiative Ordinance Prohibiting Concentrated Animal Feeding Operations in the City of Berkeley” was filed with the City Clerk on September 5, 2023. The proponents of this petition submitted 4,989 prima facie signatures.

Under Berkeley City Charter Article XIII, a successful initiative petition must include valid signatures of at least 5% (2,985) of the votes for all candidates for Mayor in November 2020 (57,885).

The Alameda County Registrar of Voters verified the signatures by reviewing a random sampling of 500 signatures in accordance with State Elections Code §9215. This statistical sampling found 419 valid signatures. When this ratio of valid signatures is applied to the actual number of signatures submitted, it results in a validity rate of 134%, which exceeds the required threshold in the state Elections Code for the petition to be deemed sufficient. Therefore, the petition was certified by the Registrar of Voters as being sufficient on September 25, 2023.

Additionally, with respect to who can author arguments for measures placed on the ballot by petition, Elections Code Section 9282 provides the City Council may authorize the Council as a whole, or members of the Council, to submit an argument against the initiative ordinance.

BACKGROUND

Pursuant to the City Charter, Article XIII §92, once a petition has been found to have a sufficient amount of signatures, the City Council must consider whether to a) Adopt said ordinance without alteration within twenty days after the attachment of the City Clerk's certificate of sufficiency to the accompanying petition (subject to a referendary vote, under the provision of Article XIV of this Charter); or b) Submit the ordinance to the voters of the City of Berkeley at the next general election.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The proposed action is mandated by state codes and the provisions of the City Charter.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. Resolution  
    Exhibit A: Full Text of Measure
2. City Clerk's Certificate of Sufficiency

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

CALLING THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024 AND SUBMITTING TO THE BERKELEY ELECTORATE AN INITIATIVE ORDINANCE PROHIBITING CONCENTRATED ANIMAL FEEDING OPERATIONS IN THE CITY OF BERKELEY

WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 5, 2024 General Municipal Election, an initiative measure prohibiting Concentrated Animal Feeding Operations in the City of Berkeley; and

WHEREAS, certain actions are required in connection with said election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the General Municipal Election to be held in the City of Berkeley on November 5, 2024, is hereby called.

BE IT FURTHER RESOLVED as follows:

1. In accordance with the provisions of Section 10002 and 10403 of the Elections Code of the State of California, the Alameda County Board of Supervisors is requested to consolidate the City of Berkeley General Municipal Election with the Presidential General Election to be held November 5, 2024, and to authorize the county elections official to render services specified.
2. The Registrar of Voters of Alameda County is requested to perform services in connection with said election at the request of the City Clerk. These services include all necessary services related to signature checking for nomination petitions and signatures-in-lieu of filing fee, official ballot creation, sample ballot and voter information pamphlet preparation, vote-by-mail, drop boxes, voting centers, poll workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the consolidated election.
3. The Board of Supervisors of Alameda County is requested to include on the ballots and sample ballots, all qualified measures submitted by the City Council to be ratified by the qualified electors of the City of Berkeley.
4. That the City of Berkeley acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418.
5. The City Clerk is hereby directed to cause the posting, publication, and printing of all notices or other election materials pursuant to the requirements of the Charter of the City of Berkeley and the Elections and Government Codes of the State of California.
6. The City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services, printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

7. The City of Berkeley agrees to reimburse the County of Alameda in full for the cost of election services performed.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley.

BE IT FURTHER RESOLVED that full text of the measure and the City Attorney's analysis shall be printed in the Voter Information Pamphlet mailed to all voters in the City of Berkeley.

BE IT FURTHER RESOLVED that the above enumerated measure requires a majority vote threshold for passage.

BE IT FURTHER RESOLVED that Pursuant to Elections Code Section 9285 (b), the City Council hereby adopts the provisions of Elections Code Section 9285 (a) providing for the filing of rebuttal arguments for city ballot measures.

BE IT FURTHER RESOLVED that said proposed initiative measure shall appear and be printed upon the ballots to be used at said election as follows:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| CITY OF BERKELEY INITIATIVE ORDINANCE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |     |
| Shall the measure prohibiting the establishment within the City of Berkeley of facilities where livestock are kept for 45 days or more in a 12-month period and which meet size and other regulatory thresholds established by the Environmental Protection Agency; prohibiting the expansion of existing facilities; requiring existing facilities to cease operations within one year; establishing a penalty of \$10,000 per violation per day; and allowing enforcement by the City Council or by private lawsuit, be adopted? | YES |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | NO  |

BE IT FURTHER RESOLVED that the text of the initiative ordinance be shown as Exhibit A, attached hereto and made a part hereof.

Exhibits  
A: Text of Ordinance



## **PROHIBITION ON CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)**

The People of the City of Berkeley ordain as follows:

That Chapter 23.336 Prohibition on Concentrated Animal Feeding Operations (CAFOs) be added to to Title 23 ZONING of the Berkeley Municipal Code as follows:

### **Chapter 23.336 Prohibition on Concentrated Animal Feeding Operations (CAFOs)**

#### Section 23.336.010 Findings.

- A. Hundreds of concentrated animal feeding operations (CAFOs) presently operate in California.
- B. Animal agriculture is responsible for 38% of methane emissions in the United States, and it is projected that the global agriculture sector will nearly double in greenhouse gas emissions by 2050.
- C. By worsening climate change via the release of greenhouse gases, CAFOs are a major contributor to the drought and wildfires in California.
- D. CAFOs are contributing to the ongoing water crisis in California, with some facilities using up to 4 million gallons of water per day and others polluting water sources with chemical fertilizers and manure.
- E. Globally, animal agriculture is the primary driver of biodiversity loss through its dependence on inputs such as fertilizer, pesticides, energy, land, and water, and on practices such as monocropping and heavy tilling, which in turn reduces the variety of landscapes and habitats.
- F. It is a well-established scientific fact, as supported by 2,500 studies exploring animal cognition, that nonhuman animals have emotions, personalities, and the ability to feel pain, fear, and stress.
- G. Millions of nonhuman animals are routinely confined and abused in CAFOs across California.
- H. The treatment of nonhuman animals in CAFOs routinely violates California animal cruelty laws, with little to no enforcement.
- I. Three out of four emerging infectious diseases are zoonotic, and CAFOs pose a serious risk to public health.
- J. Investigators have found antibiotic resistant bacteria and infectious diseases in CAFOs in California and across the U.S.
- K. Workers in the animal agriculture industry experience higher rates of substance abuse, post-traumatic stress disorder (PTSD), and domestic violence.
- L. In summary, CAFOs are a leading cause of environmental destruction, pose grave risks to public health, abuse and kill nonhuman animals, and often create dangerous and exploitative conditions for workers.

#### Section 23.336.020 Prohibition on Establishment and Operation of Concentrated Animal Feeding Operations (CAFOs)

- A. *Definitions.* For purposes of this chapter, the following definition shall apply:
  - a. "Concentrated Animal Feeding Operation" or "CAFO" means an agricultural operations where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and which meets

the regulatory definition set out by the Environmental Protection Agency seen in the following table

### **Regulatory Definitions of Large CAFOs, Medium CAFO, and Small CAFOs**

A **Large CAFO** confines at least the number of animals described in the table below.

A **Medium CAFO** falls within the size range in the table below and either:

- Has a manmade ditch or pipe that carries manure or wastewater to surface water; **or**
- the animals come into contact with surface water that passes through the area where they're confined.

If an operation is found to be a significant contributor of pollutants, the permitting authority may designate a medium-sized facility as a CAFO.

A **Small CAFO** confines fewer than the number of animals listed in the table **and** has been designated as a CAFO by the permitting authority as a significant contributor of pollutants.

| Animal Sector                                                                 | Size Thresholds (number of animals) |                           |                          |
|-------------------------------------------------------------------------------|-------------------------------------|---------------------------|--------------------------|
|                                                                               | Large CAFOs                         | Medium CAFOs <sup>1</sup> | Small CAFOs <sup>2</sup> |
| cattle or cow/calf pairs                                                      | 1,000 or more                       | 300 - 999                 | less than 300            |
| mature dairy cattle                                                           | 700 or more                         | 200 - 699                 | less than 200            |
| veal calves                                                                   | 1,000 or more                       | 300 - 999                 | less than 300            |
| swine (weighing over 55 pounds)                                               | 2,500 or more                       | 750 - 2,499               | less than 750            |
| swine (weighing less than 55 pounds)                                          | 10,000 or more                      | 3,000 - 9,999             | less than 3,000          |
| horses                                                                        | 500 or more                         | 150 - 499                 | less than 150            |
| sheep or lambs                                                                | 10,000 or more                      | 3,000 - 9,999             | less than 3,000          |
| turkeys                                                                       | 55,000 or more                      | 16,500 - 54,999           | less than 16,500         |
| laying hens or broilers (liquid manure handling systems)                      | 30,000 or more                      | 9,000 - 29,999            | less than 9,000          |
| chickens other than laying hens (other than a liquid manure handling systems) | 125,000 or more                     | 37,500 - 124,999          | less than 37,500         |
| laying hens (other than a liquid manure handling systems)                     | 82,000 or more                      | 25,000 - 81,999           | less than 25,000         |

|                                                     |                |                 |                  |
|-----------------------------------------------------|----------------|-----------------|------------------|
| ducks (other than a liquid manure handling systems) | 30,000 or more | 10,000 - 29,999 | less than 10,000 |
| ducks (liquid manure handling systems)              | 5,000 or more  | 1,500 - 4,999   | less than 1,500  |

<sup>1</sup> Must also meet one of two "method of discharge" to be defined as a CAFO or may be designated.

<sup>2</sup> Never a CAFO by regulatory definition, but may be designated as a CAFO on a case-by-case basis.

*B. Prohibition.*

- a. No person, corporation, or other entity shall establish a CAFO of any size within the city of Berkeley.
- b. No person, corporation, or other entity shall expand an existing CAFO of any size within the city of Berkeley.
- c. Any CAFO in operation within the city of Berkeley at the time of this initiative's passage shall be phased out within a period of 1 year.

Section 23.336.030 Enforcement and Penalties.

- A. The The City Council shall have the authority to enforce this initiative, including the power to inspect premises suspected of violating its provisions.
- B. This Chapter also provides a private right of action upon any person or entity to seek injunctive relief and penalties against a person or business who violates this prohibition.
- C. Any person that violates this prohibition is civilly liable for a penalty in an amount of \$10,000 per violation per day.
- D. A court shall award a plaintiff who prevails on a cause of action reasonable attorney's fees and costs.

Section 23.336.040 Severability.

If any provision of this initiative is found to be invalid or unconstitutional, such finding shall not affect the validity or constitutionality of the remaining provisions.

Section 23.336.050 Effective Date.

This initiative shall become effective immediately after its passage by the voters.

**BERKELEY CITY CLERK CERTIFICATE OF PETITION**

I, Mark Numainville, City Clerk of the City of Berkeley, California, do hereby certify the following:

An Initiative Petition entitled: "Initiative Ordinance Prohibiting Concentrated Animal Feeding Operations in the City of Berkeley" was filed with the Berkeley City Clerk on September 5, 2023 within the statutory time limit and forwarded to the office of the Alameda County Registrar of Voters for verification on September 6, 2023; and

The petition contained **4,989** unverified signatures; and

Pursuant to the Charter of the City of Berkeley, in order to be sufficient, the petition must have been signed by at least **2,985** qualified registered voters of the City of Berkeley, the number being equal to 5% of the total votes cast for all candidates for mayor in the last general municipal election; and

I have examined or caused to be examined, signatures on the petition pursuant to California Elections Code sections 9211 and 9115; and

I have determined that the petition contained a valid signature rate of **134%** based on a random sample of the signatures as performed and certified by the Registrar of Voters in Exhibit A attached herewith; and

This number meets or exceeds the valid signature rate needed to qualify the initiative; therefore

The petition is found to be sufficient to require the City Council of the City of Berkeley to take appropriate action specified under Article XIII of the Berkeley City Charter.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal this 26th day of October, 2023.



*Mark Numainville*  
Mark Numainville  
City Clerk  
City of Berkeley

**REGISTRAR OF VOTERS CERTIFICATE TO PETITION**

I, **Tim Dupuis**, Registrar of Voters for the County of Alameda, State of California, hereby certify that: an Initiative Entitled: City of Berkeley Ordinance Prohibiting Concentrated Animal Feeding Operations was filed with the Berkeley City Clerk within the statutory time limit and forwarded to this office for verification on September 6, 2023; and

The petition contained 4,989 unverified signatures: and

In accordance with Article XIII of the Berkeley City Charter, it was determined that the total number of votes cast for all candidates for Mayor at the November 2020 General Election was 57,885, the requisite number of signatures required to qualify this initiative is 5% of 57,885 or 2,985.

