

**REVISED AGENDA**  
**(REVISED TO UPDATE TELECONFERENCE LOCATIONS AND**  
**CORRECT RECOMMENDATION OF ITEM 26)**



**BERKELEY CITY COUNCIL MEETING**

**Tuesday, March 10, 2020**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
TELECONFERENCE LOCATION – 1130 SHATTUCK AVENUE, BERKELEY, CA 94707  
TELECONFERENCE LOCATION – 1404 LE ROY AVENUE, BERKELEY, CA 94708  
TELECONFERENCE LOCATION – 2911 LORINA STREET, BERKELEY, CA 94705

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## **Preliminary Matters**

### **Roll Call:**

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

1. Recognition of Nolan Coleman
2. Recognition of Tibetan Association of Northern California

**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 by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the*

lottery, 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 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. Speaker cards are not required for this second round of public comment on non-agenda matters.

## 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." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

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

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

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

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

## Consent Calendar

- Contract: Blaisdell's Business Products for Office Supplies, Printing Paper, Small Equipment and Office Furniture**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a Contract with Blaisdell's Business Products for the purchase of miscellaneous office supplies, printing paper, small equipment and office furniture by piggy-backing off of Omnia Partners Region 4 ESC Contract No. R190301. The contract term will commence on March 15, 2020 through March 14, 2023 with the option of two consecutive single-year renewals for a total not to exceed amount of \$2,700,000 over a five year term, subject to the City's annual budget appropriation.  
**Financial Implications:** Various Funds - \$2,700,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 2. Contract: Resource Development Associates for Results Based Accountability Evaluation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to approve a Contract and any amendments with Resource Development Associates (RDA) to provide an evaluation of mental health programs across the division utilizing the Results Based Accountability (RBA) framework for a total not to exceed amount of \$100,000 through June 30, 2022.  
**Financial Implications:** Mental Health Services Act Fund - \$100,000  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 3. Acquisition and Predevelopment Loan for 1740 San Pablo Avenue**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Authorizing the execution of a \$7.1 million loan to BRIDGE Housing Corporation (BRIDGE) for costs related to acquisition and predevelopment of the proposed affordable housing development at 1740 San Pablo Avenue. 2. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 4. Designating City's Labor Negotiators Under Govt. Code Section 54957.6**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution establishing a standing list of representatives of the City of Berkeley designated to participate in Closed Sessions with the City Council to discuss labor negotiations with certain unions and unrepresented employees for negotiations between January 1, 2020 and December 31, 2020.  
**Financial Implications:** None  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800
- 5. Contract No. 31900172 Amendment: Cadalys, Inc. for Additional Software Application Consulting Services for Building Energy Saving Ordinance (BESO) Online Software System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900172 with Cadalys, Inc. to provide additional application consulting services and support for the BESO online software system in an amount not to exceed \$20,000 for a total contract amount not to exceed \$65,000, and extending the term from June 7, 2019 through June 30, 2021.  
**Financial Implications:** Permit Service Center Fund - \$20,000  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500

## Consent Calendar

- 6. Contract No. 9263C Amendment: SSP Data Products Inc. for Barracuda Backup Solution with Hosted Cloud Storage**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9263C with SSP Data Products Inc. for the City's Barracuda Backup Solution with hosted cloud storage, increasing the amount by \$65,081, for a total contract amount not to exceed \$365,773 for the term May 15, 2013 through June 30, 2021.  
**Financial Implications:** IT Cost Allocation Fund - \$65,081  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 7. Donation: Ohlone Park Mural Garden**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a donation of \$9,500 for the design of the Ohlone Park Mural Garden from Friends of Ohlone Park.  
**Financial Implications:** \$9,500 (donation)  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 8. Grant Application: National Fitness Campaign for Fitness Courts**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: submit a grant application in the amount of \$150,000 to the National Fitness Campaign for up to five fitness courts; 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 grant.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 9. Contract No. 7470 Amendment: 2M Associates for Construction Phase Environmental Services for the Berkeley Tuolumne Camp Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 7470 with 2M Associates for Construction Phase Environmental Services for the Berkeley Tuolumne Camp Project, increasing the contract by \$125,000 for a total amount not to exceed \$1,386,771.  
**Financial Implications:** Camps Fund - \$125,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700



## Consent Calendar

- 10. Contract No. 32000026 Amendment: APB General Engineering for the Hillview Road and Woodside Road Drainage Improvement Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32000026 with APB General Engineering for the Hillview Road and Woodside Road Drainage Improvement Project, increasing the contract of \$240,000 by \$40,000 for a total amount not-to-exceed of \$280,000.  
**Financial Implications:** Clean Storm Water Fund - \$40,000  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 11. Purchase Order: Pape Machinery, Inc. for One (1) John Deere, Co. 644L 20 Ton Hybrid Wheel Loader**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (previously NJPA) contract #032515-JDC and authorizing the City Manager to execute a purchase order for one 2019 John Deere Co. 644L 20 Ton Hybrid Wheel Loader with Pape Machinery, Inc. in an amount not to exceed \$457,000.  
**Financial Implications:** Zero Waste Fund - \$457,000  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 12. Vision Zero Action Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the City of Berkeley Vision Zero Action Plan and directing the City Manager to form a Vision Zero Coordinating Committee; proceed with the "Vision Zero Program", "Safer Streets for Everyone" and "Safer Streets by Everyone: Public Awareness" priority actions as described in the Plan; and work with the Vision Zero Coordinating Committee to develop a Vision Zero Traffic Enforcement policy before proceeding with the "Safer Streets by Everyone: Enforcement" actions described in the Plan.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 13. Utilize Substantial Portion of Cannabis Tax Proceeds to Fund Subsidies under 1000 Person Plan** *(Reviewed by the Budget & Finance Committee)*  
**From: Homeless Commission**  
**Recommendation:** That Council direct a substantial portion of the incoming cannabis tax proceeds to fund subsidies under the 1000 Person Plan.  
**Financial Implications:** See report  
Contact: Brittany Carnegie, Commission Secretary, (510) 981-5400

## Council Consent Items

- 14. Oppose S.2059 - Justice for Victims of Sanctuary Cities Act of 2019**  
**From: Mayor Arreguin (Author); Councilmember Bartlett (Co-Sponsor); Councilmember Wengraf (Co-Sponsor); Councilmember Davila (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution opposing S.2059 – Justice for Victims of Sanctuary Cities Act of 2019. Send a copy of the Resolution to Congressmember Barbara Lee, Senators Diane Feinstein and Kamala Harris, and President Donald Trump.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 15. Support of AB 1839 – California Green New Deal**  
**From: Mayor Arreguin (Author); Councilmember Bartlett (Co-Sponsor); Councilmember Harrison (Co-Sponsor); Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of Assembly Bill (AB) 1839, which would create the California Green New Deal Council with specified membership appointed by the Governor. The bill would require the California Green New Deal Council to submit a report to the Legislature no later than Jan 1, 2022. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Rob Bonta.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 16. Support AB 2037 – Hospital Closure Notification**  
**From: Mayor Arreguin (Author); Councilmember Harrison (Author); Councilmember Hahn (Author); Councilmember Droste (Author)**  
**Recommendation:** Adopt a Resolution in support of AB 2037, which will require hospitals to provide a 180 day notice before closing or reducing emergency services. Send a copy of the Resolution to Assemblymember Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 17. Referral: Update the definition of “Research and Development”**  
**From: Mayor Arreguin (Author); Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Refer to the Planning Commission to update the definition of “Research and Development.”  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100

## Council Consent Items

**18. Siting the African American Holistic Resource Center and Affordable Housing at 1890 Alcatraz**

**From: Councilmember Bartlett (Author); Councilmember Davila (Co-Sponsor); Mayor Arreguin (Co-Sponsor)**

**Recommendation:** That the City Council refers to the City Manager to study the feasibility of using the city-owned property located at 1890 Alcatraz Avenue (currently temporary Mental Health Division offices) for the African American Holistic Resource Center (AAHRC) and also developing affordable housing on the site. The City Manager should report back on the costs and implementation steps to repurpose the property for the AAHRC using the AAHRC Feasibility study as a guide, including what physical improvements would need to be made, and cost for ongoing operations by a non-profit. The City Manager and Planning Department should also conduct an analysis of potential site capacity looking at site context and yield and report on how much housing could be developed on the site under current zoning, including the AAHRC on the ground floor. Additionally, the City Manager and Planning Commission should incorporate the Community Preference policy in selecting applicants for the affordable housing units created by this project.

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

**19. Allocation of U1 General Fund Revenues** *(Reviewed by the Land Use, Housing, and Economic Development Committee)*

**From: Land Use, Housing, and Economic Development Committee**

**Recommendation:** Accept the Housing Advisory Commission's (HAC) recommendations, as presented in the Measure U1 Budget draft projections table, for the allocation of U1 General Fund revenues with the following amendments:

1. Allocation of \$1M for small sites;
2. Addition of \$100K in FY 2022 and FY 2023 in organizational capacity building (BACLT);
3. Add \$150K in 2021-2023 for new programs under the category of development of new housing programs;
4. Allocations for staffing to implement programs; and
5. Allocate \$2.5M in 2023 for the Housing Trust Fund.

In addition, the Committee asked City staff for clarification of Health Housing and Community Services (HHCS) Department personnel line items of \$558,214 in FY 2020, with cost of living adjustment increases to \$577,751 (FY 2021), \$597,973 (FY 2022), and \$618,902 (FY 2023). A staff memo dated January 6, 2020 providing an overview of these costs will be submitted in Supplemental 1.