I have examined, or caused to be examined, signatures on the petition pursuant to California Elections Code sections 9211 and 9115; and

Have determined that the petition contained 419 valid signatures of qualified registered voters in the City of Berkeley based on the random sample examination set forth in section 9115 and the formula prescribed by the California Secretary of State: and

That this number represents 134% of the total number of signatures needed to qualify the initiative, therefore.

**The petition is found to be sufficient to require the City Council of the City of Berkeley to take the appropriate action specified in the California Elections Code.**

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal this 25<sup>th</sup> day of **September 2023**.



DocuSigned by:  
*Cynthia Cornejo* for  
6E5C0617DC2444D  
Tim Dupuis  
Registrar of Voters  
County of Alameda  
State of California





Office of the City Manager

ACTION CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Chief of Police  
Liam Garland, Director of Public Works

Subject: Pursuant to Chapter 2.99 of the Berkeley Municipal Code Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, Unmanned Aerial Vehicles (UAV's), the Street Level Imagery Project, and External Fixed Surveillance Video Cameras

RECOMMENDATION

Pursuant to Chapter 2.99 of the Berkeley Municipal Code Adopt a Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, Unmanned Aerial Vehicles (UAV's), the Street Level Imagery Project, and External Fixed Surveillance Video Cameras.

FISCAL IMPACTS OF RECOMMENDATION

These technologies have existing budget approval and there are no new fiscal impacts associated with adopting the attached resolution.

CURRENT SITUATION AND ITS EFFECTS

On March 27, 2018, the City Council adopted Ordinance 7,592-N.S., adding Chapter 2.99 to the Berkeley Municipal Code, which is also known as the Surveillance Technology Use and Community Safety Ordinance ("Ordinance"). The purpose of the Ordinance is to provide transparency surrounding the use of surveillance technology, as defined by Section 2.99.020 in the Ordinance, and to ensure that decisions surrounding the acquisition and use of surveillance technology consider the impacts that such technology may have on civil rights and civil liberties. Further, the Ordinance requires that the City evaluate all costs associated with the acquisition of surveillance technology and regularly report on their use.

The Ordinance imposes various reporting requirements on the City Manager and staff. The purpose of this staff report and attached resolution is to satisfy the annual reporting requirement as outlined in Section 2.99.070.

One of the reporting categories of the surveillance technology use is whether complaints have been received by the community about the various technologies. To

date Berkeley Police Department Internal Affairs Bureau (IAB) has not received any external personnel complaints surrounding these technologies. External complaints from community members can be made in writing, via email, in person or via telephone. Complaints can be received with direct communication to Internal Affairs from the complainant and/or be received by any member of the Department and then forwarded through the chain of command. If a community member initiates a complaint against a subject employee and during the investigation it is determined the subject employee violated policy regarding the misuse of technology, an additional complaint is initiated by the Chief of Police.

Community members also have the right to initiate complaints against employees of BPD by reporting directly to the Police Accountability Board (PAB). The Director of Police Accountability notifies the Chief of Police when an investigation into a complaint is initiated by the PAB, which would prompt a parallel IAB investigation.

Attached to this staff report are Surveillance Technology Reports for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, Unmanned Aerial Vehicles (UAV's), the Street Level Imagery Project, and External Fixed Surveillance Video Cameras.

During this reporting period the Berkeley Police Department collaborated with the Police Accountability Board, Public Safety Policy Committee, and City Attorney's Office to author a Surveillance Use Policy, Use Policy and an Acquisition Report related to Unmanned Aerial Vehicles (UAV or drones). The policies were approved by the Berkeley City Council on July 25, 2023 and therefore, this will be the last reporting period in which drones will be reported as temporary use surveillance technology per BMC 2.99.030 and 2.99.040. This year the Berkeley Police Department had two instances pursuant to BMC 2.99.040 in which the City Manager authorized the Police Department to temporarily use an Unmanned Aerial Vehicle, commonly referred to as a drone, for critical incidents. These incidents were reported by the City Manager to Council pursuant to 2.99.040(2) and are included in this annual report pursuant to BMC 2.99.949(3). At this time, the Berkeley Police Department is not actively working to acquire drones.

During this reporting period the Berkeley Police Department collaborated with the Police Accountability Board, Public Safety Policy Committee, and City Attorney's Office to author a Surveillance Use Policy, Use Policy, and an Acquisition Report related to External Fixed Video Surveillance Cameras. At the time of submission of this report, an additional fixed camera has been installed at the intersection of University Avenue and Sixth Street to assist in criminal investigations. That camera is managed by the Public Works Department but the Police Department has access for criminal investigations. During this reporting period, the newly installed camera at University Avenue and Sixth Street, as well as the existing cameras in San Pablo Park and the Berkeley Marina, were accessed four times by the Berkeley Police Department.



During this reporting period the Berkeley Police Department collaborated with the Police Accountability Board, Public Safety Policy Committee, and City Attorney's Office to author a Surveillance Use Policy, Use Policy, and an Acquisition Report related to Automated License Plate Readers for criminal investigations. Previously, the Berkeley Police Department only utilized ALPR operated out of the Traffic Bureau primarily for Parking Enforcement Operations. At the time of submission of this report, the Berkeley Police Department is in the process of requesting Council approval for the funds to purchase law enforcement focused ALPR for a two year pilot period not to exceed \$425,000. Therefore, it is likely that next year there will be two reports in the Surveillance Technology Report related to ALPR; one for ALPR associated with the Traffic Bureau and Parking Enforcement Operations, and a new report related to ALPR focused on law enforcement criminal investigations.

Policy 1302, Automated License Plate Reader for Parking Enforcement Operations, requires an audit of the system twice a year. According to policy, the audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020, published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

During this reporting period the Department completed the first audit since the policy went live late last year. This audit analyzed ALPR data from January 2023 to June 2023 and is attached to this report. The next audit will be conducted in January 2024.

### BACKGROUND

On March 27, 2018, the City Council adopted Ordinance 7,592-N.S., adding Chapter 2.99 to the Berkeley Municipal Code, which is also known as the Surveillance Technology Use and Community Safety Ordinance. Section 2.99.070 of the Ordinance requires that the City Manager must submit to the City Council a Surveillance Technology Report as defined by Section 2.99.020(2) of the Ordinance annually, at the first regular City Council meeting in November.

For each of the six technologies, the Surveillance Technology Reports were prepared to satisfy the specific, section-by-section requirements of the Ordinance, and are attached to this report.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

City Council is being requested to adopt the attached resolution for the City to be in compliance with the Ordinance.

ALTERNATIVE ACTIONS CONSIDERED

City Council could decide not to adopt the resolution.

CONTACT PERSON

Jennifer Louis, Chief of Police, (510) 981-5700

Michael Durbin, Professional Standards Captain, (510) 981-5760

ATTACHMENTS

1. Resolution
2. Surveillance Technology Report: Body Worn Cameras
3. Surveillance Technology Report: Global Positioning System (GPS) Tracking Devices
4. Surveillance Technology Report: Automated License Plate Readers
5. Surveillance Technology Report: Street Level Imagery Project
6. Surveillance Technology Report: Unmanned Aerial Vehicle (UAV's)
7. Surveillance Technology Report: External Fixed Surveillance Video Cameras

RESOLUTION NO. XX,XXX-N.S.

A RESOLUTION ACCEPTING THE SURVEILLANCE TECHNOLOGY REPORT FOR AUTOMATIC LICENSE PLATE READERS, GPS TRACKERS, BODY WORN CAMERAS, UNMANNED AERIAL VEHICLES (UAV'S), THE STREET LEVEL IMAGERY PROJECT AND EXTERNAL FIXED SURVEILLANCE VIDEO CAMERAS

WHEREAS, on March 27, 2018, the City Council adopted Ordinance 7,592-N.S., which is known as the Surveillance Technology Use and Community Safety Ordinance ("Ordinance"); and

WHEREAS, Section 2.99.070 of the Ordinance requires that the City Manager must submit to the City Council a Surveillance Technology Report as defined by Section 2.99.020(2) of the Ordinance at the first regular City Council meeting in November; and

WHEREAS, the Surveillance Technology Reports satisfy the requirements of the Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby accepts the Surveillance Technology Reports for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, Unmanned Aerial Vehicles (UAV's), the Street Level Imagery Project, and External Fixed Surveillance Video Cameras.

## Surveillance Technology Report: Body Worn Cameras

**October 1, 2022 – Sept. 30, 2023**

|             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Description | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Body Worn Cameras are used to capture video recordings of contacts between department personnel and the public, to provide an objective record of these events. These recording are used in support of criminal prosecutions, to limit civil liability, increase transparency and enhance professionalism and accountability in the delivery of police services to the community. Body Worn Camera (BWC) files are shared with the Alameda County District Attorney’s office in support of prosecution for crime, and may be shared with other law enforcement agencies to support criminal investigations.</p> <p><b>Policy regarding activation of the Body Worn Camera BPD Policy 425.7</b></p> <p>Members shall activate the BWC as required by this policy in (a)-(f) below, and may activate the BWC at any time the member believes it would be appropriate or valuable to record an incident within the limits of privacy described herein.</p> <p>The BWC shall be activated in any of the following situations:</p> <ul style="list-style-type: none"> <li>(a) All in-person enforcement and investigative contacts including pedestrian stops and field interview (FI) situations.</li> <li>(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.</li> <li>(c) Self-initiated field contacts in which a member would normally notify the Communications Center.</li> <li>(d) Any search activity, including the service of search or arrest warrants; probation, parole, or consent searches where the member is seeking evidence of an offense, or conducting a safety sweep or community caretaking sweep of the premises. Once a location has been secured and the member is not interacting with detainees or arrestees, the member may mute their BWC when conducting a search for evidence.</li> <li>(e) Any other contact that the member determines has become adversarial after the initial contact in a situation where the member would not otherwise activate BWC recording.</li> <li>(f) Transporting any detained or arrested person and where a member facilitates entry into or out of a vehicle, or any time the member expects to have physical contact with that person.</li> </ul> <p><b>What data is captured by this technology:</b></p> <p>BWC use is limited to enforcement and investigative activities involving members of the public. The BWC recordings will capture video and audio evidence for use in criminal investigations, administrative reviews, training, civil litigation, and other proceedings protected by confidentiality laws and department policy. Improper use or release of BWC</p> |
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recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded and is prohibited.

**How the data is stored:**

BWC videos are stored on a secure server. All BWC data will be uploaded and stored on Axon Cloud Services, Evidence.com. Axon complies with the EU-U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Union and Switzerland to the United States (collectively, "Privacy Shield"). Axon has certified to the U.S. Department of Commerce that it adheres to the Privacy Shield Principles.

**Retention duration of digital data:**

All BWC videos and digital evidence are assigned a category. The categories are used to organize data. Each category also defines the retention duration. The category definitions and retention durations are as follows:

| <u>NAME</u>                                 | <u>RETENTION DURATION</u> |
|---------------------------------------------|---------------------------|
| <a href="#">Uncategorized</a>               | Until manually deleted    |
| <a href="#">187 / Felony Sex Assault</a>    | Until manually deleted    |
| <a href="#">Civil / City / Non-Evidence</a> | 1 year                    |
| <a href="#">Collision</a>                   | 2 years                   |
| <a href="#">Consent / Aid</a>               | 108 weeks                 |
| <a href="#">Detention / Warrant Only</a>    | 108 weeks                 |
| <a href="#">Felony Evidence</a>             | 5 years                   |
| <a href="#">Litigation</a>                  | Until manually deleted    |
| <a href="#">Misdemeanor Evidence</a>        | 2 years                   |
| <a href="#">Officer Injury</a>              | Until manually deleted    |
| <a href="#">OIS / Critical Incident</a>     | Until manually deleted    |
| <a href="#">Pending Review</a>              | Until manually deleted    |
| <a href="#">Personnel / VSA</a>             | 3 years                   |
| <a href="#">Personnel Complaint</a>         | Until manually deleted    |
| <a href="#">Traffic Stop</a>                | 108 weeks                 |
| <a href="#">Training</a>                    | 60 days                   |
| <a href="#">Use of Force</a>                | 108 weeks                 |

|                                     | <p><b>Summary of Body Worn Camera Videos Uploaded Oct. 1, 2022 to Sept. 30, 2023:</b></p> <table data-bbox="695 310 1123 422"> <tr> <td>Number of BWC Videos</td> <td>68,750</td> </tr> <tr> <td>Hours of Videos</td> <td>18,609.65</td> </tr> <tr> <td>GB of Videos</td> <td>32,323.13</td> </tr> </table> <p><b>Summary of Digital Evidence Uploaded, Oct. 1, 2022 to Sept. 30, 2023:</b></p> <table data-bbox="695 533 1123 894"> <thead> <tr> <th><u>Type</u></th> <th><u>File Count</u></th> </tr> </thead> <tbody> <tr> <td>Audio</td> <td>2,141</td> </tr> <tr> <td>Document</td> <td>1,470</td> </tr> <tr> <td>Image</td> <td>76,044</td> </tr> <tr> <td>Other</td> <td>625</td> </tr> <tr> <td>BWC Video</td> <td>68,750</td> </tr> <tr> <td>Other Video*</td> <td>6,161</td> </tr> <tr> <td><b>Total</b></td> <td><b>155,191</b></td> </tr> </tbody> </table> <p>* Includes all uploaded non-BWC videos and other videos booked into the evidence management system. Other videos include iPhone videos, security camera video, and copies of BWC videos (for redaction, etc.).</p> | Number of BWC Videos | 68,750 | Hours of Videos | 18,609.65 | GB of Videos | 32,323.13 | <u>Type</u> | <u>File Count</u> | Audio | 2,141 | Document | 1,470 | Image | 76,044 | Other | 625 | BWC Video | 68,750 | Other Video* | 6,161 | <b>Total</b> | <b>155,191</b> |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|--------|-----------------|-----------|--------------|-----------|-------------|-------------------|-------|-------|----------|-------|-------|--------|-------|-----|-----------|--------|--------------|-------|--------------|----------------|
| Number of BWC Videos                | 68,750                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| Hours of Videos                     | 18,609.65                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| GB of Videos                        | 32,323.13                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| <u>Type</u>                         | <u>File Count</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| Audio                               | 2,141                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| Document                            | 1,470                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| Image                               | 76,044                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| Other                               | 625                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| BWC Video                           | 68,750                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| Other Video*                        | 6,161                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| <b>Total</b>                        | <b>155,191</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| <p><b>Geographic Deployment</b></p> | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>Body Worn Cameras are worn by all BPD uniformed officers city-wide at all times; BWC's are not deployed based on geographic considerations.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| <p><b>Complaints</b></p>            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There have been no complaints about the deployment and use of Body Worn Cameras.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| <p><b>Audits and Violations</b></p> | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>File meta-data are routinely reviewed by our BWC manager, to ensure required metadata fields are completed. There have been no complaints with regards to violations of the Surveillance Use Policy.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| <p><b>Data Breaches</b></p>         | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to BWC data.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |
| <p><b>Effectiveness</b></p>         | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                      |        |                 |           |              |           |             |                   |       |       |          |       |       |        |       |     |           |        |              |       |              |                |

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|       | <p>Body Worn Cameras have proven effective in supporting criminal prosecutions, as video footage is available for all criminal prosecutions. Body Worn Cameras have been effective for training purposes, as footage can be reviewed in incident de-briefs. Body Worn Cameras have been extremely effective in support of Internal Affairs investigations and Use of Force Review.</p>                                                                                                                                                                  |
| Costs | <p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual cost for the Body Worn Cameras, including cameras, replacement cameras, software, and Axon's secure digital evidence management system is \$222,442 per year over a five-year, \$1,112,213 contract. The contracted started in 2022 and will expire in August, 2026. There is one full-time employee assigned to the BWC program, an Applications Programmer Analyst II, at a cost of \$168,940 per year, including benefits.</p> |

**Surveillance Technology Report: Global Positioning System Tracking Devices**

**October 1, 2022 – Sept. 30, 2023**

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <p><b>Description</b></p> | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Global Positioning System Trackers are used to track the movements of vehicles, bicycles, other items, and/or individuals.</p> <p><b>What data is captured by this technology:</b><br/>A GPS Tracker data record consists of date, time, latitude, longitude, map address, and tracker identification label. The data does not contain any images, names of subjects, vehicle information or other identifying information on individuals.</p> <p><b>How the data is stored:</b><br/>The data from the GPS tracker is encrypted by the vendor. The data is only accessible through a secure website to BPD personnel who have been granted security access.</p> <p><b>Retention period of data:</b><br/>Tracker data received from the vendor shall be kept in accordance with applicable laws, BPD policies that do not conflict with applicable law or court order, and/or as specified in a search warrant.</p> <p>The Global Positioning System “Electronic Stake Out” (ESO) devices were not deployed during this reporting period. This program was suspended in mid-March 2020 due to the COVID-19 pandemic. In June of 2022, we renewed our service with the company and paid for new updated equipment with the intent of restarting the program. The program was not reimplemented during the dates specific to this report.</p> <p>COVERTTRACK Stealth V GPS devices were used in three separate investigations during this reporting period:</p> <ul style="list-style-type: none"> <li>(1) An investigation into individuals for their involvement in several robberies and shootings in Berkeley. The case investigation resulted in the arrest of three individuals and the recovery of 5 firearms.</li> <li>(2) An investigation into individuals for their involvement in a commercial burglary. This case is still active and no arrests have been made.</li> <li>(3) An investigation into a robbery and carjacking in Berkeley. The case investigation resulted in the identification of two suspects. One suspect has been arrested and the other has an outstanding warrant.</li> </ul> <p>Data may be shared with the District Attorney’s Office for use as evidence to aid in prosecution, in accordance with laws governing evidence; other law enforcement</p> |
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|                       | <p>personnel as a part of an active criminal investigation; and other third parties, pursuant to a court order.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Geographic Deployment | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>COVERTTRACK Stealth V GPS devices are deployed with judicial pre-approval, based on suspect location, rather than geographical consideration.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Complaints            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There were no complaints made regarding GPS Trackers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Audits and Violations | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>There were no audits and no known violations relating to GPS Trackers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Data Breaches         | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There were no known data breaches relating to GPS Trackers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Effectiveness         | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>The GPS ESO trackers were not used during this time period. The program was suspended in mid-March 2020 due to the COVID-19 pandemic and has not been reimplemented. Our subscription was renewed and we upgraded our equipment, however, we have not used the trackers during this reporting period.</p> <p>COVERTTRACK Stealth V GPS trackers are effective in that they provide invaluable information on suspect vehicle locations. During complex investigations, many suspects are moving throughout the Bay area and beyond. These devices assist investigators with developing information regarding suspect locations that may never have been discovered without GPS assistance.</p> <p>GPS trackers greatly reduce costs associated with surveillance operations. Surveillance operations generally involve three or more officers for the entire duration of an operation. A moving surveillance is extremely resource-intensive, requiring multiple officers in multiple vehicles for extended periods of time.</p> <p>Evidence can be fleeting, and GPS trackers allow officers to investigate in a timely manner. GPS trackers have assisted officers with recovering evidence that may have been removed or discarded if officers were unable to quickly develop a location for a suspect.</p> |
| Costs                 | <p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual cost for the COVERTTRACK Stealth V GPS data service is \$1,834.53.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

There was no cost for the GPS "Electronic Stake Out" (ESO) this year. In April of 2022, the police department paid \$2,364.88 to upgrade the devices and for three years of tracking service.

There are staff time costs associated with preparing and placing COVERTTRACK GPS trackers. The investigator must prepare a search warrant and obtain a judge's approval, and a small number of officers must place the tracker on the suspect's car. The total number of hours is a fraction of the time it would take to do a full surveillance operation involving numerous officers.

There are staff time costs associated with preparing ESO trackers and placing ESO tracker-equipped bikes for bait bike operations. The time associated to prepare an ESO GPS equipped surveillance is approximately two-four hours. The total number of hours is extremely small, given the large number of operations, and resulting arrests from prior cases.

**Surveillance Technology Report: Automated License Plate Readers**

**October 1, 2022 – Sept. 30, 2023**

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p>Description</p> | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Automated License Plate Readers (ALPRs) are used by Parking Enforcement Bureau vehicles for time zone parking. The City’s Transportation Division uses anonymized information for purposes of supporting the City’s Go Berkeley parking management program. ALPR use replaced the practice of physically “chalking” tires, which a more effective means of identifying violators.</p> <p><b>What data is captured by this technology:</b><br/>ALPR technology functions by automatically capturing an image of a vehicle's license plate, transforming that image into alphanumeric characters using optical character recognition software, and storing that information, along with relevant metadata (e.g. geo-location and temporal information, as well as data about the ALPR).</p> <p><b>How the data is stored:</b><br/>The data is stored on a secure server by the vendor.</p> <p><b>Retention period of data:</b><br/>During this reporting period collected images and metadata of hits werestored no more than 365 days. Metadata of reads were not stored more than 14 days in accordance with policy 1302. Current use policy adopted September 13, 2022 sets new retention periods that are now in effect.</p> <p style="text-align: center;"><b>Summary of ALPR Time Zone Enforcement Data</b></p> <p style="text-align: center;">Read Data (only retained for 14 days)<br/>There was a total of 3,134,195 reads</p> <p style="text-align: center;">From 10/1/2022 to 9/30/2023<br/>Hit Data<br/>There were 98,224 “Hits”<br/>36,953 “Enforced Hits” resulted in citation issuance.<br/>1,966 “Not Enforced” hits due to either, 1) ALPR experiencing technical issues and officer unable to validate the hit the system, which only gives option to not enforce, or 2) Officer error in accepting the hit initially.</p> <p>59,305 Hits were not acted upon for a variety of reasons including but not limited to:</p> <p>1) Customer comes out to move a vehicle. PEO’s are directed not to issue that citation.</p> |
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|                                     | <ol style="list-style-type: none"> <li>2) Officer gets to the dashboard and sees a permit not visible from a previous location.</li> <li>3) Officer does a vehicle evaluation and confirms that the vehicle moved from the hit location (e.g. across the street within GPS range).</li> <li>4) Stolen car.</li> <li>5) Similar Plates.</li> <li>6) 600-700 GIG cars- 100 revel scooters.</li> <li>7) Officers mistakenly leave their LPR “on” collecting time zone enforcement data, but leave the area being enforced to drive to another location on another assignment, such as a traffic post at a collision scene. These hits are not enforced.</li> </ol> <p>Genetec is the vendor for the ALPR Time Zone enforcement system. A “read” indicates the ALPR system successfully read a license plate. The information that is generated when a plate is viewed by the ALPR camera is the license plate number, state and geographical (GPS) location it was viewed. A “hit” indicates the ALPR system detected a possible violation, which prompts the Parking Enforcement Officer to further assess the vehicle. At “hit” is when the “read” information is recognized as a license plate that matches, or does not match an entry in a list such as permit list or the stolen vehicle “hot list”. In many cases, hits are “rejected” or “not enforced”, meaning no enforcement action is taken, because the Parking Enforcement Officer determines the vehicle has an appropriate placard or permit, or there is other information or assignment which precludes citation.</p> <p style="text-align: center;"><b>Summary of ALPR Law Enforcement Investigative Inquiry Data</b></p> <p style="text-align: center;">1 vehicle inquiry from 10/1/22-9/30/23</p> <p>The sole inquiry was made in conjunction with a BPD criminal investigation in a stabbing case. The query was made with Chief of Police approval in accordance with Policy 1302.3(b). The inquiry did not reveal any hit or read information.</p> <p>All BPD ALPR data may only be shared with other law enforcement or prosecutorial agencies for official law enforcement purposes, or as otherwise permitted by department policy and law. All ALPR data is subject to the provisions of BPD Policy 415 - Immigration Law, and therefore may not be shared with federal immigration enforcement officials.</p> |
| <p><b>Geographic Deployment</b></p> | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>Only Parking Enforcement Vehicles are equipped with ALPRs. ALPRs are deployed based on areas where there are parking time restrictions. ALPRs are not deployed based on geographic considerations not related to parking enforcement.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p><b>Complaints</b></p>            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There have been no complaints about the deployment and use of Automated License Plate Readers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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| Audits and Violations | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>There have been no complaints of violations of the ALPR Surveillance Use Policy.</p>                                                                                                                                                                                                                                                                                                                                                                                               |
| Data Breaches         | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to Automated License Plate Reader data.</p>                                                                                                                                                                                                                                                                                                 |
| Effectiveness         | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>ALPRs have proven effective in parking enforcement for time zone enforcement.</p> <p>The ALPR's ability to read and check license plates while being driven greatly increases efficiency, allowing an operator to cover larger areas more quickly without having to stop except to confirm a hit.</p> <p>An additional benefit of the Parking Enforcement ALPR system is that 221 "hits" indicated a possible stolen vehicle. These hits allow for the timelier recovery of stolen vehicles in the City of Berkeley.</p> |
| Costs                 | <p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual system maintenance cost for Genetec is \$51,720. This cost is borne by the Transportation Division, which covers warranties, support, and cellular connection costs.</p> <p>Genetec ALPR units are installed on 22 Parking Enforcement vehicles. Parking Enforcement personnel perform a variety of parking enforcement activities, and are not limited solely to time zone enforcement. Therefore, personnel costs specifically attributable to time zone enforcement are not tracked.</p>                                                           |