**Financial Implications:** See report

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

## Council Consent Items

- 20. Letter in Support of Reviving Berkeley Bus Rapid Transit** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*  
**From: Councilmember Robinson (Author); Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Send a letter to AC Transit, the Alameda County Transportation Commission, Assemblymember Buffy Wicks, and State Senator Nancy Skinner in support of expanding Bus Rapid Transit into Berkeley on Telegraph Avenue at the first possible opportunity.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 21. Affirming the City of Berkeley's Support for the People of Tibet**  
**From: Councilmember Robinson (Author); Mayor Arreguin (Co-Sponsor); Councilmember Davila (Co-Sponsor); Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:** Adopt a resolution affirming support to the people of Tibet.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

## Action Calendar

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

*The Presiding Officer will request that persons wishing to speak line up at the podium 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 – Public Hearing

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.*

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

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

## Action Calendar – Public Hearings

### 22. Electric Bike Share Program Franchise Amendment

**From: City Manager**

**Recommendation:** Pursuant to Berkeley Municipal Code Chapter 9.60, conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance granting a Franchise Agreement Amendment to Bay Area Motivate, LLC, a subsidiary of Lyft Incorporated, to provide shared electric bicycles to the Berkeley public.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

## Action Calendar

### 23. Directing the City Manager to Lease Caltrans Property at University and West Frontage Road

**From: Mayor Arreguin (Author); Councilmember Robinson (Author); Councilmember Harrison (Author)**

**Recommendation:** Direct the City Manager to:

1. Negotiate a lease agreement with the California Department of Transportation (Caltrans) for the leasing of state property at University Avenue and West Frontage Road as indicated in Attachment 1. The property will be used for a temporary outdoor shelter with restrooms, hand washing stations and garbage service. The City Manager should also inquire about whether additional Caltrans parcels adjacent to those being offered are also available for lease. The City Manager should utilize funding previously allocated for an Outdoor Shelter program from Measure P tax receipts.
2. Concurrent with the lease negotiation, develop a plan and budget for the establishment and staffing of the Outdoor Emergency Shelter as further defined herein.
3. Immediately provide toilet and handwashing stations on the north and south side of University Avenue and under the overpass at University Avenue.
4. Immediately provide garbage receptacles and work with the residents to establish consistent weekly garbage collection on the north and south side of University Avenue and under the overpass at University Avenue.
5. Immediately schedule ongoing outreach from service providers including, but not limited to, mental health, health, and Coordinated Entry.

**Financial Implications:** See report

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

## Action Calendar

24. **Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106** *(Reviewed by Land Use, Housing, and Economic Development Committee)*

**From: Mayor Arreguin, and Councilmembers Davila, Harrison, and Bartlett**  
**Recommendation:**

1. Adopt a first reading of the Ronald V. Dellums Fair Chance Access to Housing Ordinance and;
2. Direct the City Manager to take all necessary steps to implement this chapter including but not limited to developing administrative regulations in consultation with all relevant City Departments including the Rent Stabilization Board, preparing an annual implementation budget, designating hearing officers and other necessary staffing for administrative complaint, exploring the development of a compliance testing program similar to that used by the Seattle Office of Civil Rights, developing timelines and procedures for complaints, conducting outreach and education in partnership with the Alameda County Fair Chance Housing Coalition, and referring program costs to the June budget process.

**Financial Implications:** See report

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

25. **Placing a Measure on the November 3, 2020 Ballot to Increase the Berkeley City Council Salary**

**From: Councilmember Davila (Author)**

**Recommendation:** Adopt a Resolution to submit a Ballot Measure for the November 3, 2020 Election, Amending the Berkeley Municipal Code Charter Article V. Section 19, to Increase Salaries for Members of the Berkeley City Council and the Mayor, Ensuring Elected Officials are Paid a Living Wage and Compensated Fairly for the Actual Time Spent Working for the City.

**Financial Implications:** See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

26. **Disposition of City-Owned, Former Redevelopment Agency Property at 1631 Fifth Street** *(Continued from February 11, 2020)* *(Reviewed by the Land Use, Housing & Economic Development Committee)*

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the sale of the City-owned, former Redevelopment Agency property at 1631 Fifth Street at market rate and authorizing the City Manager to contract with a real estate broker to manage the sale.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

## Action Calendar

27. **Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras** *(Continued from February 25, 2020. Item contains revised and supplemental materials.)*  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras submitted pursuant to Chapter 2.99 of the Berkeley Municipal Code.  
**Financial Implications:** None  
Contact: Andrew Greenwood, Police, (510) 981-5900; Dave White, City Manager's Office, (510) 981-7000

## Information Calendar

28. **Berkeley Economic Dashboards and Demographic Profile Update**  
**From: City Manager**  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
29. **FY 2019 Fourth Quarter Investment Report: Ended June 30, 2019**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
30. **FY 2020 First Quarter Investment Report: Ended September 30, 2019**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
31. **Audit Status Report: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, (510) 981-6300
32. **Audit Status Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, (510) 981-6300
33. **Proposed Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley**  
**From: Commission on Disability**  
Contact: Dominika Bednarska, Commission Secretary, (510) 981-6300
34. **FY 2019-2020 Peace and Justice Commission Work Plan**  
**From: Peace and Justice Commission**  
Contact: Nina Goldman, Commission Secretary, (510) 981-7000

## Public Comment – Items Not Listed on the Agenda

### Adjournment

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

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

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

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person 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 <http://www.cityofberkeley.info>.