### Surveillance Technology Report: Street Level Imagery Project

October 1, 2022 – Sept. 30, 2023

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <p><b>Description</b></p>           | <p><b>A description of all non-privileged and non-confidential information about the use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report will include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</b></p> <p>Street level imagery is utilized exclusively by authorized City staff for infrastructure asset management and planning activities. The street level imagery of City infrastructure assets in the Public Right of Way that is provided to the City will not consist of information that is capable of being associated with any individual or group.</p> |
| <p><b>Geographic Deployment</b></p> | <p><b>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</b></p> <p>Street level imagery was collected by driving through the entire community over a three week period. It is accessible to the City through a proprietary third-party application, Street SmartTM.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>Complaints</b></p>            | <p><b>A summary of each complaint, if any, received by the City about the Surveillance Technology.</b></p> <p>There have been no complaints about the use of Street Smart TM.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p><b>Audits and Violations</b></p> | <p><b>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</b></p> <p>There have been no complaints with regards to violations of the Surveillance Use Policy.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>Data Breaches</b></p>         | <p><b>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</b></p> <p>There have been no known data breaches or other unauthorized access to Cyclomedia Street Level Imagery data.</p>                                                                                                                                                                                                                                                                                                                                                                                                                               |

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| <p><b>Effectiveness</b></p> | <p><b>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</b></p> <p>Staff considered hiring contractors to use GPS in the field to create and update the infrastructure asset GIS data. This method is costly and time consuming. Cyclomedia’s unique and patented processing techniques allow positionally-accurate GIS data to be collected in a cost-effective way and over a shorter period of time than a “boots on the ground” GPS field survey.</p> <p>The Imagery extracted the following Citywide Infrastructure assets to create accurate and current Geographic Information Systems (GIS) data inventories:</p> <ul style="list-style-type: none"> <li>• Bus pads / stops</li> <li>• Maintenance Access Holes</li> <li>• Pavement Striping</li> <li>• Curb paint color</li> <li>• Parking meters</li> <li>• Pedestrian Signal</li> <li>• Pavement marking</li> <li>• Storm drains</li> <li>• Signs</li> <li>• Street trees</li> <li>• Traffic lights</li> </ul> <p>The street level imagery captured was also being used to:</p> <p>Created a street sign GIS layer with condition assessment to support compliance with the Manual on Uniform Traffic Control Devices Code and provide an accurate inventory of City signs. The existing sign inventory is contained in a spreadsheet that does not have accurate location data.</p> <p>Created a curb color layer with condition assessment to indicate where there are red, yellow, blue, white and green colors. This is critical to support Public Safety.</p> <p>Created pavement striping and paint symbol layers to support Transportation Planning and Vision Zero.</p> <p><b><u>Benefits Projected:</u></b></p> <p>The data from the street level imagery is being integrated into the City’s work order and asset management system for planning activities and to document repair and maintenance.</p> <p>Planners can use the street level imagery provided to the City to take measurements remotely, such as sidewalk width and public right of way impacts at proposed development locations.</p> <p>The data provides a comprehensive snapshot of the City that would be helpful for cost recovery in the event of a major disaster.</p> |
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|              | <p>City staff can use the street level imagery to plan the location of road markings for pedestrian crossings, bike lanes or other striping.</p> <p>City staff can remotely take accurate measurements of infrastructure assets to adequately plan for repair and replacement.</p> <p>City staff can use street level imagery to enhance community engagement. The street level imagery can be used to identify and depict the impact of development such as an intersection restriping plan in order to article before and after conditions.</p> |                                                   |                                           |                                           |
| <b>Costs</b> | <p><b>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                   |                                           |                                           |
|              | <p>The total cost of the system is \$232,611 and is itemized below.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                   |                                           |                                           |
|              | <p><b>Year No.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p><b>Description</b></p>                         | <p><b>Cost</b></p>                        | <p><b>Notes</b></p>                       |
|              | <p>1</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Licenses</p>                                   | <p>\$48,000</p>                           | <p>Resolution No: 69,482-N.S. 30JUN20</p> |
|              | <p>1</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Professional Services for asset extraction</p> | <p>\$139,401</p>                          | <p>Resolution No: 69,482-N.S. 30JUN20</p> |
| <p>2</p>     | <p>Licenses and Support – One-Time</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>\$41,100</p>                                   | <p>Resolution No: 70,487-N.S. 26JUL22</p> |                                           |
| <p>3</p>     | <p>License and Support – Ongoing Annual Costs</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>\$4,110</p>                                    | <p>Resolution No: 70,487-N.S. 26JUL22</p> |                                           |



**Surveillance Technology Report: Unmanned Aerial Equipment, Drone**

**October 1, 2022 – Sept. 30, 2023**

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| <p>Description</p> | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Unmanned Aerial Vehicle (UAV) also commonly referred to as a drone are requested pursuant to our Mutual Assistance protocols. If a situation arises wherein the safety to the community, officers, or the offender can be increased through the means of de-escalation (adding time and distance to the situation) a supervisor can make the request. All requests go to the Chief of Police and then escalate to the City Manager for final approval. During this period, on two occasions the Police Department sought mutual assistance for drones.</p> <p><b>What data is captured by this technology:</b><br/>                 Unmanned Aerial Vehicles are owned and operated by the respective agency. While each piece of equipment is unique, generally UAV’s can both record video and audio, while transmitting the data to the operator, thereby qualifying as a piece of Surveillance Technology pursuant to BMC 2.99.020.</p> <p><b>How the data is stored:</b><br/>                 During this reporting period Alameda County Sheriff’s Office (ACSO) and Contra Costa County Sheriff’s Office (CCCSO) each assisted the Berkeley Police Department by providing drones on one occasion. Per their policy, ACSO and CCCSO retain images captured during a UAV mission if there is reasonable suspicion of criminal activity. BPD personnel would request that evidence from ACSO or CCCSO if it was needed in support of criminal activity. During this rating period no data was stored by BPD. During this rating period, the Department authored and released Policies 611 and 1303, setting data storage and retention periods for drones.</p> <p><b>Retention period of data:</b><br/>                 During this reporting period no data was stored by BPD. During this rating period, the Department authored and released Policies 611 and 1303, setting data storage and retention periods for drones.</p> <p style="text-align: center;"><b>Summary of Uses of UAV’s</b></p> <p style="text-align: center;"><b>BPD Case 23-02707 (USE OF UAV)</b><br/>                 On 01/19/23, the Berkeley Police Department Special Response Team responded to Oakland to serve a search and arrest warrant at a property related to an armed robbery that occurred in Berkeley on 11/23/22. Four suspects were able to elude capture the day of the robbery and investigating detectives learned the suspects were in possession of an Ak-47 and another rifle in addition to the handguns used in the robbery. The UAV was requested to search the property in Oakland from</p> |
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|                       | <p>overhead and search the property and residence for a suspect believed to be inside the residence with a gun. By sending the UAV in before officers, the risk of a lethal confrontation is significantly reduced. <i>Subsequently the City Council was notified of the temporary use of surveillance technology in exigent circumstances.</i></p> <p><b>BPD Case 23-11104 (USE OF UAV)</b><br/> On 03/07/23, two separate armed robberies via gun occurred within 30 minutes of each other in Berkeley. The suspect vehicle was spotted by BPD Officers, pursued and lost in the Richmond area. The investigation led to an address in the City of San Pablo where the suspect vehicle was found in the driveway with the license plates now removed. A search warrant was obtained for the address and a K-9 Unit was requested and approved to locate the suspect. The responding CCCSD K-9 Unit advised BPD that before they send the K-9 into a residence they first clear the house with a UAV. Realizing that CCCSD was going to utilize a UAV to assist in our investigation, BPD officers made a request to utilize the technology per the Surveillance Ordinance. <i>Subsequently the City Council was notified of the temporary use of surveillance technology in exigent circumstances.</i></p> |
| Geographic Deployment | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>A UAV was used twice during this reporting period; once at an address in Oakland and once at an address in San Pablo. Search warrants were obtained for both addresses prior to use of the UAV.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Complaints            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>During this reporting period the City received no complaints about the deployment of Unmanned Aerial Vehicles (UAV).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Audits and Violations | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>An audit of the two uses of UAV during the reporting period found that both uses were within policy.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Data Breaches         | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to any of the data from the Unmanned Aerial Vehicles (UAV).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Effectiveness         | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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|       | <p>In two instances, Unmanned Aerial Vehicles (UAV) were used to search properties before officers. This allowed officers to see video from the UAV and confirm a suspect was not waiting inside with a gun. By sending the UAV in before officers, the risk of a confrontation that could result in death or serious injury to the suspect, others inside the house and officers, is significantly reduced.</p>                                                                              |
| Costs | <p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual cost for the Unmanned Aerial Vehicles (UAV) is zero as the uses were covered by the responding agencies under the Mutual Assistance agreement. The only costs associated is staff time at each respective incident, however no costs for the use of the technology was incurred. ACSO has indicated an intent to begin charging agencies for use of UAV technology.</p> |

**Surveillance Technology Report: Fixed Surveillance Video Cameras**

**October 1, 2022 – Sept. 30, 2023**

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| <p><b>Description</b></p> | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>During this reporting period the Berkeley Police Department collaborated with the Police Accountability Board, Public Safety Policy Committee, and City Attorney’s Office to author a Surveillance Use Policy, Use Policy, and an Acquisition Report related to the Avigilon External Fixed Video Surveillance Cameras. At the time of submission of this report, an additional fixed camera has been installed at the intersection of University Avenue and Sixth Street to assist in criminal investigations. That camera is managed by the Public Works Department but the Police Department has access for criminal investigations.</p> <p>As of this report, there are Avigilon external fixed surveillance cameras located at San Pablo Park, the Berkeley Marina, and at the intersection of University Avenue and Sixth Street.</p> <p><b>What data is captured by this technology:</b><br/>                 The Avigilon external fixed surveillance cameras record and capture non-audio activity (data) for the following purposes:</p> <ul style="list-style-type: none"> <li>• To address identified areas of criminal activity.</li> <li>• To respond to critical incidents.</li> <li>• To assist in identifying, apprehending and prosecuting offenders.</li> <li>• To document officer and offender conduct during interactions to safeguard the rights of the public and officers.</li> <li>• To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.</li> <li>• To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct.</li> </ul> <p><b>How the data is stored:</b><br/>                 The data on the Avigilon external fixed video surveillance cameras is stored in secure servers that are managed by the City of Berkeley Radio Shop. Each camera system (San Pablo Park, Berkeley Marina, University Avenue and Sixth Street) has its own respective server for data storage.</p> <p><b>Retention period of data:</b><br/>                 Video surveillance recordings are not government records pursuant to California Government Code 34090 and of themselves. Except as otherwise permitted in this section, video surveillance recordings shall be purged within one hundred and eighty (180) days of recording.</p> |
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|                              | <p>The Avigilon external fixed video surveillance cameras at University Avenue and Sixth Street were recently installed and were not accessed during this reporting period.</p> <p>The Avigilon external fixed video surveillance cameras at San Pablo Park were accessed three times during this reporting period.</p> <ul style="list-style-type: none"> <li>• Youth Services Detectives accessed the cameras while investigating an indecent exposure case that involved a 7-year-old victim. The cameras confirmed the timeframe of the crime and allowed detectives to rule-out a potential suspect.</li> <li>• Homicide Detectives accessed the cameras while investigating a shooting that occurred near the park.</li> <li>• A newly appointed Property Crimes Detective accessed the cameras to ensure he could log in and understand the area of coverage for future investigations.</li> </ul> <p>The Avigilon external fixed video surveillance cameras at the Berkeley Marina was accessed once during this reporting period.</p> <ul style="list-style-type: none"> <li>• Property Crimes Detectives accessed the cameras while investigating an auto burglary in the area. The cameras captured the suspect vehicle and license plate which has helped further the investigation.</li> </ul> <p>Data may be shared with the District Attorney’s Office for use as evidence to aid in prosecution, in accordance with laws governing evidence; other law enforcement personnel as a part of an active criminal investigation; and other third parties, pursuant to a court order.</p> |
| <b>Geographic Deployment</b> | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>The Avigilon external fixed video surveillance cameras are geographically deployed at San Pablo Park, the Berkeley Marina, and at the intersection of University Avenue and Sixth Street.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Complaints</b>            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There were no known complaints associated with the Avigilon external fixed video surveillance cameras.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Audits and Violations</b> | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>There were no audits and no known violations relating to the Avigilon external fixed video surveillance cameras.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Data Breaches</b>         | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There were no known data breaches related to the Avigilon fixed use cameras.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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| Effectiveness | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>Avigilon external fixed video surveillance cameras monitor pedestrian and vehicle activity and can assist investigators with criminal and traffic related investigations. The cameras are also meant to prevent and deter criminal activity, and augment police resources in a cost-effective manner.</p>                                                                             |
| Costs         | <p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The initial cost of the San Pablo Park Cameras was \$64,829.46</p> <p>The initial cost of the Marina cameras was \$106,620.14</p> <p>The annual cost for maintenance and other ongoing costs, including compliance and other reporting and oversight requirements is \$13, 443.20.</p> <p>The cost for the camera at University Avenue and Sixth Street was \$36,346.30, not including staff time related to the project.</p> |