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

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

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

#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

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





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

~~~~~  
***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on March 5, 2020.***

Mark Numainville, City Clerk

## **Communications**

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

### **Item #24: Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106**

1. Ashy Lynette
2. Merle Lustig
3. Shilpa Jain

### **5G/Cell Towers**

4. Vivian Warkentin
5. Elizabeth Starr
6. Carol Hirth

### **Starbucks Bathroom**

7. Donna Evans

### **Harriet Tubman Terrace Apartments**

8. Darinxoso Oyamasela (3)

### **RV Dwellers**

9. Diana Bohn
10. Ann Garbarino

### **Homelessness/Encampments**

11. Liz Wiener
12. Marcia Poole

### **Density, Development and Displacement**

13. Barbara Gilbert

### **High Cost of City Fees for Upgrading a Craftsman Home**

14. Marc Bodian

### **Berkeley High School Assaults**

15. Jeff Breidenbach and Stephanie Wade

### **South Shattuck Development**

16. Donna Mickleson

### **Seismic Safety**

17. Nancy Caruso

18. Tony Benado

### **Opposed to Abortion**

19. Fred Dodsworth

### **Gas Powered Leaf Blower**

20. David Lerman

### **Outdoor Emergency Shelter**

21. Carole Marasovic, Chair, Homeless Commission

### **Rent Control Measure V in Mountain View**

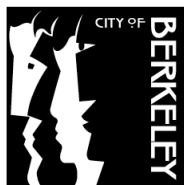
22. Rick Loughran

### **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.

# AGENDA



## BERKELEY CITY COUNCIL MEETING

**Tuesday, March 10, 2020  
6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
TELECONFERENCE LOCATION – 2270 HOTEL CIRCLE NORTH, SAN DIEGO, CA 92108

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

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

1. Recognition of Nolan Coleman
2. Recognition of Tibetan Association of Northern California

**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 by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, 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 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. Speaker cards are not required for this second round of public comment on non-agenda matters.*

## **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.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.*

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

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

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

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

## **Consent Calendar**

- 1. Contract: Blaisdell’s Business Products for Office Supplies, Printing Paper, Small Equipment and Office Furniture**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a Contract with Blaisdell’s Business Products for the purchase of miscellaneous office supplies, printing paper, small equipment and office furniture by piggy-backing off of Omnia Partners Region 4 ESC Contract No. R190301. The contract term will commence on March 15, 2020 through March 14, 2023 with the option of two consecutive single-year renewals for a total not to exceed amount of \$2,700,000 over a five year term, subject to the City’s annual budget appropriation.  
**Financial Implications:** Various Funds - \$2,700,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 2. Contract: Resource Development Associates for Results Based Accountability Evaluation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to approve a Contract and any amendments with Resource Development Associates (RDA) to provide an evaluation of mental health programs across the division utilizing the Results Based Accountability (RBA) framework for a total not to exceed amount of \$100,000 through June 30, 2022.  
**Financial Implications:** Mental Health Services Act Fund - \$100,000  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 3. Acquisition and Predevelopment Loan for 1740 San Pablo Avenue**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Authorizing the execution of a \$7.1 million loan to BRIDGE Housing Corporation (BRIDGE) for costs related to acquisition and predevelopment of the proposed affordable housing development at 1740 San Pablo Avenue. 2. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 4. Designating City's Labor Negotiators Under Govt. Code Section 54957.6**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution establishing a standing list of representatives of the City of Berkeley designated to participate in Closed Sessions with the City Council to discuss labor negotiations with certain unions and unrepresented employees for negotiations between January 1, 2020 and December 31, 2020.  
**Financial Implications:** None  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800
- 5. Contract No. 31900172 Amendment: Cadalys, Inc. for Additional Software Application Consulting Services for Building Energy Saving Ordinance (BESO) Online Software System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900172 with Cadalys, Inc. to provide additional application consulting services and support for the BESO online software system in an amount not to exceed \$20,000 for a total contract amount not to exceed \$65,000, and extending the term from June 7, 2019 through June 30, 2021.  
**Financial Implications:** Permit Service Center Fund - \$20,000  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500

## Consent Calendar

- 6. Contract No. 9263C Amendment: SSP Data Products Inc. for Barracuda Backup Solution with Hosted Cloud Storage**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9263C with SSP Data Products Inc. for the City's Barracuda Backup Solution with hosted cloud storage, increasing the amount by \$65,081, for a total contract amount not to exceed \$365,773 for the term May 15, 2013 through June 30, 2021.  
**Financial Implications:** IT Cost Allocation Fund - \$65,081  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 7. Donation: Ohlone Park Mural Garden**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a donation of \$9,500 for the design of the Ohlone Park Mural Garden from Friends of Ohlone Park.  
**Financial Implications:** \$9,500 (donation)  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 8. Grant Application: National Fitness Campaign for Fitness Courts**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: submit a grant application in the amount of \$150,000 to the National Fitness Campaign for up to five fitness courts; 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 grant.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 9. Contract No. 7470 Amendment: 2M Associates for Construction Phase Environmental Services for the Berkeley Tuolumne Camp Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 7470 with 2M Associates for Construction Phase Environmental Services for the Berkeley Tuolumne Camp Project, increasing the contract by \$125,000 for a total amount not to exceed \$1,386,771.  
**Financial Implications:** Camps Fund - \$125,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

## Consent Calendar

- 10. Contract No. 32000026 Amendment: APB General Engineering for the Hillview Road and Woodside Road Drainage Improvement Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32000026 with APB General Engineering for the Hillview Road and Woodside Road Drainage Improvement Project, increasing the contract of \$240,000 by \$40,000 for a total amount not-to-exceed of \$280,000.  
**Financial Implications:** Clean Storm Water Fund - \$40,000  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 11. Purchase Order: Pape Machinery, Inc. for One (1) John Deere, Co. 644L 20 Ton Hybrid Wheel Loader**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (previously NJPA) contract #032515-JDC and authorizing the City Manager to execute a purchase order for one 2019 John Deere Co. 644L 20 Ton Hybrid Wheel Loader with Pape Machinery, Inc. in an amount not to exceed \$457,000.  
**Financial Implications:** Zero Waste Fund - \$457,000  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 12. Vision Zero Action Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the City of Berkeley Vision Zero Action Plan and directing the City Manager to form a Vision Zero Coordinating Committee; proceed with the "Vision Zero Program", "Safer Streets for Everyone" and "Safer Streets by Everyone: Public Awareness" priority actions as described in the Plan; and work with the Vision Zero Coordinating Committee to develop a Vision Zero Traffic Enforcement policy before proceeding with the "Safer Streets by Everyone: Enforcement" actions described in the Plan.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 13. Utilize Substantial Portion of Cannabis Tax Proceeds to Fund Subsidies under 1000 Person Plan** *(Reviewed by the Budget & Finance Committee)*  
**From: Homeless Commission**  
**Recommendation:** That Council direct a substantial portion of the incoming cannabis tax proceeds to fund subsidies under the 1000 Person Plan.  
**Financial Implications:** See report  
Contact: Brittany Carnegie, Commission Secretary, (510) 981-5400

## Council Consent Items

- 14. Oppose S.2059 - Justice for Victims of Sanctuary Cities Act of 2019**  
**From: Mayor Arreguin (Author); Councilmember Bartlett (Co-Sponsor); Councilmember Wengraf (Co-Sponsor); Councilmember Davila (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution opposing S.2059 – Justice for Victims of Sanctuary Cities Act of 2019. Send a copy of the Resolution to Congressmember Barbara Lee, Senators Diane Feinstein and Kamala Harris, and President Donald Trump.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 15. Support of AB 1839 – California Green New Deal**  
**From: Mayor Arreguin (Author); Councilmember Bartlett (Co-Sponsor); Councilmember Harrison (Co-Sponsor); Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of Assembly Bill (AB) 1839, which would create the California Green New Deal Council with specified membership appointed by the Governor. The bill would require the California Green New Deal Council to submit a report to the Legislature no later than Jan 1, 2022. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Rob Bonta.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 16. Support AB 2037 – Hospital Closure Notification**  
**From: Mayor Arreguin (Author); Councilmember Harrison (Author); Councilmember Hahn (Author); Councilmember Droste (Author)**  
**Recommendation:** Adopt a Resolution in support of AB 2037, which will require hospitals to provide a 180 day notice before closing or reducing emergency services. Send a copy of the Resolution to Assemblymember Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 17. Referral: Update the definition of “Research and Development”**  
**From: Mayor Arreguin (Author); Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Refer to the Planning Commission to update the definition of “Research and Development.”  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100



## Council Consent Items

**18. Siting the African American Holistic Resource Center and Affordable Housing at 1890 Alcatraz**

**From: Councilmember Bartlett (Author); Councilmember Davila (Co-Sponsor); Mayor Arreguin (Co-Sponsor)**

**Recommendation:** That the City Council refers to the City Manager to study the feasibility of using the city-owned property located at 1890 Alcatraz Avenue (currently temporary Mental Health Division offices) for the African American Holistic Resource Center (AAHRC) and also developing affordable housing on the site. The City Manager should report back on the costs and implementation steps to repurpose the property for the AAHRC using the AAHRC Feasibility study as a guide, including what physical improvements would need to be made, and cost for ongoing operations by a non-profit. The City Manager and Planning Department should also conduct an analysis of potential site capacity looking at site context and yield and report on how much housing could be developed on the site under current zoning, including the AAHRC on the ground floor. Additionally, the City Manager and Planning Commission should incorporate the Community Preference policy in selecting applicants for the affordable housing units created by this project.

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

**19. Allocation of U1 General Fund Revenues** *(Reviewed by the Land Use, Housing, and Economic Development Committee)*

**From: Land Use, Housing, and Economic Development Committee**

**Recommendation:** Accept the Housing Advisory Commission's (HAC) recommendations, as presented in the Measure U1 Budget draft projections table, for the allocation of U1 General Fund revenues with the following amendments:

1. Allocation of \$1M for small sites;
2. Addition of \$100K in FY 2022 and FY 2023 in organizational capacity building (BACLT);
3. Add \$150K in 2021-2023 for new programs under the category of development of new housing programs;
4. Allocations for staffing to implement programs; and
5. Allocate \$2.5M in 2023 for the Housing Trust Fund.

In addition, the Committee asked City staff for clarification of Health Housing and Community Services (HHCS) Department personnel line items of \$558,214 in FY 2020, with cost of living adjustment increases to \$577,751 (FY 2021), \$597,973 (FY 2022), and \$618,902 (FY 2023). A staff memo dated January 6, 2020 providing an overview of these costs will be submitted in Supplemental 1.

**Financial Implications:** See report

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

## Council Consent Items

- 20. Letter in Support of Reviving Berkeley Bus Rapid Transit** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*  
**From: Councilmember Robinson (Author); Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Send a letter to AC Transit, the Alameda County Transportation Commission, Assemblymember Buffy Wicks, and State Senator Nancy Skinner in support of expanding Bus Rapid Transit into Berkeley on Telegraph Avenue at the first possible opportunity.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 21. Affirming the City of Berkeley's Support for the People of Tibet**  
**From: Councilmember Robinson (Author); Mayor Arreguin (Co-Sponsor); Councilmember Davila (Co-Sponsor); Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:** Adopt a resolution affirming support to the people of Tibet.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

## Action Calendar

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

*The Presiding Officer will request that persons wishing to speak line up at the podium 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 – Public Hearing

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.*

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

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

## Action Calendar – Public Hearings

### 22. Electric Bike Share Program Franchise Amendment

**From: City Manager**

**Recommendation:** Pursuant to Berkeley Municipal Code Chapter 9.60, conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance granting a Franchise Agreement Amendment to Bay Area Motivate, LLC, a subsidiary of Lyft Incorporated, to provide shared electric bicycles to the Berkeley public.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

## Action Calendar

### 23. Directing the City Manager to Lease Caltrans Property at University and West Frontage Road

**From: Mayor Arreguin (Author); Councilmember Robinson (Author); Councilmember Harrison (Author)**

**Recommendation:** Direct the City Manager to:

1. Negotiate a lease agreement with the California Department of Transportation (Caltrans) for the leasing of state property at University Avenue and West Frontage Road as indicated in Attachment 1. The property will be used for a temporary outdoor shelter with restrooms, hand washing stations and garbage service. The City Manager should also inquire about whether additional Caltrans parcels adjacent to those being offered are also available for lease. The City Manager should utilize funding previously allocated for an Outdoor Shelter program from Measure P tax receipts.
2. Concurrent with the lease negotiation, develop a plan and budget for the establishment and staffing of the Outdoor Emergency Shelter as further defined herein.
3. Immediately provide toilet and handwashing stations on the north and south side of University Avenue and under the overpass at University Avenue.
4. Immediately provide garbage receptacles and work with the residents to establish consistent weekly garbage collection on the north and south side of University Avenue and under the overpass at University Avenue.
5. Immediately schedule ongoing outreach from service providers including, but not limited to, mental health, health, and Coordinated Entry.

**Financial Implications:** See report

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

## Action Calendar

- 24. Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106** *(Reviewed by Land Use, Housing, and Economic Development Committee)*  
**From: Mayor Arreguin, and Councilmembers Davila, Harrison, and Bartlett**  
**Recommendation:**  
1. Adopt a first reading of the Ronald V. Dellums Fair Chance Access to Housing Ordinance and;  
2. Direct the City Manager to take all necessary steps to implement this chapter including but not limited to developing administrative regulations in consultation with all relevant City Departments including the Rent Stabilization Board, preparing an annual implementation budget, designating hearing officers and other necessary staffing for administrative complaint, exploring the development of a compliance testing program similar to that used by the Seattle Office of Civil Rights, developing timelines and procedures for complaints, conducting outreach and education in partnership with the Alameda County Fair Chance Housing Coalition, and referring program costs to the June budget process.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 25. Placing a Measure on the November 3, 2020 Ballot to Increase the Berkeley City Council Salary**  
**From: Councilmember Davila (Author)**  
**Recommendation:** Adopt a Resolution to submit a Ballot Measure for the November 3, 2020 Election, Amending the Berkeley Municipal Code Charter Article V. Section 19, to Increase Salaries for Members of the Berkeley City Council and the Mayor, Ensuring Elected Officials are Paid a Living Wage and Compensated Fairly for the Actual Time Spent Working for the City.  
**Financial Implications:** See report  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- 26. Disposition of City-Owned, Former Redevelopment Agency Property at 1631 Fifth Street** *(Continued from February 11, 2020)* *(Reviewed by the Land Use, Housing & Economic Development Committee)*  
**From: City Manager**  
**Recommendation:**  
1. Adopt first reading of an Ordinance authorizing the sale of two City-owned, former Redevelopment Agency properties at 1631 Fifth Street and 1654 Fifth Street at market rate and deposit the proceeds in the City's Housing Trust Fund (HTF).  
2. Direct the City Manager to issue a Request for Proposals to select a real estate broker to manage the sale.  
(Note: At the June 11, 2019 meeting, Council approved a recommendation directing the City Manager to issue a Request for Proposals to select a qualified organization to purchase the single family home at 1654 Fifth Street to operate as housing for the homeless.)  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

## Action Calendar

27. **Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras** *(Continued from February 25, 2020. Item contains revised and supplemental materials.)*  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras submitted pursuant to Chapter 2.99 of the Berkeley Municipal Code.  
**Financial Implications:** None  
Contact: Andrew Greenwood, Police, (510) 981-5900; Dave White, City Manager's Office, (510) 981-7000

## Information Calendar

28. **Berkeley Economic Dashboards and Demographic Profile Update**  
**From: City Manager**  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
29. **FY 2019 Fourth Quarter Investment Report: Ended June 30, 2019**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
30. **FY 2020 First Quarter Investment Report: Ended September 30, 2019**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
31. **Audit Status Report: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, (510) 981-6300
32. **Audit Status Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, (510) 981-6300
33. **Proposed Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley**  
**From: Commission on Disability**  
Contact: Dominika Bednarska, Commission Secretary, (510) 981-6300
34. **FY 2019-2020 Peace and Justice Commission Work Plan**  
**From: Peace and Justice Commission**  
Contact: Nina Goldman, Commission Secretary, (510) 981-7000

## Public Comment – Items Not Listed on the Agenda

### Adjournment

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

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

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

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person 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 <http://www.cityofberkeley.info>.

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

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

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

#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

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



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