Energy Commission

ACTION CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council

From: Energy Commission

Submitted by: Bentham Paulos, Chairperson, Energy Commission

Subject: Recommendation on Climate, Building Electrification, and Sustainable Transportation Budget Priorities for Fiscal Year 2023 and 2024

RECOMMENDATION

The Energy Commission recommends that the Berkeley City Council prioritize and include in the City's budget for the Fiscal Years Ending (FYE) 2023 and 2024 several staff positions, pilot projects, investments in electric vehicles and charging infrastructure, and other measures to ensure that the City's budget is aligned with and provides adequate and needed funding to implement the City's adopted Climate Action Plan, Electric Mobility Roadmap, Building Emissions Saving Ordinance, 2019 ban on gas in new construction, and the Existing Buildings Electrification Strategy.

POLICY COMMITTEE RECOMMENDATION

On September 14, 2023, the Budget and Finance Committee adopted the following action: M/S/C (Arreguin/Harrison) to send the item to the City Council with a qualified positive recommendation, and that the Council consider the following:

1. Planning Department's request to continue funding the position of Green Building Program Manager.
2. Specific recommendations in the item around integrating low carbon mobility into the Street Maintenance budget.
3. For the one-time funded pilot programs and positions, assess their effectiveness and consider on-going funding.
4. Direction to staff to look at grant opportunities, in particular the Federal Inflation Reduction Act, to create charging infrastructure particularly at the Zero Waste Facility as the transfer station is being rebuilt.

Vote: All Ayes.

SUMMARY

In this memo, the Energy Commission (which disbanded March 31, 2022, and was merged with the Community Environmental Advisory Commission in April 2022) provides details on specific budget and funding priorities for: staffing an Electric Mobility Coordinator and the Green Buildings Program Manager; fully funding the Building Electrification and Just Transition pilot project (especially to avoid risking loss of state

funding); accelerate funding for the City's delayed fleet replacement with electric vehicles, residential electric vehicle charging infrastructure, and electric bike parking infrastructure; expanding public engagement and outreach; leveraging street maintenance budgets to incorporate and promote low-carbon mobility; and adopting policies and creating incentive programs to advance transportation and building electrification such as using the Transportation Network Company (TNC) User Tax General Fund revenue to fund bike and pedestrian projects and using a portion of the Transfer Tax to create an incentive program for residential building electrification.

### FISCAL IMPACTS OF RECOMMENDATION

The specific fiscal impacts are detailed in the budget recommendations below. At least one of our priority budget recommendations – to fully fund the Building Electrification and Just Transition pilot – is urgent and time-sensitive and cannot wait until the June budget process. Any delay risks Berkeley losing access to substantial state funding that could support this pilot.

### CURRENT SITUATION AND ITS EFFECTS

Berkeley has been a world leader on climate change and building electrification, as well as on zero waste. The City has already adopted an ambitious climate action plan and greenhouse gas (GHG) emission reduction goals.<sup>1</sup> Between our Building Emissions Savings Ordinance<sup>2</sup>, 2019 ban on gas in new construction, the 100% renewable option with East Bay Community Energy, and the Existing Buildings Electrification Strategy<sup>3</sup> (BEBES), approved by the Council last year<sup>4</sup>, we continue to lead the world with our thoughtfulness and action.

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<sup>1</sup> In 2006, voters overwhelmingly passed ballot Measure G and established Berkeley's goal to *Reduce our entire community's greenhouse gas emissions by 80% below 2000 levels by 2050*. Since then, the City has adopted a Climate Action Plan (2009).

On June 12, 2018, the Council passed item 30 which adopted a resolution establishing the goal of becoming a Fossil Fuel-Free City. Of the recommendations in the resolution, one was that "All future City government procurements of vehicles should minimize emissions and set a goal of transitioning the city's vehicle fleet to all electric vehicles."

Also, on June 12, 2018, the Council passed item 49 "Declaration of a Climate Emergency" which refers "to the Energy Commission to study and report back to Council on a path for Berkeley to become a "Carbon Sink" as quickly as possible, and to propose a deadline for Berkeley to achieve this goal" ideally by 2030.

<sup>2</sup> <https://www.cityofberkeley.info/BESO/>

<sup>3</sup> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/Berkeley%20Existing%20Bldg%20Elect%20Strategy\\_Final\\_102021.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Berkeley%20Existing%20Bldg%20Elect%20Strategy_Final_102021.pdf)

<sup>4</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/12\\_Dec/Documents/2021-12-14\\_Item\\_06\\_Minutes\\_for\\_Approval.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/12_Dec/Documents/2021-12-14_Item_06_Minutes_for_Approval.aspx)



However, the task in front of us is daunting. With 60% of the City's emissions coming from the transportation sector and 36% from the building sector,<sup>5</sup> we must redouble our efforts to reduce climate emissions from transportation and buildings through electrification of buildings and transportation, sustainable low- and zero-carbon transportation modes, and other efforts. With the upcoming budget processes, we have ample opportunity to take necessary next steps to reach our zero emissions goals.

The Energy Commission has identified the following priority items related to climate, buildings, and transportation in the City's Fiscal Year (FY) 2023 budget to ensure that the budget aligns with the City's adopted climate action plan and greenhouse gas (GHG) emission reduction goals.

At least one of our priority budget recommendations – to fully fund the Building Electrification and Just Transition pilot – is urgent and time-sensitive and cannot wait until the June budget process. Any delay risks Berkeley losing access to substantial state funding that could support this pilot.

At its meeting of February 23, 2022, the Energy Commission voted to send this recommendation to the City Council by a vote of 6-0-0-1 [Moved Tahara, Second Paulos. Ayes: Paulos, Wolf, Tahara, Moore, Guliasi, Zuckerman. Noes: None. Abstain: None. Absent: de Tournay Birkhahn].

### **Budget Priorities Recommended by the Energy Commission**

#### **I. Budget Priorities to Increase Staff Capacity to Implement the City's Established Climate, Transportation, and Clean Energy Policies and Priorities**

- 1. Fund and Hire Staff to Implement the Electric Mobility Roadmap.** The City had previously approved the hiring of an Electric Mobility Coordinator within the Public Works Department<sup>6</sup> to assist with implementation of the Berkeley Electric Mobility Roadmap adopted in July 2020<sup>7</sup>; but, at the time of writing, no position has been posted, now a year and a half after approval of the Roadmap.

<sup>5</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2022/02\\_Feb/Documents/2022-02-08\\_Presentations\\_Item\\_17\\_Pres\\_Planning\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2022/02_Feb/Documents/2022-02-08_Presentations_Item_17_Pres_Planning_pdf.aspx)

<sup>6</sup> Budget Referral from Councilwoman Harrison, March 30, 2021. The Energy Commission's understanding is that this position was included in the FY21-22 Budget to commence half-way through the fiscal year or as an "unfunded council referral," which was supposed to be funded via savings from other cuts or delayed expenses.

[https://www.cityofberkeley.info/Clerk/City\\_Council/2021/03\\_Mar/Documents/2021-03-30\\_Item\\_25\\_Budget\\_Referral\\_Allocate\\_Funding.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-30_Item_25_Budget_Referral_Allocate_Funding.aspx)

<sup>7</sup> On July 21, 2020, the Council passed item 1, adopting the [Berkeley Electric Mobility Roadmap](#).

The Council has been a leader in adopting resolutions acknowledging the need for a prompt transition away from fossil fuels and strategies for how to do so.<sup>8</sup> But, without additional staff capacity, and exacerbated by recent staff departures and necessary pandemic re-assignments, the City has not been able to make adequate progress on implementing initiatives to reduce global warming pollution from the transportation sector, which is the largest emitter of global warming pollution in Berkeley.<sup>9</sup> Existing staff's capacity is simply inadequate to lead implementation of the groundbreaking, transformative Roadmap in addition to their current responsibilities, and relying only on existing staff to implement will continue to cause unacceptable delays. **To implement the Electric Mobility Roadmap, it is critical that the City fund and hire additional staff beginning in the FY 2023 budget.**<sup>10</sup>

- 2. Increase Staff Necessary to Implement the Berkeley Existing Buildings Electrification Strategy, and Ensure Durable Funding for Critical Staff Positions.** In addition to the Electric Mobility Coordinator position, the Energy Commission believes it should also be a priority for the City to enhance staff capacity for implementing other climate and clean energy initiatives, such as, but not limited, to the Berkeley Existing Building Electrification Strategy<sup>11</sup> and Climate Equity Action Fund.<sup>12</sup>

City staff has and continues to do impressive work with limited staff. However, the scope of the task ahead of us is massive. As laid out by the BEBES, there are no fewer than 57 policy actions (Table 3-5, BEBES) that the City should take in order to

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<sup>8</sup> *Ibid.*

<sup>9</sup> 59% of GHG emissions in Berkeley come from transportation, followed by 39% from buildings.. [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_Special\\_Item\\_05\\_Climate\\_Action\\_Plan\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_05_Climate_Action_Plan_pdf.aspx) (July 21, 2020).

<sup>10</sup> This single staff person will have an outsized impact, as they will be responsible for establishing and coordinating the Electric Mobility Roadmap Implementation Working Group as called for in the Roadmap. This Working Group was supposed to be convened within six months of the Roadmap's approval, but in the absence of staff capacity, it still has not been done. The Working Group's mandate includes tracking and evaluating Roadmap implementation progress. Without the Working Group, there is no accountability for the City to deliver against its stated electric mobility plans.

<sup>11</sup> On November 30, 2021, the Council passed item 13, adopting the [Berkeley Existing Building Electrification Strategy](#). Phase 1 (2021-2025) actions for the Berkeley Existing Building Electrification Strategy will lay the groundwork to support wide-spread transition to electrified buildings in Berkeley. Policies included in Phase 1 will involve continued community engagement, pilot projects, education campaigns to demonstrate the benefits and feasibility of electrification, collaboration with labor and workforce organizations to advance inclusive high road jobs, alignment of existing programs and incentives, and the development of additional incentive programs as well as larger scale funding and financing programs such as tariffed on-bill financing. The City of Berkeley will work with partners such as East Bay Community Energy and Pacific Gas & Electric to develop larger scale Phase 2 projects. There will also be a need to collaborate with regional and State partners to align State policies to support Phase 2 actions. (Berkeley Existing Building Electrification Strategy, p. 95.)

<sup>12</sup> The City recently issued an [RFP](#) for the Climate Equity Action Fund. but existing staff do not have the capacity to maximize program impact and collect lessons learned from this innovative fund.

decarbonize the building sector by 2045, let alone by 2030, which the science demands of comparatively wealthy municipalities such as ours. Many of these actions involve substantial education and regulatory initiatives, which can only be achieved with the addition of dedicated, skilled staff.

Although we defer to staff with respect to the specifics of what additional positions might be most useful, some critical actions include:

- Ensuring durable, long-term funding for the Green Buildings Program Manager. Although hiring has only recently begun, this role was approved as part of the 2019 gas ban,<sup>13</sup> and its extension will be critical in helping to develop future code amendments and help to reduce permitting overhead, improve compliance, and address the myriad other regulatory questions identified in the BEBES.
- Supporting and expanding staffing across the City for programs related to tenant protections and anti-displacement, such as those listed in Appendix C of the BEBES. As we electrify our existing building stock, we will need to evolve and augment our existing policies to protect marginalized communities at risk of displacement (CC-9, BEBES). We cannot afford for these policies to lag behind the pace and scale of electrification measures in the city.
- Supporting and expanding OESD staff to facilitate updates to the 2009 Climate Action Plan as appropriate and programs to facilitate Berkeley's ambitious new greenhouse gas limit goals. For example, last year the Council passed a Resolution establishing a 2030 emission reduction target that reflects Berkeley's fair share of the 50% global reduction in CO<sub>2</sub>e – 60.5% from 2018 levels by 2030.<sup>14</sup> Council is also actively considering more stringent and binding targets across its sector-based and consumption inventories. These new initiatives will have significant implications for the City's approach to building decarbonization. While we fully support these ambitious targets, efforts to implement them have been largely unfunded and understaffed. Achieving these targets will require a significant expansion of the City's climate staff capacity.

## II. Budget Priorities to Advance Clean Transportation in Berkeley

1. **Fund City Fleet Electrification and Charging.** On June 29, 2021, the City adopted item 25 approving the recommendations in the City Auditor's report "Fleet Replacement Fund Short Millions"<sup>15</sup>, which directed staff to adjust the fleet

<sup>13</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/12\\_Dec/Documents/2019-12-03\\_Supp\\_2\\_Reports\\_Item\\_24\\_Supp\\_Arreguin\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/12_Dec/Documents/2019-12-03_Supp_2_Reports_Item_24_Supp_Arreguin_pdf.aspx)

<sup>14</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/11\\_Nov/Documents/2021-11-30\\_Item\\_14\\_Cities\\_Race\\_to\\_Zero\\_Campaign\\_\\_2030\\_emission\\_reduction\\_target.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/11_Nov/Documents/2021-11-30_Item_14_Cities_Race_to_Zero_Campaign__2030_emission_reduction_target.aspx)

<sup>15</sup> Fleet Replacement Fund Short Millions, Berkeley City Auditor, June 29, 2021. [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/06\\_June/Documents/2021-06-29\\_Supp\\_2\\_Reports\\_Item\\_25\\_Supp\\_Auditor\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/06_June/Documents/2021-06-29_Supp_2_Reports_Item_25_Supp_Auditor_pdf.aspx).

replacement funding model and budget, ensuring that the City's transition to electric vehicles (EVs) aligns with its adopted GHG emissions goals. On September 14, 2021, the Council adopted the recommendation from item 27 "Recommendations for Fleet Electrification Policy and Financing",<sup>16</sup> made by the Energy Commission, which referred to the City Manager to update the Municipal Fleet Electrification Assessment and EV charging funding priorities to respond to the City Auditor's Report and align with the objectives stated in the Electric Mobility Roadmap and prioritize municipal fleet modal shift to electric bicycles and other forms of zero-emissions mobility where feasible.

The Fleet EV Plan identified 32 vehicles to replace with EVs in FY 2021, requiring an estimated \$1.16 million; but, as of June 2021, Public Works had only \$747,000 to replace 29 vehicles scheduled to be replaced with EVs in FY 2021. The Energy Commission's recommendation noted that delaying replacement of these vehicles in 2021 would result in greater GHG emissions:

"For example, per the Fleet EV Plan, if the City does not replace light-duty internal combustion cars with EVs as scheduled in 2021, it will produce an estimated additional 10.6 MT of GHG emissions in 2021; if not replaced as planned in 2022 an additional 19.5 MT of GHGs would be emitted in 2022; and so on." (page 4).

It is the Energy Commission's understanding that East Bay Community Energy (EBCE) has offered to provide substantial investments in the City of Berkeley for EV charging infrastructure, which would support progress on the City's fleet electrification and free up City funds that would otherwise have been spent on EV charging infrastructure. The Energy Commission urges the Council to resolve the budget gaps identified in the Auditor's report and explore additional funding sources so that the City can accelerate its purchases of EVs and the associated EV charging infrastructure in FY 2023.

A global microchip shortage resulting in prolonged supply chain delays and long wait times for the delivery of EVs is compounding the necessity for the City to take immediate action on fleet replacement. These delays are being exacerbated by the recent surge in demand for EVs. As more municipalities similarly pass electrification plans, Berkeley will see increasing competition for the same vehicles. The City must thus plan and order ahead if it wants to have a smooth fleet transition. The City should also commence its purchase of e-bikes for the years ahead, as replacements to existing City vehicles where appropriate. E-bikes are both highly cost effective and may not face the same supply chain delays as electric cars and trucks. The

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<sup>16</sup> Recommendations for Fleet Electrification Policy and Financing, From Energy Commission, Sept 14, 2021. [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/09\\_Sep/City\\_Council\\_\\_09-14-2021\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/09_Sep/City_Council__09-14-2021_-_Regular_Meeting_Agenda.aspx) - Item 27

Energy Commission recommends that the Council prioritize these municipal fleet EV replacements, along with the associated EV charging infrastructure, in the FY 2023 budget.

2. **Expand Infrastructure for Residential EV Charging and E-Bike Parking.** The City should prioritize funds to address solutions for residential curbside EV charging. The City's Residential Curbside EV Charging Pilot Program<sup>17</sup> sunset in 2020. The development model the pilot used – private ownership of a charger on the side of a public street – was not successful. While 62 residents applied for the program, only four on-site and seven curbside chargers were installed - high permitting fees, restrictive engineering requirements, lack of control of the parking space adjacent to the charger, and poor access to electrical supply resulted in high costs.<sup>18</sup> Given the number of Berkeley residents who do not have access to a driveway or garage, the Electric Mobility Roadmap identified as a high priority the need to deploy curbside charging for electric cars, particularly in neighborhoods with high rates of multifamily and rental housing. The next phase of curbside charging will incorporate lessons learned from the Pilot, investigate alternative strategies, identify state and federal funding sources, and explore partnerships with EBCE and EV charging companies.

The City should also investigate the potential to provide public secure parking for other types of fossil fuel-free vehicles, namely e-bikes and cargo bikes, for apartment dwellers. E-bikes and cargo bikes tend to be larger and heavier than regular bicycles, making them difficult to carry up steps. A paid, public parking system, such as the BikeLink lockers at BART stations, may be adapted to street parking near apartment buildings.

The Council should allocate funds in the budget for an electric mobility staff person who would oversee new projects — research other cities' approaches, evaluate Berkeley's codes, standards, and permitting processes, and conduct feasibility studies — along with funds for the pilot projects themselves.

3. **Incorporate Low-Carbon Mobility into Street Maintenance Budget.** While Council is considering a bond measure that would make capital investments in our transportation system, the City should also revisit how the maintenance budget can be used to promote low-carbon mobility.

The Council has approved multiple plans to promote safe, equitable, and low-carbon mobility for all. These “complete streets” concepts are captured in the Bicycle Plan,

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<sup>17</sup> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/Manual%20with%20attachments%2012-1-14.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Manual%20with%20attachments%2012-1-14.pdf)

<sup>18</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/02\\_Feb/Documents/2018-02-27\\_Item\\_16\\_Residential\\_Curbside\\_Electric.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/02_Feb/Documents/2018-02-27_Item_16_Residential_Curbside_Electric.aspx)

Pedestrian Plan, Vision Zero Action Plan, and analysis of Safe Routes to School.<sup>19</sup> But many of the measures in these plans have been implemented slowly, if at all. The Council should direct the Public Works Department to follow these plans to the letter, and integrate all low-cost and rapidly deployable concepts from the plans into their ongoing maintenance. The timing of deploying higher cost measures may necessarily depend on funding.<sup>20</sup>

On January 18, 2022, the Council adopted item 19, referring a budget item to use Transportation Network Company (TNC) User Tax General Fund revenue to build and maintain protected bicycle lanes and crossings, pedestrian street crossings, and quick-build public transit projects under the Street Repair Program. The Energy Commission recommends that the Council follow through on its plan to use this revenue to benefit transportation projects in Berkeley.

### III. Budget Priorities and Financial Incentives to Advance Building Decarbonization in Berkeley

- 1. Fully Fund the Building Electrification and Just Transition Pilot Project.** In the December 2021 Annual Adjustment Ordinance (AAO) budget process, the Mayor declared, and the Council approved, that the Building Electrification and Just Transition pilot (“the pilot”)<sup>21</sup> be a first priority to be funded in the May 2022 AAO.<sup>22</sup> Consistent with the City’s “targeted universalism” approach to building electrification,<sup>23</sup> the pilot intends to kick-start electrification among affordable housing and low income (LMI) communities through incentives, and develop high-road jobs through labor standards and contractor prequalification.

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<sup>19</sup> See [Bicycle Plan](#), [Pedestrian Plan](#), [Vision Zero Action Plan](#), [Safe Routes to School](#).

<sup>20</sup> A related concept is that the Council should consider giving a more formal policy status to Bicycle Boulevards. While the Boulevards serve as a useful wayfinding tool for cyclists, their designation does not give the streets a meaningful status, and no prioritization when it comes to City planning or operations. For example, places where Bicycle Boulevards cross busy streets, such as at California/Dwight or Channing/San Pablo, face years of delay before safe crossing solutions can be implemented. Numerous Bicycle Boulevards suffer from extremely poor pavement condition. Stop signs often favor cars instead of the Boulevards, and lighting can often be sub-standard. All of these factors undermine achievement of City plans, threaten public safety, and lock in carbon pollution. Direction from the Council to staff could take the form of a formal designation of the Boulevards as a category of street, just as Public Works delineates “arterials” and “collectors” when it comes to planning and operations.

<sup>21</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/11\\_Nov/City\\_Council\\_11-30-2021\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/11_Nov/City_Council_11-30-2021_-_Regular_Meeting_Agenda.aspx)

<sup>22</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/12\\_Dec/Documents/2021-12-14\\_Supp\\_2\\_Reports\\_Item\\_44\\_Supp\\_Mayor\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/12_Dec/Documents/2021-12-14_Supp_2_Reports_Item_44_Supp_Mayor_pdf.aspx)

<sup>23</sup> According to the BEBES: “Targeted Universalism is the practice of setting a universal policy goal...while identifying targeted strategies and actions specifically for marginalized communities to ensure that those communities can benefit from the policy goal.”

**Funding for this item in the May AAO is critical, and cannot wait until the June budget process.** Any delay risks losing access to substantial state funding that could multiply the reach and impact of the pilot. The California TECH initiative, an \$120 million initiative established by SB 1477, recently began offering incentives for heat pump space and water heating that can defray nearly \$10,000 of cost per home,<sup>24</sup> including the cost of an electric panel upgrade. These incentives are accessible to contractors via the BayREN Home+ programs, which will simplify administration of the pilot due to its use of pre-qualified contractors.

There is additional urgency as well. The Bay Area Air Quality Management District (BAAQMD) is looking at phasing out the sale of NOx-emitting appliances by the end of the decade,<sup>25</sup> which will significantly affect the availability of non-electric space and water heating. However, BAAQMD recognizes that such a rule can only be effective if there is sufficient financial support for disadvantaged communities and a robust installer network (things the BEBES also calls out) so that everyone can reap the benefits of zero-pollution appliances without facing substantial costs. **These costs cannot be borne by cities alone, but Berkeley can lay the groundwork to leverage state and federal money with its pilot and thus significantly contribute to the regional effort to improve air quality and GHG emissions.**

2. **Use Transfer Tax Revenues to Provide Incentives for Electrification.** With soaring home prices, the transfer tax represents a durable source of funds that the City should leverage to accelerate our building electrification goals. There are two potential models to consider.