~~~~~  
*I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on February 27, 2020.*

Mark Numainville, City Clerk

## Communications

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

### **Item #24: Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106**

1. Ashy Lynette
2. Merle Lustig
3. Shilpa Jain

### **5G/Cell Towers**

4. Vivian Warkentin
5. Elizabeth Starr
6. Carol Hirth

### **Starbucks Bathroom**

7. Donna Evans

### **Harriet Tubman Terrace Apartments**

8. Darinxoso Oyamasela (3)

### **RV Dwellers**

9. Diana Bohn
10. Ann Garbarino

### **Homelessness/Encampments**

11. Liz Wiener
12. Marcia Poole

**Density, Development and Displacement**

13. Barbara Gilbert

**High Cost of City Fees for Upgrading a Craftsman Home**

14. Marc Bodian

**Berkeley High School Assaults**

15. Jeff Breidenbach and Stephanie Wade

**South Shattuck Development**

16. Donna Mickleson

**Seismic Safety**

17. Nancy Caruso

18. Tony Benado

**Opposed to Abortion**

19. Fred Dodsworth

**Gas Powered Leaf Blower**

20. David Lerman

**Outdoor Emergency Shelter**

21. Carole Marasovic, Chair, Homeless Commission

**Rent Control Measure V in Mountain View**

22. Rick Loughran

**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  
March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Contract: Blaisdell's Business Products for Office Supplies, Printing Paper, Small Equipment and Office Furniture

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a Contract with Blaisdell's Business Products for the purchase of miscellaneous office supplies, printing paper, small equipment and office furniture by piggy-backing off of Omnia Partners Region 4 ESC Contract No. R190301. The contract term will commence on March 15, 2020 through March 14, 2023 with the option of two consecutive single-year renewals for a total not to exceed amount of \$2,700,000 over a five year term, subject to the City's annual budget appropriation.

FISCAL IMPACTS OF RECOMMENDATION

City Departments spend an average annual amount of \$540,000 (approximately \$45,000 per month) in miscellaneous office supplies, printing paper, small equipment and office furniture and this trend is expected to continue throughout the life of the contract. In June 2018, the City consolidated the purchases of office supplies and 100% recycled paper under a single vendor; Blaisdell's Business Products, as a consequence of Blaisdell's acquisition of Give Something Back, the City's preferred supplier of 100% recycled paper. Expenditures for office supplies, printing paper, small equipment and office furniture are expected to amount to \$540,000 annually for a total cost over five years of \$2,700,000 through March 14, 2025.

CURRENT SITUATION AND ITS EFFECTS

The City currently purchases office supplies from Blaisdell's Business Products as authorized by Council Resolution No. 67,526-N.S. dated June 14, 2016. Resolution No. 67,526-N.S. authorized the City Manager to piggyback off of Alameda County Contract No. 900963 which is due to expire on March 31, 2020. Additionally, the City purchases 100% recycled paper from Blaisdell's Business Products since June 2018, after Blaisdell's Business Products bought Give Something Back. Give Something Back provided 100% recycled paper to the City as a result of City Council Resolution 67,115-N.S. that authorized the City Manager to piggyback off of Alameda County Contract No. 900962.

## BACKGROUND

Alameda County Contracts No. 900962 and No. 900963 are about to expire and the City seeks an alternative. General Services staff, after researching the market and analyzing City's current and future requirements for office supplies, determined Blaisdell's Business Products as the best solution to enhance procurement effectiveness and efficiency.

To continue with Blaisdell's Business Products the City now has the opportunity to piggyback off of Omnia Partners Region 4 ESC Contract No. R190301. Region 4 Education Service Center is part of Omnia Partners, a cooperative purchasing organization that serves more than 60,000 public entities and boasts roughly \$13 billion in purchasing power. On June 1, 2019 Region 4 concluded Contract No. R190301 for office supplies with Epic Business Essentials. Epic Business Essentials is a cooperative of independent local suppliers of office products and services and Blaisdell's Business Products is one of the cooperative members. By piggybacking off of Region 4 Contract, the City will secure office supplies' most advantageous prices in the next five years and, at the same time, add service value as a result of a long-term partnership with Blaisdell's Business Products.

## ENVIRONMENTAL SUSTAINABILITY

Omnia Partners Region 4 ESC awarded Contract No. R190301 through an RFP and the criteria adopted to secure responsiveness and responsibility of proposers included an evaluation of green or sustainability programs and social diversity initiatives. Moreover, Blaisdell's Business Solution displays a particular focus on sustainability which is corroborated by the following certifications: Certified Woman-Owned Business Enterprise, Certified member of the California Green Business Network of Alameda County, BBB Accredited Business. Specifically to the City of Berkeley, Blaisdell's Business Solution supported the implementation of the City's Environmentally Preferable Purchasing through an established re-use and recycle program.

## RATIONALE FOR RECOMMENDATION

General Services staff, after researching the market and analyzing City's current and future requirements for office supplies, elected Blaisdell's Business Products as the best option to fulfill City needs. Furthermore, it was determined that piggybacking off of Omnia Partners Region 4 ESC Contract No. R19030, as allowed by Section 67.2 of the Charter of the City of Berkeley, would be the best sourcing method since it would afford the City cost savings deriving mainly from the economies of scale of a large purchasing consortium and from lower transaction costs ensuing the avoidance of a City formal solicitation process.

## ALTERNATIVE ACTIONS CONSIDERED

The alternative considered was to conduct a formal bid solicitation. However, after researching the market, assessing departmental needs and considering transaction and eventual transition expenses, it was found that costs and risks of an RFP outweigh the

Contract: Blaisdell's Business Products for Office Supplies,  
Printing Paper, Small Equipment and Office Furniture

CONSENT CALENDAR  
March 10, 2020

benefits of piggybacking off of Region 4 Contract. A City RFP on its own will not improve pricing because of lack economies of scale.

CONTACT PERSON

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

Attachments:

1: Resolution

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

CONTRACT: BLAISDELL'S BUSINESS SOLUTIONS FOR OFFICE SUPPLIES,  
PRINTING PAPER, SMALL EQUIPMENT AND OFFICE FURNITURE

WHEREAS, all City departments need office supplies, printing paper, small equipment and office furniture to conduct daily activities; and

WHEREAS, City Council Resolution No. 67,526-N.S. authorized the City Manager to piggyback off of Alameda County Contract No. 900963 for the issuance of Purchase Orders to Blaisdell's Business Products for the purchase of office supplies, small equipment and office furniture to conduct daily activities; and

WHEREAS, City Council Resolution No. 67,115-N.S authorized the City Manager to piggyback off of Alameda County Contract No. 900962 for the issuance of Purchase Orders to Give Something Back for the purchase of 100% recycled paper; and

WHEREAS, Blaisdell's Business Products merged with Give Something Back in June 2018; and

WHEREAS, Contract No. 900963 term expired on June 30, 2019; and

WHEREAS, the City can piggyback off of Omnia Partners Region 4 ESC awarded Contract No. R190301; and

WHEREAS, Omnia Partners Region 4 ESC awarded Contract No. R190301 allows the City to secure office supplies, printing paper, small equipment and office furniture at most advantageous prices for the next five years and, at the same time, add service value as a result of a long-term partnership with Blaisdell's Business Products.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to enter into a Contract with Blaisdell's Business Products for the provision of office supplies, printing paper, small equipment and office furniture. The contract term will commence on March 15, 2020 through March 14, 2023 with the option of two consecutive single-year renewals for a total not to exceed amount of \$2,700,000 over a five year term, subject to the City's annual budget appropriation.



Office of the City Manager

CONSENT CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services  
 Subject: Contract: Resource Development Associates for Results Based  
 Accountability Evaluation

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to approve a Contract and any amendments with Resource Development Associates (RDA) to provide an evaluation of mental health programs across the division utilizing the Results Based Accountability (RBA) framework for a total not to exceed amount of \$100,000 through June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Funds for this contract in the amount of \$100,000 are in the FY2020 Mental Health Services Act (MHSA) budget in ERMA GL Code: 315-51-503-526-2017-000-451-612990. The Contract Management System number for this contract amendment is CMS No. FSDE1.

CURRENT SITUATION AND ITS EFFECTS

The City Council approved FY2018/19 MHSA Annual Update allocated \$100,000 in MHSA funds to hire a consultant to provide a Results Based Accountability evaluation of mental health services across the Mental Health Division. In September 2019, a Request for Proposal (RFP) solicitation process was executed, and RDA had the required expertise, was the only respondent, and has performed well in other contracts with the Mental Health Division in the recent past.

BACKGROUND

California voters adopted the Mental Health Services Act (Proposition 63) on November 2, 2004. The Act places a 1% tax on every dollar of personal income over \$1 million. MHSA revenues are allocated to mental health jurisdictions across the state to transform the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, collaborative with community partners, and inclusive of integrated services. MHSA includes the following five funding components:

- Community Services & Supports: Primarily for treatment services and supports for Severely Mentally Ill Adults and Seriously Emotionally Disturbed Children.
- Prevention & Early Intervention: For strategies to prevent mental illnesses from becoming severe and disabling.
- Workforce, Education & Training: Primarily for strategies to identify and remedy mental health occupational shortages, promote cultural competency, and promote the employment of mental health consumers and family members.
- Capital Facilities and Technological Needs: For capital projects on owned buildings and on mental health technology projects.
- Innovations: For short-term pilot projects designed to increase new learning in the mental health field.