First, would be to model a rebate program after the Seismic Retrofit Refund Program<sup>26</sup> that would rebate a percentage of the transfer tax with a value up to the cost of a typical electrification package for electrification measures completed within one year of transfer. This would incentivize electrification at a time when there is large access to capital, and could lay the groundwork for an ultimate requirement to retrofit at time of sale. OESD staff have already provided Council with a draft ordinance and indicate that each year on average 800 units would qualify through this mechanism.<sup>27</sup>

The Energy Commission recommends that Council move forward with this ordinance but with a cap on the amount of eligible homeowner rebates per year. These rebates

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<sup>24</sup> For single-family homes (up to 4 units), including “enhanced” incentives for HPWH. See: <https://energy-solution.com/wp-content/uploads/2021/12/TECH-Single-and-Multifamily-Incentives.pdf>

<sup>25</sup> <https://www.baaqmd.gov/rules-and-compliance/rule-development/building-appliances>

<sup>26</sup> [https://www.cityofberkeley.info/Finance/Home/Real\\_Property\\_Transfer\\_Tax\\_Seismic\\_Refunds.aspx](https://www.cityofberkeley.info/Finance/Home/Real_Property_Transfer_Tax_Seismic_Refunds.aspx)

<sup>27</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_Special\\_Item\\_03\\_Referral\\_Response\\_Ordinance\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_03_Referral_Response_Ordinance_pdf.aspx)

are critical to the City's long-term strategy of phasing in potential electrification mandates as feasible.

At the same time, as a diverse and majority renter city, it is critical that electrification subsidies are also available for units occupied by rent controlled or below market rate tenants. As a second model option, a percentage of the transfer tax refund program (for example, the difference between the reserved and actual rebate amounts) might be simultaneously allocated to expand electrification work among those LMI and minority communities most affected by inequality, pollution, climate change, or at risk of displacement. This could come in the form of expanding the Building Electrification and Just Transition pilot and Climate Equity Fund to reach more households, or other incentive programs targeted at those same communities.

3. **Adopt Policies to Promote Implementation of Low-cost, Partial Electrification measures.** In addition to enacting full retrofit programs, we recommend that the Council consider low-cost, partial electrification measures to maximize the immediate climate and health impacts of electrification measures. For example, a requirement that any AC installation instead be a heat pump (TR-7, BEBES) could be coupled with a subsidy for LMI communities to pay for the cost difference between an AC and an equivalent heat pump model, which is estimated to be between just \$200 and \$500 wholesale.<sup>28</sup> An installer subsidy of \$676 alone could be enough to nearly double heat pump market share even absent a mandate<sup>29</sup>. Other low-cost measures might include the purchasing and distribution of portable heat pumps to provide cooling to households on our increasing number of hot days (newer inverter models offer substantial energy savings over traditional portable ACs<sup>30</sup>), portable induction units as both a gateway into electric cooking and a mechanism to reduce indoor NOx pollution that has been demonstrated to cause asthma in small children,<sup>31</sup> as well as weatherization work to make homes safer, more comfortable, and to reduce energy use. Council might also consider rebates for electrification at time of replacement, or provide access to equipment purchased under bulk purchasing agreements as part of the Building Electrification and Just Transition pilot program.

#### **IV. Budget Priorities to Educate and Engage Berkeley Residents in Implementing Transportation and Building Electrification**

1. **Expand Sustainability Outreach Events.** In conjunction with implementation of the Electric Mobility Roadmap and Existing Building Electrification Strategy, it is

<sup>28</sup> <https://www.clasp.ngo/research/all/3h-hybrid-heat-homes-an-incentive-program-to-electrify-space-heating-and-reduce-energy-bills-in-american-homes/>

<sup>29</sup> *ibid*

<sup>30</sup> <https://www.midea.com/us/air-conditioners/portable-air-conditioners/midea-duo-smart-inverter-portable-air-conditioner-map12s1tbl>

<sup>31</sup> <https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=310879>



appropriate for the City to continue and expand public engagement on alternative transportation and green building solutions.

Increasing electric mobility awareness and education is a key strategy in the Electric Mobility Roadmap for achieving the City's zero net carbon goals. Berkeley has already organized four highly successful annual Ride Electric events, which brought the public together to learn about and, in certain cases, test drive EVs and e-bikes. The City has also partnered successfully with other local groups to organize in-person and virtual green building tours that feature clean energy, energy and water conservation, gray water, electric appliances, and garden features.

As technologies and incentives evolve, more members of the public consider adopting electric mobility and building electrification technologies, and as the City increases its e-mobility expertise through additional staffing, these events can and should continue to play an important role in getting Berkeley residents to transition away from fossil fuels. The Roadmap states that the City will expand electric mobility education and outreach activities, with a goal of increasing awareness of electric mobility options and incentives.<sup>32</sup> To deliver on this commitment, the City must allocate funds for these events in its next budget.

With its recent adoption of the Existing Building Electrification Strategy, the Council must expand funding for sustainability outreach events to also address needs identified in the Strategy. For example, the Strategy identified a need for education to address the steep learning curve and cultural sensitivity around cooking with electric stoves, as cooking is a cultural asset and many feel strongly about cooking with gas stoves.<sup>33</sup> While the City has hosted building electrification events, including loan programs for residents to try out electric induction cooktops, it will need to do more to engage residents in adopting electric heat pumps, induction stoves, and other technologies.

## BACKGROUND

The City has existing mandated climate goals and emissions reductions commitments, and already-adopted strategies, such as the Electric Mobility Roadmap and the Existing Buildings Electrification Strategy. Furthermore, the City has already approved certain staff positions and investments, such as an Electric Mobility Coordinator position and commitments to replace the City's vehicle fleet with electric vehicles on a schedule. The City is falling behind in hiring and filling needed positions and in executing on needed investments. The budget recommendations proposed by the Energy Commission in this memo seek to ensure the City stays on track to meet its goals.

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<sup>32</sup> Berkeley Electric Mobility Roadmap, p. 43.

<sup>33</sup> Berkeley Existing Building Electrification Strategy, p. 42.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

If the Council further delays investments or doesn't include our recommended priorities in the upcoming budget, it puts at risk the health and safety of Berkeley's residents, the City's achievement of its adopted and mandated climate, clean energy, and transportation goals, and its national and global leadership on addressing climate change in innovative ways.

### RATIONALE FOR RECOMMENDATION

The Energy Commission commends the Council for its many years of leadership to reduce Berkeley's global warming pollution and to advance clean energy solutions for the transportation and building sectors. Our budget is a declaration of our values. We have a tremendous opportunity to accelerate building decarbonization while improving equity through targeted universalism, and we must seize the moment to secure a safer, healthier, more resilient future.

However, if the Council further delays investments in staffing, fleet electrification and electric vehicle charging infrastructure, building maintenance and retrofits, and public education in the FYE 2023 and 2024 budget, it puts at risk the health and safety of Berkeley's residents, the City's achievement of its adopted and mandated climate, clean energy, and transportation goals, and its national and global leadership on addressing climate change in innovative ways. The Energy Commission thus urges the City Council to incorporate the above stated priorities into its FYE 2023 and 2024 budget.

### ALTERNATIVE ACTIONS CONSIDERED

We did not consider excluding these items from the budget.

### CITY MANAGER

The City Manager recommends that the content and recommendations of the Commission's Report be referred to the budget process.

### CONTACT PERSON

Billi Romain, Energy Commission Secretary, 510-981-7432



Peace and Justice Commission

ACTION CALENDAR  
NOVEMBER 7, 2023

To: Honorable Mayor and Members of the City Council

From: Peace and Justice Commission

Submitted by: George Lippman, Chairperson, Peace and Justice Commission

Subject: Referral of two health educator positions to the COB FY 2024 budget process

RECOMMENDATION:

Refer to the budget process a request for estimated \$150,000 annually, beginning in FY 2024 or as early as the AAO #2 process in spring 2023, for staffing, materials, and supplies to be able to more broadly and flexibly conduct health education, prevention, and outreach to reduce health disparities, as proposed by the Peace and Justice Commission.

POLICY COMMITTEE RECOMMENDATION

On September 14, 2023, the Budget and Finance Committee adopted the following action: M/S/C (Harrison/Kesarwani) to send the commission item and companion report to the City Council with a negative recommendation, express thanks to the Peace and Justice Commission for their work, and recognize that there is a need for community- and school-based public health outreach, and that the City should consider the recommendation after the completion of the community health assessment. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

Estimated annual cost: \$150,000. This estimate was given by Dr. Lisa Warhuus, HHCS Director, for staffing, materials, and supplies to be able to more broadly and flexibly conduct health education, prevention, and outreach to reduce health disparities.

CURRENT SITUATION AND ITS EFFECTS:

According to HHCS Director Dr. Lisa Warhuus, “the overriding health challenge in Berkeley are health disparities....For many years, we have seen significant disparities between the health status of our white community members (generally well above national averages), and our BIPOC community members. Geographically, this shows up with generally excellent health outcomes for people living in the hills, with less ideal outcomes in zip codes in South and West Berkeley (although this is shifting somewhat with gentrification). In recent years, other high-risk populations would include people

experiencing homelessness and, to some extent, the LGBTQ+ community (though we need more research on the latter as it can very dependent upon circumstances).

“One of the biggest challenges we have in addressing health disparities is in the communications and outreach (prevention) component of the work. We need to do more culturally responsive outreach to those most negatively impacted by disparities, **engage and listen to what people feel is most needed**, and work with them to fill that gap. In doing so over the years, our Public Health division has often found that what is most missing is trust in the system, information and education done in a culturally responsive way, and clear access points for medical insurance, coverage, and a medical home.

“For instance, in a health assessment conducted by the Public Health Division in 2018, the highest priority identified by Berkeley participants to achieve a healthy community was communities that had access to basic needs and services (i.e. healthcare, housing, healthy food, transportation, etc.), felt connected and was treated with openness, tolerance, and inclusion, and had resources and up to date information on services. “The greatest threats to optimal health that community members identified were high costs of living, food security, and stress/mental wellness with recurring barriers being lack of or limited information and resources available to community members.”

At its regular meeting January 9, 2023, the Peace and Justice Commission adopted the following recommendation proposing the hiring of two health educator positions for the next fiscal year.

M/S/C: Bohn, Jaquin.

Ayes: Lippman, Jacquelin, Bohn, Lee, Morizawa, Gussmann.

Noes: None.

Abstain: Maran.

Absent: Leon-Maldonado.

## ENVIRONMENTAL SUSTAINABILITY

N/A

## BACKGROUND

Peace and Justice commissioners, along with members of the Commission on the Status of Women and the Community Health Commission, recently met with HHCS Director Dr. Lisa Warhuus and Public Health Manager Janice Chin, at Council’s request, to discuss resources for and obstacles to reproductive health services and education. Dr. Warhuus clarified that “from the lens of HHCS, the work in Berkeley needs to be centered on health disparities in the larger context first,” and to “ensure that our Public

Health Division continuously includes Reproductive and Sexual Health (RSH) work as a part of their broader health education, prevention, and outreach strategy.”

HHCS is bringing on a consultant who will organize and engage community members and other stakeholders to create a Community Health Assessment and a Community Health Improvement Plan, including a pilot program to create a health innovation zone to work toward remedying severe health inequities. Performance measures will be tracked through a new web-based population data health platform that will be rolled out as part of this process.

#### RATIONALE FOR RECOMMENDATION

HHCS would benefit from hiring staff and paying for materials and supplies out of general fund to be able to more broadly and flexibly conduct health education, prevention, and outreach to reduce health disparities.

The department is facing the lack of sufficient resources to do culturally responsive outreach, engagement, and prevention on an unconstrained basis. Engagement of these educators would assist with Reproductive and Sexual Health (RSH) outreach as part of the larger health outreach program.

#### ALTERNATIVE ACTIONS CONSIDERED

None

#### CITY MANAGER

See companion report.

#### CONTACT PERSON

George Lippman, Chairperson, Peace and Justice Commission  
Okeya Vance-Dozier, Commission Secretary, (510) 684-0503





Office of the City Manager

## ACTION CALENDAR

November 7, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Peter Radu, Assistant to the City Manager

Subject: Companion Report: Referral of two health educator positions to the COB FY 2024 budget process

### RECOMMENDATION:

Refer to the Peace and Justice Commission's request for \$150,000 annually for staffing, materials, and supplies for health education and outreach to the Budget and Finance Policy Committee for further deliberation.