MHSA also provides funding for local housing development; collaborative programs for suicide prevention, school mental health, programs that combat stigma and discrimination; and training and technical assistance in the areas of cultural competency and prevention/early intervention. Three of the funding components are allocated annually and may be spent over a three-year timeframe. These are Community Services & Supports, Prevention & Early Intervention, and Innovations. Workforce, Education & Training and Capital Facilities and Technological Needs funds were awarded with expenditure timeframes of 10 years each, and had to be utilized by the end of FY18. In order to utilize MHSA funds the local governing board, Berkeley City Council, must approve MHSA Plans and Plan Updates before submitting them to the State. Since the inception of MHSA, the City Council has approved all MHSA Plans and updates.

The Mental Health Division is committed to finding new ways to strengthen and report out on program performance outcomes, and to increase its impact on the community. To support this effort, the City Council approved FY2018/19 Annual Update allocated funds to hire a consultant to evaluate the performance of all mental health programs across the Division utilizing the RBA framework. RBA is a data driven, decision-making process that has a proven track record of success in improving program performance and the quality of life of program participants. The RBA Framework provides a thoughtful way of understanding the quality and impact of services provided by collecting data that answers three basic questions:

1. How much did you do?
2. How well did you do it?
3. Is anyone better off?

Among other things, RBA builds collaboration and consensus; helps groups to surface and challenge assumptions that can be barriers to innovation; and uses data and transparency to ensure accountability for program performance. RBA will provide the

Division with a method and common language to better understand, improve and communicate program results.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

RDA has the required expertise to perform the evaluation and was the only respondent to this RFP.

ALTERNATIVE ACTIONS CONSIDERED

As RDA has the required expertise and was the only respondent to this RFP, there were no other alternative actions considered.

CONTACT PERSON

Karen Klatt, Community Services Specialist III, Mental Health, HHCS, 510-981-7644  
Steven Grolnic-McClurg, Manager of Mental Health Services, HHCS, 510-981-5249

Attachments:

1: Resolution

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

CONTRACT: RESOURCE DEVELOPMENT ASSOCIATES (RDA) FOR RESULTS  
BASED ACCOUNTABILITY EVALUATION

WHEREAS, Mental Health Services Act (MHSA) funds are allocated to mental health jurisdictions across the state for the purposes of transforming the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, includes community collaboration, and implements integrated services; and

WHEREAS, MHSA includes five funding components: Community Services & Supports; Prevention & Early Intervention; Innovations; Workforce, Education & Training; and Capital Facilities and Technological Needs; and

WHEREAS, the City's Department of Health, Housing & Community Services, Mental Health Division, receives MHSA Community Services & Supports, Prevention & Early Intervention, and Innovations funds on an annual basis, and received one-time distributions of MHSA Workforce, Education & Training and Capital Facilities and Technological Needs funds; and

WHEREAS, in order to utilize funding for programs and services, the Mental Health Division must have a locally approved Plan, Annual Update, or Three Year Program and Expenditure Plan in place for the funding timeframe; and

WHEREAS, on October 30, 2018 by Resolution No: 68,639-N.S., the City Council approved the FY2018/19 MHSA Annual Update which included the use of \$100,000 in MHSA funds to hire a consultant to provide a Results Based Accountability evaluation of mental health services across the Mental Health Division; and

WHEREAS, an RFP in the amount of \$100,000 in MHSA funds was initiated in September 2019 to hire a consultant to conduct an evaluation of mental health programs across the Division utilizing the Results Based Accountability framework; and through the RFP process, RDA was the chosen consultant.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract and any amendments with Resource Development Associates for Results Based Accountability evaluation services through June 30, 2022, for a total not to exceed amount of \$100,000. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.





Office of the City Manager

CONSENT CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Kelly Wallace, Interim Director, Health, Housing, and Community Services  
 Subject: Acquisition and Predevelopment Loan for 1740 San Pablo Avenue

RECOMMENDATION

Adopt a Resolution to:

1. Authorizing the execution of a \$7.1 million loan to BRIDGE Housing Corporation (BRIDGE) for costs related to acquisition and predevelopment of the proposed affordable housing development at 1740 San Pablo Avenue.
2. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

FISCAL IMPACTS OF RECOMMENDATION

On December 10, 2019, City Council reserved \$7.5 million in Measure O Bond funds with Resolution 69,231. This action would not change the amount of the existing reservation, but would allow the City to disburse up to \$7.1 million before other project funding is secured.

CURRENT SITUATION AND ITS EFFECTS

In January 2020, BRIDGE requested that the City enter into a loan for up to \$7.1 million to support acquisition and predevelopment activities. Council's December 2019 funding reservation for 1740 San Pablo was conditioned on BRIDGE securing entitlements for all financing within twenty-four months. In its application for City funds, BRIDGE estimated construction start in late 2020, which appeared feasible due to existing entitlements and a plan to pursue state funding in early 2020.

In order to move forward with developing 1740 San Pablo as affordable housing, BRIDGE needs to revise its funding strategy. This is common in affordable housing development, since projects compete statewide for limited pools of funds. Each funding source carries specific requirements for affordability and priorities for serving different populations (i.e. formerly homeless, families, disabled, seniors), and projects often adjust their proposed income limits and targeted populations to maximize their competitiveness. BRIDGE is considering multiple strategies, including designating units for large families, seniors, or special needs households. BRIDGE indicated a desire to

maintain several units for artists, if possible. The project is unlikely to include moderate income units as originally proposed, since most affordable housing sources are geared towards 100% affordable projects with units restricted at or below 80% AMI, and are often restricted at or below 60% AMI. For reference, 60% AMI for a single person is approximately \$52,080, and 80% of AMI for a family of four is approximately \$99,120.

BRIDGE initially proposed applying for funds through CalHFA's new Mixed Income Program (MIP), which is designed to support projects that included a mix of affordable units and moderate income units up to 120% of the area median income (AMI). The state set aside \$200 million in tax credits to pair with the new program. Demand for MIP funding is high, and nearly all of the state tax credits were depleted in the first round. Without state credits, BRIDGE cannot make the project work with MIP funds. BRIDGE faces an additional complication, since the census tract in which the project is located lost its 'difficult to develop area' (DDA) status as of January 2020. Projects in DDA census tracts are eligible for a more tax credits.

BRIDGE anticipates that the revisions needed for financing will require changes to the existing approved use permit. The project will likely not be able to accommodate the live-work spaces, but BRIDGE hopes to provide ground floor commercial or studio space for artists. Depending on the final funding strategy and designated population, BRIDGE may reconfigure the residential space to increase unit sizes or may increase the overall number of units. BRIDGE does not plan to decrease the overall number of units, in part because a smaller project would be less competitive for funding. Based on conversations with Planning Department staff, BRIDGE believes that the project is well suited for expedited entitlements under SB35.

Developing a new funding strategy and re-entitling the property will extend the project's schedule. BRIDGE is in contract to acquire 1740 San Pablo and can get a bank loan for the acquisition, but the loan will have a higher interest rate than a City loan, and will add to the overall costs of the project. The City can enter into a development loan for up to \$7.1 million, and condition it on BRIDGE getting the project re-entitled, if needed, and fully funded within five years. Generally, changing a loan from a development loan to an acquisition and predevelopment loan increases the level of risk for the City, since there is less assurance that the project will move forward than loans made at construction start. In this case, the developer's capacity and track record and recording the City's Deed of Trust on the property all mitigate the risk to City funds and support the recommended action. The City will condition its loan on receipt of an appraisal that supports the purchase price. Once BRIDGE has secured all project funding and entitlements, the City will amend the loan so BRIDGE can access the remaining \$400,000 of the funding reservation for the development of the project. BRIDGE is pursuing funding options that will keep the total City subsidy at \$7.5 million, but changes to the project may still result in a gap and a future request for additional City funding.

Supporting 1740 San Pablo with acquisition and predevelopment funding is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

#### BACKGROUND

BRIDGE applied for funding through the 2019 Housing Trust Fund Request for Proposals. The project was proposed as a mixed income project, with 45 units for households earning between 30% and 80% AMI, five units for households earning up to 90% AMI, and one manager's unit. The initial proposal also included three live-work spaces for artists.

The City typically provides two types of loans through the Housing Trust Fund: 1) predevelopment loans that are short-term (five years) and allow developers to assess project feasibility to better position the project to pursue competitive funding at the state level; and 2) development loans that are longer term (55 years), and are closed after all other funding is secured, just prior to construction start.

#### ENVIRONMENTAL SUSTAINABILITY

BRIDGE intends to construct 1740 San Pablo to third-party green building standards, and will seek GreenPoint Gold certification.

#### RATIONALE FOR RECOMMENDATION

1740 San Pablo meets local needs and priorities by adding at least 50 new units of affordable housing to the City's inventory. The City loan has a lower interest rate than a conventional acquisition loan, and will reduce carrying costs as BRIDGE pursues other project financing.

#### ALTERNATIVE ACTIONS CONSIDERED

If the City's funds are not available to support acquisition and predevelopment costs, BRIDGE may decide not to move forward with the project due to the higher carrying costs of a bank acquisition loan, and the City would lose 50 units of affordable housing from its projected pipeline.

#### CONTACT PERSON

Jenny Wyant, Community Development Project Coordinator, HHCS, 510-981-5228

Attachments:

1: Resolution

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

AUTHORIZATION FOR A \$7.1 MILLION LOAN FOR 1740 SAN PABLO

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

WHEREAS, on November 6, 2018, Berkeley voters passed Measure O, a \$135 million bond measure to support the development and preservation of affordable housing; and

WHEREAS, on June 11, 2019 the City Council approved issuing a Request for Proposals (RFP) through the HTF program to allocate the first issuance of Measure O bond funds; and

WHEREAS, BRIDGE Housing Corporation (BRIDGE) submitted a proposal through the RFP requesting \$7.5 million in City funds for the development of 1740 San Pablo Avenue; and

WHEREAS, on December 10, 2019, the City Council reserved \$7.5 million to 1740 San Pablo, conditioned on BRIDGE securing all entitlements and project funding within two years of the reservation; and

WHEREAS, BRIDGE's initial funding strategy is no longer viable, and BRIDGE is considering funding options that will change the targeted population and income mix of the development; and

WHEREAS, in January 2020, BRIDGE requested that the City consider entering into a loan before the project was fully funded in order to support acquisition and predevelopment activities and to reduce carrying costs.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council authorizes a loan to BRIDGE Housing Corporation for 1740 San Pablo to allow for the disbursement of up to \$7.1 million to support acquisition and predevelopment costs.

BE IT FURTHER RESOLVED that the loan will be conditioned on BRIDGE securing entitlements and full project funding within five years.

March 10, 2020

BE IT FURTHER RESOLVED that the City may amend the loan to include the full \$7.5 million reservation after BRIDGE secures all entitlements and project funding.

BE IT FURTHER RESOLVED that BRIDGE shall make its best effort to include residential units for artists, and commercial or studio space for artists if financially feasible.

BE IT FURTHER RESOLVED that the funding reservation is conditioned upon the completion of applicable state and federal environmental review processes, except as authorized by 24 CFR, Part 58, and that should HOME and/or CDBG funds constitute a portion of the funding for the 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 a HOME and/or CDBG funded project 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.





Office of the City Manager

CONSENT CALENDAR

March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: LaTanya Bellow, Director of Human Resources

Subject: Designating City's Labor Negotiators Under Govt. Code Section 54957.6

RECOMMENDATION

Adopt a Resolution establishing a standing list of representatives of the City of Berkeley designated to participate in Closed Sessions with the City Council to discuss labor negotiations with certain unions and unrepresented employees for negotiations between January 1, 2020 and December 31, 2020.

FINANCIAL IMPLICATIONS

No fiscal impacts result from this action.

CURRENT SITUATION AND ITS EFFECTS

California Government Code Section 3500 et seq., commonly known as the Meyers-Milias-Brown Act, provides that public employees have a right to organize and bargain collectively with local government public employers over wages, hours and other terms and conditions of employment. In order to conduct the City's labor relations program in an efficient and effective manner, it is necessary for City management staff to meet in closed session from time to time with the City Council to provide information and to receive direction and authority. In addition to staff from the Human Resources Department, staff assigned to conduct labor relations includes employees from multiple departments, as well as outside negotiators hired by the City.

BACKGROUND

Government Code Section 54947.6 of the Brown Act, provides that prior to meeting in closed session with its negotiators, the local agency must hold an open session in which the agency identifies its designated labor representatives. The City has retained the services of an outside chief negotiator and the list of negotiators to be present must be made current for the upcoming labor negotiations with the City's unions, bargaining groups, and unrepresented employees.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

It is necessary for the City to comply with the provisions of the Brown Act, Government Code Section 54947.6, and have the City Council establish a standing list of representatives of the City of Berkeley designated to participate in closed session with the City Council to discuss labor negotiations with certain unions and unrepresented employees.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

LaTanya Bellow, Director of Human Resources, 510-981-6807

Attachment:

1: Resolution



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

PARTICIPATION IN CITY COUNCIL CLOSED SESSIONS FOR LABOR  
NEGOTIATIONS

WHEREAS, California Government Code Section 54947.6 requires the local agency to provide public notice of agency representatives attending City Council closed sessions for labor negotiations by specifying the names of the designated representatives attending the closed session and the employee organization in question or, for unrepresented employees, a designation of the unrepresented employees who are the subject of the negotiations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that pursuant to Government Code Section 54947.6, the following persons are hereby designated to represent the City in closed session labor negotiations with the following unions and unrepresented employee positions:

**Union: Berkeley Police Association**

**Designated Representatives:**

Dee Williams-Ridley, City Manager  
David White, Deputy City Manager  
Paul Buddenhagen, Deputy City Manager  
Farimah Brown, City Attorney  
John Holtzman, Labor Negotiator  
Andrew Greenwood, Police Chief  
LaTanya Bellow, Director of Human Resources  
Melanie D. Popper, Employee Relations Manager  
Alicia Platt, Senior Human Resources Analyst

**Union: Berkeley Chief Fire Officers Association, Local 1227**

**Designated Representatives:**

Dee Williams-Ridley, City Manager  
David White, Deputy City Manager  
Paul Buddenhagen, Deputy City Manager  
Farimah Brown, City Attorney  
LaTanya Bellow, Labor Negotiator  
David Brannigan, Fire Chief  
LaTanya Bellow, Director of Human Resources  
Melanie D. Popper, Employee Relations Manager  
Alicia Platt, Senior Human Resources Analyst

**Union: Berkeley Fire Fighters Association, Local 1227**

**Designated Representatives:**

Dee Williams-Ridley, City Manager  
David White, Deputy City Manager  
Paul Buddenhagen, Deputy City Manager  
Farimah Brown, City Attorney  
LaTanya Bellow, Labor Negotiator  
David Brannigan, Fire Chief  
LaTanya Bellow, Director of Human Resources  
Melanie D. Popper, Employee Relations Manager  
Alicia Platt, Senior Human Resources Analyst

**Union: Berkeley IBEW Local 1245**

**Designated Representatives:**

Dee Williams-Ridley, City Manager  
David White, Deputy City Manager  
Paul Buddenhagen, Deputy City Manager  
Farimah Brown, City Attorney  
LaTanya Bellow, Labor Negotiator  
Alicia Platt, Labor Negotiator  
LaTanya Bellow, Director of Human Resources  
Philip Harrington, Director of Public Works  
Melanie D. Popper, Employee Relations Manager  
Alicia Platt, Senior Human Resources Analyst

**Union: Public Employees Union, Local 1**

**Designated Representatives:**

Dee Williams-Ridley, City Manager  
David White, Deputy City Manager  
Paul Buddenhagen, Deputy City Manager  
Farimah Brown, City Attorney  
Burke Dunphy, Labor Negotiator  
LaTanya Bellow, Director of Human Resources  
Timothy Burroughs, Director of Planning  
Melanie D. Popper, Employee Relations Manager  
Alicia Platt, Senior Human Resources Analyst

**Union: SEIU Local 1021 CSU & PTRLA**

**Designated Representatives:**

Dee Williams-Ridley, City Manager  
David White, Deputy City Manager  
Paul Buddenhagen, Deputy City Manager  
Farimah Brown, City Attorney  
Dania Torres Wong, Labor Negotiator  
LaTanya Bellow, Director of Human Resources  
Melanie D. Popper, Employee Relations Manager

**Union: SEIU Local 1021 M&C**

**Designated Representatives:**

Dee Williams-Ridley, City Manager  
David White, Deputy City Manager  
Paul Buddenhagen, Deputy City Manager  
Farimah Brown, City Attorney  
Dania Torres Wong, Labor Negotiator  
LaTanya Bellow, Director of Human Resources  
Melanie D. Popper, Employee Relations Manager

**Unrepresented Employees**

**Designated Representatives:**

Dee Williams-Ridley, City Manager  
David White, Deputy City Manager  
Paul Buddenhagen, Deputy City Manager  
Farimah Brown, City Attorney  
LaTanya Bellow, Director of Human Resources  
Melanie D. Popper, Employee Relations Manager





Office of the City Manager

CONSENT CALENDAR

March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Information Technology

Subject: Contract No. 31900172 Amendment: Cadalys, Inc. for Additional Software Application Consulting Services for Building Energy Saving Ordinance (BESO) Online Software System

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900172 with Cadalys, Inc. to provide additional application consulting services and support for the BESO online software system in an amount not to exceed \$20,000 for a total contract amount not to exceed \$65,000, and extending the term from June 7, 2019 through June 30, 2021.

FINANCIAL IMPLICATIONS

Funding for the additional work in the amount of \$20,000 is available in the Planning Department's Fiscal Year (FY) 2020 Permit Service Center Fund, as itemized below.

	FY 2020: Professional Services
\$20,000	Budget Code: 621-53-583-611-0000-000-472-612990- (Permit Service Center Fund, Planning Department, Prof. Services)
\$20,000	Total FY 2020 Professional Services

CURRENT SITUATION AND ITS EFFECTS

The Office of Energy and Sustainable Development (OESD), in coordination with Information Technology, is releasing a new online system, set to go live in Spring 2020, to allow Berkeley building owners to comply with [BESO](https://www.cityofberkeley.info/BESO/) (<https://www.cityofberkeley.info/BESO/>) The new system will provide improved customer service by allowing online application, payment, energy reporting and status lookup to Berkeley residents and building owners, as well as improved implementation and compliance tracking. OESD will be presenting a BESO Evaluation with proposed amendments to Council for consideration in 2020. Changes to the ordinance may require modifications to the compliance process and reconfiguration of the software system. Additional professional services from Cadalys, Inc. will accommodate this system upgrade as well as provide ongoing support, as needed.

This online, web based system to support BESO is a Strategic Plan Priority Project, advancing the City's goal to 1) be a global leader in addressing climate change, advancing environmental justice, and protecting the environment and 2) be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

### BACKGROUND

The BESO Ordinance (BMC 19.81) was adopted on March 10, 2015 and requires building owners and homeowners to complete and publicly report comprehensive energy assessments to uncover energy saving opportunities. The assessments are conducted by registered energy assessors who provide tailored recommendations on how to save energy and link building owners to incentive programs for energy efficiency upgrades. The assessments are required at time of sale and on a phase in schedule for large buildings over 25,000 square feet.

To help facilitate the BESO program, the City initially set up a basic software database to assist staff in tracking energy compliance. In the current system, the building owners are required to submit a hard copy application and pay by check via mail or in person at the Permit Service Center cashier. This manual process was inconvenient for the community and labor intensive for City staff. As the BESO program grew; the database became more cumbersome to manage and repeatedly failed. Staff sought a more robust database with online application and payment functionality to improve customer service and reduce staff administration.

On June 10, 2019, the City contracted with Cadalys, Inc. to upgrade and modernize the existing system in an effort to make it more accessible to the community, reduce the usage of paper, and to attain a system capable of supporting a large database. Cadalys, Inc. successfully upgraded the system to a more robust Salesforce cloud-based platform and proved to be much more efficient and stable for the current BESO program.

On Sep 20, 2019, the City extended this contract to perform online payment services integrated with the City's payment provider, Official Payments. This important integration allowed the functionality to homeowners and building owners to apply and pay online.