### POLICY COMMITTEE RECOMMENDATION

On September 14, 2023, the Budget and Finance Committee adopted the following action: M/S/C (Harrison/Kesarwani) to send the commission item and companion report to the City Council with a negative recommendation, express thanks to the Peace and Justice Commission for their work, and recognize that there is a need for community- and school-based public health outreach, and that the City should consider the recommendation after the completion of the community health assessment. Vote: All Ayes.

### FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts associated with this recommendation.

### CURRENT SITUATION AND ITS EFFECTS:

The Peace and Justice Commission has requested \$150,000 annually to fund two health educator positions. The City Manager does not disagree with the potential merit of this request, but rather recommends that Council clearly identify concrete impacts and outcomes for the positions, as well as a budget source, before referring them for funding. Moreover, further deliberation allows Council to work with staff to identify any existing baseline services that could be supplemented, which may provide a more cost-efficient means of meeting outstanding needs than hiring new staff.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental benefits nor challenges associated with this recommendation.

**BACKGROUND**

At its regular meeting January 9, 2023, the Peace and Justice Commission adopted the following recommendation proposing the hiring of two health educator positions for the next fiscal year.

M/S/C: Bohn, Jaquin.

Ayes: Lippman, Jacquelin, Bohn, Lee, Morizawa, Gussmann.

Noes: None.

Abstain: Maran.

Absent: Leon-Maldonado.

**RATIONALE FOR RECOMMENDATION**

A clearer picture of desired impacts and outcomes associated with this request compared to baseline services, as well as financial implications, should be identified at the Committee level before recommending them to the full Council for funding.

**ALTERNATIVE ACTIONS CONSIDERED**

Council could refer this request directly to the budget process.

**CONTACT PERSON**

Peter Radu, Assistant to the City Manager, (510) 981-7045.





Office of the City Manager

INFORMATION CALENDAR  
November 7, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jennifer Louis, Chief of Police  
 Subject: Audit Recommendation Status - Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

CURRENT SITUATION AND ITS EFFECTS

The City Auditor's report included 12 recommendations. Ten of the recommendations have been implemented and 2 of the recommendations are in progress. We anticipate the next status update report to be on May 21, 2024.

Included in this is the completion of 5 additional recommendations since the last update. This includes Policy 1015 being updated to add a restriction on working no more than 7 consecutive days and we have completed our first formal written agreement for doing work for outside entities. Internal directives have been distributed formalizing both a staffing assessment protocol and a process for monitoring how often compensatory time leads to backfill overtime. Additionally, a process was formalized for an Outside Entity Billing Process.

BACKGROUND

On March 3, 2022, the City Auditor's Office issued its audit, *Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities*<sup>1</sup>. This audit report included 12 recommendations. The purpose of this report is to update the City Council on the Police Department's progress on implementing the City Auditor's recommendations. This is the third status report for this audit, the first being in November 2022 and the second in May 2023. There was also an update to the Budget and Finance committee in September 2023.

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<sup>1</sup> City Auditor's Office Overtime Audit (3/3/2022)  
<https://berkeleyca.gov/sites/default/files/2022-04/Berkeley%20Police%20-%20Improvements%20Needed%20to%20Manage%20Overtime%20and%20Security%20Work%20for%20Outside%20Entities.pdf>

November 7, 2023

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

FISCAL IMPLICATIONS

Staff time in addition to the contract costs. The contract for CareWare, approved in 2022 is \$191,740 (5-year contract). This software is being utilized throughout the whole Police Department.

CONTACT PERSON

Captain Kevin Schofield, Police Department, (510) 981-5815

ATTACHMENTS

1. Police Overtime Recommendation Table

| <b>Audit Title: Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities</b> |                       |                                                                                                                                             |                   |                                               |                                                                                                                                                                                                                                                                                                                                                                                                   |                            |
|--------------------------------------------------------------------------------------------------------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| <b>Finding</b>                                                                                                     | <b>Recommendation</b> |                                                                                                                                             | <b>Department</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Audit Recommendations, Corrective Plan, and Progress Summary</b>                                                                                                                                                                                                                                                                                                                     | <b>Last Period: Status</b> |
| Overtime is used to maintain minimum patrol staffing set by BPD.                                                   | 1.1                   | Collect and monitor data on how often compensatory time leads to additional backfill overtime and develop a plan to monitor it.             | Police            | 9/1/2023                                      | <u>Implemented:</u><br>BPD now has a formal process to monitor how often compensatory time leads to backfill overtime with data from the electronic staffing software. The Police Technology Unit will create a biannual report on this data to be reviewed by the Captain of the Support Services Division and the Office of the Chief.                                                          | Started                    |
| Overtime is used to maintain minimum patrol staffing set by BPD.                                                   | 1.2                   | Fill vacancies deemed necessary and/or reallocate staff pending the reimagining process and a determination of appropriate staffing levels. | Police            | Spring 2023                                   | <u>Started:</u><br>The City of Berkeley released an RFP for a "Berkeley Police Department Workload Organizational Study". The vendor CityGate was awarded the contract for this item, with a contract start date of 8/21/23. The process of providing the vendor with all the requested materials and documents is nearly complete. BPD anticipates this project will be completed in 8-9 months. | Started                    |

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| <p>Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.</p> | <p>2.1</p> | <p>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.</p> | <p>Police</p> | <p>9/29/2023</p>   | <p><u>Implemented:</u><br/>BPD has created a written protocol to assess minimum staffing and department staffing needs biannually. The protocol incorporates criteria such as calls for service and shift availability. The protocol also considers allocation of police resources geographically, i.e. beat alignment.</p> | <p>Started</p>     |
| <p>Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.</p> | <p>2.2</p> | <p>Document and define the Patrol Unit's minimum staffing levels in a publicly assessable format.</p>                                                                                                                                                                                                                                                                                                                                             | <p>Police</p> | <p>9/2/2022</p>    |                                                                                                                                                                                                                                                                                                                             | <p>Implemented</p> |
| <p>Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.</p> | <p>2.3</p> | <p>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.</p>                                                                                                                                                                                                         | <p>Police</p> | <p>Spring 2023</p> | <p><u>Started:</u><br/>A vendor for the organization's workload study has been selected and BPD is entering into the contracting process. Once complete, the selected vendor, CityGate, will provide a final report documenting the results of the staffing assessment along with the assessment criteria.</p>              | <p>Started</p>     |

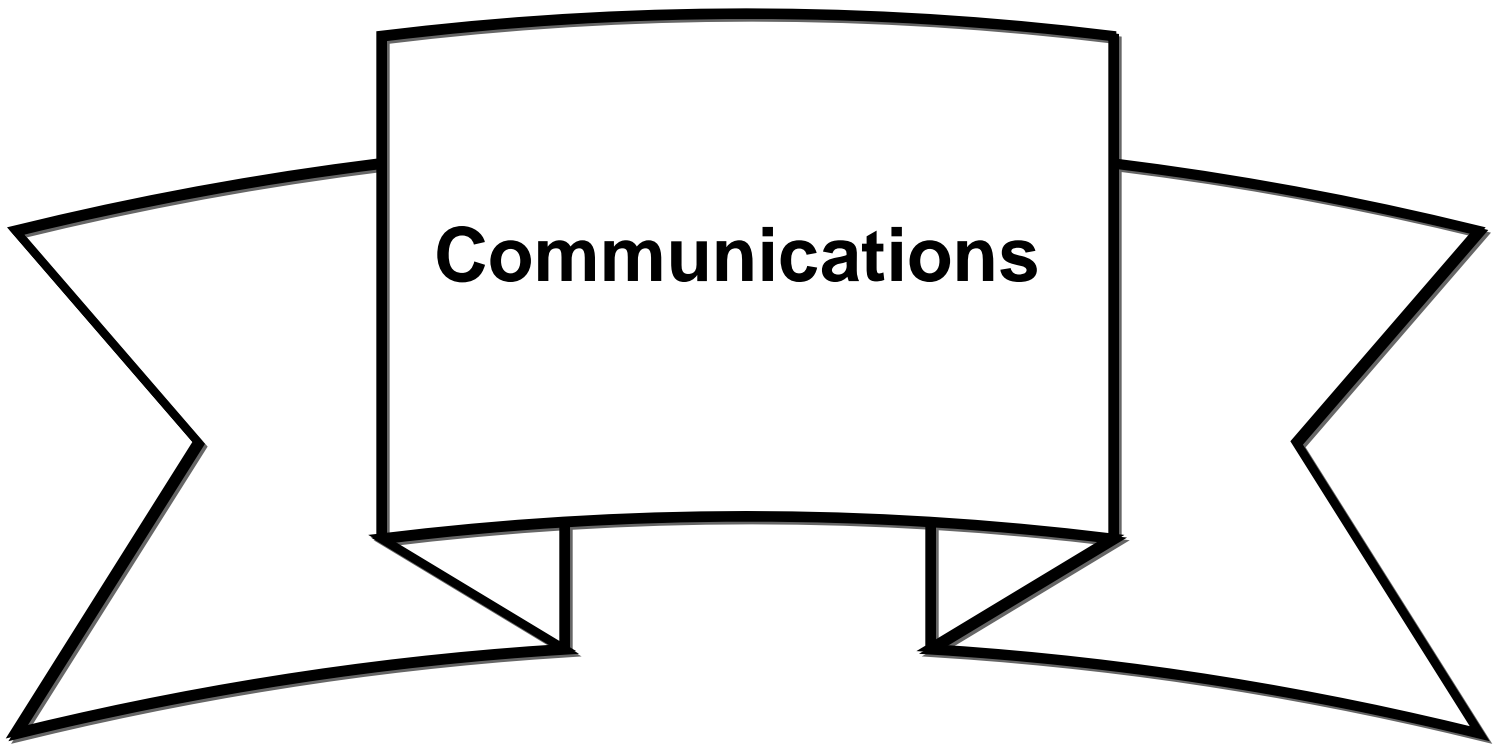
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| <p>Officers work excessive overtime, increasing health and safety risks.</p> | <p>3.1</p> | <p>Update the department overtime policy to address the fact that there currently is no limit to the number of consecutive days worked and determine the appropriate limit for overtime that is enforceable with the goal of avoiding officer fatigue. The department may examine other jurisdictions' overtime limits as possible criteria.</p>                                                                                                                                                                                   | <p>Police</p> | <p>8/23/2023</p> | <p><u>Implemented:</u><br/>BPD policy 1015 has been updated to include a limit on the number of consecutive days worked. The policy also includes limitations on hours worked. This updated policy was issued on 8/23/23.</p> | <p>Started</p>     |
| <p>Officers work excessive overtime, increasing health and safety risks.</p> | <p>3.2</p> | <p>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.</p> | <p>Police</p> | <p>3/8/2023</p>  |                                                                                                                                                                                                                               | <p>Implemented</p> |

|                                                                   |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |        |           |                                                                                                                                                                                                                                                                                                                                                      |                    |
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| BPD has no contracts for overtime security with outside entities. | 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. | Police | 5/4/2023  |                                                                                                                                                                                                                                                                                                                                                      | Implemented        |
| BPD has no contracts for overtime security with outside entities. | 4.2 | In consultation with the City Attorney, create contracts with outside entities in compliance with City policies and applicable laws.                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Police | 8/31/2023 | <u>Implemented:</u><br>Service agreements for work with outside entities are being executed and are available on the Police Department's website:<br><a href="https://berkeleyca.gov/sites/default/files/documents/BPD%20Service%20Agreement-final.pdf">https://berkeleyca.gov/sites/default/files/documents/BPD%20Service%20Agreement-final.pdf</a> | Partly Implemented |

|                                                                   |     |                                                                                                                                                                                                                                                                                                                                                                                       |        |           |                                                                                                                                                                                                                                                                                         |             |
|-------------------------------------------------------------------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| BPD has no contracts for overtime security with outside entities. | 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. | Police | 3/30/2023 |                                                                                                                                                                                                                                                                                         | Implemented |
| BPD has no contracts for overtime security with outside entities. | 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.                                                                                                                                                                     | Police | 3/7/2023  |                                                                                                                                                                                                                                                                                         | Implemented |
| BPD has no contracts for overtime security with outside entities. | 4.5 | Explore ways to clearly account for different funds to track revenues and expenses.                                                                                                                                                                                                                                                                                                   | Police | 9/29/2023 | <u>Implemented:</u><br>BPD has formalized a written protocol for an Outside Entity Billing Process. This document reflects eleven needed steps from billing through the depositing of funds with the Finance Department and clearly identifies a method to track revenues and expenses. | Started     |

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All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

**City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**Records Online**

<https://records.cityofberkeley.info/>

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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