### ENVIRONMENTAL SUSTAINABILITY

The online web-based capabilities of this software eliminates the use of paper currently being used by residents and staff thus working towards the City's goal of achieving zero waste to landfills by 2020. This system will improve the implementation of the BESO ordinance, which is one of the key implementing actions of the Climate Action Plan to reduce building energy use.

### RATIONALE FOR RECOMMENDATION

The BESO program has grown over the last five years and will continue to grow. As such, the City requires a system that is more accessible to the community via an online portal and robust enough to keep up with future growth.

ALTERNATIVE ACTIONS CONSIDERED

City staff considered the status quo, however, given the repeated failures of the aging system and the desire to make the program more accessible to the community, staff decided to move forward with a new, more robust system.

CONTACT PERSON

Savita Chaudhary, Director, Information Technology, 510.981.6541

Attachments:

1: Resolution

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

CONTRACT AMENDMENT: CADALYS, INC. FOR SOFTWARE AND SUPPORT SERVICES FOR BUILDING ENERGY SAVING ORDINANCE

WHEREAS, the Building Energy Saving Ordinance (BMC 19.81) was adopted on March 10, 2015 and requires building owners and homeowners to complete and publicly report comprehensive energy assessments to uncover energy saving opportunities; and

WHEREAS, the original software database software set up to support the BESO program is no longer viable; and

WHEREAS, on June 10, 2019, the City contracted with Cadalys, Inc. to upgrade and modernize the existing system in an effort to make it more accessible to the community, reduce the usage of paper, and capable of supporting a large database; and

WHEREAS, on Sep 20, 2019, the City extended this contract to perform online payment services integrated with the City's payment provider, Official Payments; and

WHEREAS, the City seeks to amend the existing contract to provide software and support services from Cadalys, Inc and funding for this recommendation is available in the Planning Department's FY20 Permit Service Center Fund in the amount of \$20,000; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 31900172 with Cadalys, Inc. to provide application consulting services, and support for the BESO online software system in an amount not to exceed \$20,000 for a total contract amount not to exceed \$65,000 and extending the term from June 7, 2019 through June 30, 2021.





Office of the City Manager

CONSENT CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Department of Information Technology

Subject: Contract No. 9263C Amendment: SSP Data Products Inc. for Barracuda Backup Solution with Hosted Cloud Storage

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 9263C with SSP Data Products Inc. for the City's Barracuda Backup Solution with hosted cloud storage, increasing the amount by \$65,081, for a total contract amount not to exceed \$365,773.24 for the term May 15, 2013 through June 30, 2021.

FISCAL IMPACTS OF RECOMMENDATION

Funding for additional software maintenance and support is available in the Department of Information Technology's Fiscal Year (FY) 2020 Cost Allocation Fund as outlined below.

	FY 2020: Software Maintenance
\$65,081	Budget Code: 680-35-362-376-0000-000-472-613130- (IT Cost Allocation, Enterprise Services, Software Maintenance)
\$65,081	Total FY 2020 Software Maintenance

CURRENT SITUATION AND ITS EFFECTS

Currently, the Barracuda Backup Solution provides redundancy and encryption for approximately 18 terabytes (TB) of data to support the City's file, email, website, and database servers. This cloud-based system copies local disk backups to a secure, hosted location, and not only provides the redundancy of offsite tapes, but also automates the process and provides immediate access to those backups, thereby exponentially increasing efficiencies. Additionally, the Barracuda backup system provides secure encryption (256-bit AES), which meets or exceeds security requirements for the Health Insurance Portability and Accountability Act (HIPAA) and the Department of Justice (DOJ).

Given the FUND\$ replacement project and the large number of technology initiatives in progress and that the City has outgrown its current system, there is an increased need for data backup. The City recently released Request for Proposal 20-11386-C to review

alternative backup solutions. In the meantime, the City plans to renew with SSP Data and the Barracuda system for an additional year, through FY 2021.

#### BACKGROUND

Prior to 2013, the Department of Information Technology used a tape-based back-up solution, as was the industry standard. In May 2013, the City Manager executed a contract with SSP Data for a pilot project which utilized a hosted cloud storage model with SSP Data and the Barracuda backup system. Favorable pricing was offered under the General Services Agency (GSA) Federal Government Pricing Schedule 70 pricing. In June 2013, the Department of Information Technology implemented the system, and have since been satisfied with Barracuda's security, administrative tools, and the overall efficiency of the solution.

#### ENVIRONMENTAL SUSTAINABILITY

The implementation of Barracuda's backup solution eliminated the need for approximately 350 magnetic tape cartridges each year. In addition, staff will no longer need to send backup tapes to and from offsite storage, saving transportation costs and reducing greenhouse gas emissions.

#### RATIONALE FOR RECOMMENDATION

Though the City has released RFP 20-11386-C for a new backup solution, amending the contract with SSP Data will give the City time to make an informed decision on a new solution, and the time to implement a new solution while the existing solution is in place, to ensure continuity in the City's backup services.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff considered not renewing support for the City's backup system, however not doing so would leave the City with no backup solution or encryption for the City's data.

#### CONTACT PERSON

Savita Chaudhary, Director, Department of Information Technology, 981-6541

Attachments:

1: Resolution

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

CONTRACT NO. 9263C AMENDMENT: SSP DATA FOR BARRACUDA BACKUP  
WITH CLOUD STORAGE

WHEREAS, in 2013, the Department of Information Technology utilized GSA pricing to move from a tape-based backup system to a hosted cloud storage model with SSP Data and the Barracuda backup system, and have since been satisfied with the tool's efficiency, security, administrative features; and

WHEREAS, the Barracuda backup system provides secure encryption (256-bit AES), which meets or exceeds security requirements for the Health Insurance Portability and Accountability Act (HIPAA) and the Department of Justice (DOJ); and

WHEREAS, with the FUND\$ Replacement Project and the large number of technology initiatives in progress, there is an increased need for data backup; and

WHEREAS, funding for additional software maintenance and support is available in the Department of Information Technology's Fiscal Year (FY) 2020 Cost Allocation Fund.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 9263C with SSP Data Products Inc., for a Barracuda Backup Solution with Hosted Cloud Storage, increasing the amount by \$65,081, for a total contract amount not to exceed \$365,773.24 for the term May 15, 2013 through June 30, 2021.





Office of the City Manager

CONSENT CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Donation: Ohlone Park Mural Garden

RECOMMENDATION

Adopt a Resolution accepting a donation of \$9,500 for the design of the Ohlone Park Mural Garden from Friends of Ohlone Park.

FISCAL IMPACTS OF RECOMMENDATION

The Friends of Ohlone Park have obtained a UC Chancellor's grant in the amount of \$9,500 to design the new Ohlone Park Mural Garden. The City will use these funds to obtain a design consulting firm for this work. The funds will be deposited and expensed from Fund 138. The appropriation of this donation will be included in the Third Amendment to the FY 2020 Annual Appropriations Ordinance in May 2020.

CURRENT SITUATION AND ITS EFFECTS

The City has scheduled a construction project to renovate the 2-5 year old play area at Ohlone Park in the summer of 2020. In FY2019, the Friends of Ohlone Park obtained a UC Chancellor's grant in the amount of \$9,500 to design the new Ohlone Park Mural Garden. The City will use this donation to design the Mural Garden and include it in the scope of the construction project.

BACKGROUND

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

ENVIRONMENTAL SUSTAINABILITY

There are no negative environmental impacts associated with this action.

CONTACT PERSON

Scott Ferris, Director, Parks, Recreation & Waterfront, 981-6700.  
 Evelyn Chan, Supervising Civil Engineer, 981-6430.

Donation: Ohlone Park Mural Garden

CONSENT CALENDAR  
March 10, 2020

Attachments:  
1: Resolution

RESOLUTION NO. -N.S.

DONATION: FUNDS TO DESIGN THE OHLONE PARK MURAL GARDEN FROM THE FRIENDS OF OHLONE PARK

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

WHEREAS, the Friends of Ohlone Park have obtained a UC Chancellor's grant in the amount of \$9,500 to design the new Ohlone Park Mural Garden; and

WHEREAS, the City will use these funds to obtain a design consulting firm for this work. The funds will be deposited and expensed from Fund 138. The appropriation of this donation will be included in the Third Amendment to the FY 2020 Annual Appropriations Ordinance in May 2020; and

WHEREAS, the City has scheduled a construction project to renovate the 2-5 year old play area at Ohlone Park in the summer of 2020; and

WHEREAS, the City will use this donation to design the Mural Garden and include it in the scope of the construction project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a donation of \$9,500 for the design of the Ohlone Park Mural Garden from Friends of Ohlone Park is hereby accepted.







Office of the City Manager

CONSENT CALENDER  
March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Grant Application: National Fitness Campaign for fitness courts

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to: submit a grant application in the amount of \$150,000 to the National Fitness Campaign for up to five fitness courts; 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 grant.

FISCAL IMPACTS OF RECOMMENDATION

Each fitness court has a total project cost of \$130,000 of which the NFC provides \$30,000 per court, with approximately \$100,000 per court as the required local match. This local match will vary from site to site because each site has different needs for preparation (e.g., grading, drainage, etc.) If awarded, the \$30,000 in grant funds for up to five fitness courts (grants totaling \$150,000), as well as up to \$500,000 in Parks Tax funds will be appropriated as part of the Third Amendment to the FY 2020 Annual Appropriations Ordinance in May 2020.

CURRENT SITUATION AND ITS EFFECTS

In 2019, the National Fitness Campaign requested that the City provide parks and demographic information about potential Fitness Courts in Berkeley. A Fitness Court is an outdoor rectangular surface that contains a series of exercise elements that use a person's bodyweight as resistance. Fitness Courts are open twenty-four hours a day and can be used by all persons free-of-charge<sup>1</sup>. Fitness Courts are a powerful way to encourage physical activity and promote community wellness (See the graphic image in Attachment 2). Each Fitness Court is integrated with a shock-resistant sports flooring surface and allows users of varying fitness levels to use the Court at the same time. The National Fitness Campaign provides a full program that includes a series of individual exercises, group classes, and events; an ambassador training program (e.g., instructors); and a mobile app that provides how-to exercises, events, trainers, calorie tracking, and other features. In December 2019, the NFC offered the City a grant of \$30,000 per fitness court for up to five courts in Berkeley. In the Spring of 2020, the City will conduct a public process to identify up to five locations to receive new Fitness Courts.

<sup>1</sup> National Fitness Campaign website: <https://nationalfitnesscampaign.com/>

BACKGROUND

The National Fitness Campaign (NFC) is a non-profit organization that has funded the installation of over 4,000 fitness courts throughout the U.S., Canada, and Australia since 1979. Once installed, these courts offer the community a range of fitness exercises free-of-charge. To-date in the Bay Area, fitness courts have been installed or are scheduled for installation in San Francisco, Hayward, and Oakland.

ENVIRONMENTAL SUSTAINABILITY

This project is consistent with the City of Berkeley Climate Action Plan Chapter Six – Adapting to a Changing Climate that seeks to promote environmental stewardship of the Bay and greater direct awareness of sea level rise.

RATIONALE FOR RECOMMENDATION

These grant funds will allow the City to install up to five new fitness courts at parks in Berkeley which will provide people with fun ways to exercise and improve their health. Additionally, adding fitness courts would align with the City’s strategic plan goal #1: ‘provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.’

CONTACT PERSON

Scott Ferris, Director, Parks, Recreation & Waterfront Department, 981-6700  
Roger Miller, Senior Management Analyst, 981-6704

Attachments:

- 1: Resolution
- 2: Graphic Image – Fitness Courts

RESOLUTION NO. -N.S

GRANT APPLICATION: NATIONAL FITNESS CAMPAIGN GRANT PROGRAM FOR  
\$30,000 PER FITNESS COURT FOR UP TO FIVE COURTS

WHEREAS, in 2019, the National Fitness Campaign requested that the City provide parks and demographic information about potential fitness courts in Berkeley; and

WHEREAS, in December 2019, the NFC offered the City a grant of \$30,000 per fitness court for up to five courts in Berkeley; and

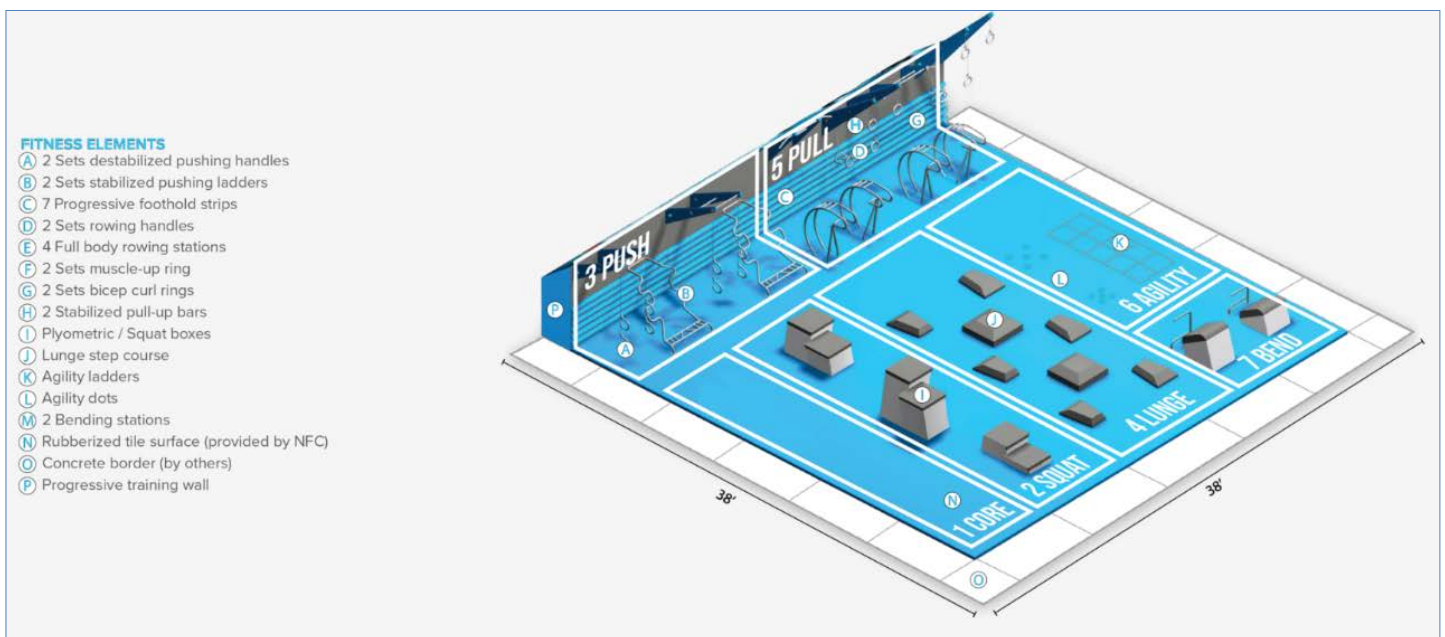
WHEREAS, in the Spring of 2020, the City will conduct a public process to identify up to five locations to receive new fitness courts; and

WHEREAS, the National Fitness Campaign (NFC) is a non-profit organization that has funded the installation of over 4,000 fitness courts throughout the U.S., Canada, and Australia. Once installed, these courts offer the community a range of fitness exercises free-of-charge. To-date in the Bay Area, fitness courts have been installed or are scheduled for installation in San Francisco, Hayward, and Oakland; and

WHEREAS, if awarded, the \$30,000 in grant funds for up to five fitness courts (grants totaling \$150,000), as well as up to \$500,000 in Parks Tax funds will be appropriated as part of the Third Amendment to the FY 2020 Annual Appropriations Ordinance in May 2020.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to: submit a grant application in the amount of \$150,000 to the National Fitness Campaign for up to five fitness courts; 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 grant. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.

Attachment Two – Graphic Image – Fitness Court in San Francisco





Office of the City Manager

CONSENT CALENDAR

March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract No. 7470 Amendment: 2M Associates for Construction Phase Environmental Services for the Berkeley Tuolumne Camp Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 7470 with 2M Associates for Construction Phase Environmental Services for the Berkeley Tuolumne Camp Project, increasing the contract by \$125,000 for a total amount not to exceed \$1,386,771.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the contract are available in the Camps Fund. The amendment amount of \$125,000 will be included in the third amendment to FY20 Annual Appropriations Ordinance in May 2020 and budgeted in the Camps Fund budget code 125-52-543-583-0000-000-461-612310-PRWCP08001.

The cost of this contract is covered by a combination of expected insurance payments (partially received) and with \$3.3M of City funds from the Catastrophic Reserve to fund the City cost of the reconstruction project per Resolution No. 67,889-N.S.

CURRENT SITUATION AND ITS EFFECTS

In August 2013, the California Rim Fire destroyed the Berkeley Tuolumne Camp (BTC), a residential family camp located within the Stanislaus National Forest.

Since the Rim Fire, the City has worked in partnership with the U.S. Forest Service and Tuolumne County to stabilize and remove debris and hazardous trees from the site, to complete National Environmental Protection Act (NEPA) and California Environmental Quality Act (CEQA) compliance, and to develop Project Plans and acquire Project permits to authorize the re-building of Berkeley Tuolumne Camp.

2M Associates is providing environmental and planning services for the Project, including environmental surveys, studies, documents and permit application services. The contract amendment will fund the completion of additional environmental services, including biological pre-construction surveys and monitoring services during construction as required by the Project's Streambed Alteration Agreement with the California Department

of Fish and Wildlife, the United States Forest Service (USFS) Special Use Permit and the City of Berkeley's Mitigation, Monitoring and Reporting Program (MMRP) adopted by City Council on January 22, 2019 (Resolution No. 68,734).

### BACKGROUND

Berkeley Tuolumne Camp, established in 1922, is a 30-acre property operated under a Special Use Permit with the US Forest Service (USFS). The camp has served primarily as a family camp, but also offered teen leadership programs, adult hiking camps, and private group rental opportunities. Prior to the fire, BTC had the capacity to host approximately 280 campers, 60 staff members, and 10 counselors-in-training at one time, and served over 4,000 campers each year. The major facilities at the Camp included a Dining Hall; a Recreation Hall, 77 small single-story wood-frame camper tent cabins; staff cabins; maintenance and storage structures; a bridge across the river; parking and loading areas, and electric, water supply, and wastewater utilities.

In August of 2013, the Rim Fire destroyed Berkeley Tuolumne Camp (BTC) and in December was declared a federal disaster. The majority of structures at BTC were destroyed by the fire. The property was covered by the City's insurance policy, and insurance proceeds are the primary source of reconstruction funds. The City has also been awarded a Public Assistance Grant from the Federal Emergency Management Agency (FEMA) and California Office of Emergency Services (CalOES) to partially fund reconstruction.

Between 2007 and 2013, following a competitive procurement process, 2M Associates was under contract with the City to develop a new Master Development Plan for Tuolumne Camp. Following the Rim Fire, the scope and level of effort required to complete the Master Plan was modified to reflect the dramatic changes at the site. In March 2014, Council approved a contract amendment for 2M Associates for an amount not to exceed \$300,000, providing funds for the development of a revised and updated Master Plan along with a number of baseline environmental analyses. In July 2015, Council approved a contract amendment for 2M Associates for an amount not to exceed \$459,609, providing funds for the development of the conceptual reconstruction design plans, NEPA and CEQA environmental consulting services, and additional analyses relating to project costs and impacts. In May, 2017, Council approved a contract amendment for 2M Associates for an amount not to exceed \$275,000 for completion of environmental permits and NEPA/CEQA documentation.

The total cost estimate for the Berkeley Tuolumne Camp Rebuild Project is \$60M. This cost will be covered largely by insurance and state and federal grant funding, along with City funds identified by Resolution No. 67,889-N.S. The City currently anticipates beginning construction in 2020, with a goal to re-open camp in 2022.

### ENVIRONMENTAL SUSTAINABILITY

The City approved the Project CEQA documents on January 22, 2019. The construction of the Berkeley Tuolumne facilities will demonstrate appropriate restoration

of forest landscapes in order to achieve sustainable riverine and upland ecosystems that provide a broad range of benefits to humans and the ecosystem. All construction activities will implement Best Management Practices (BMPs) to encourage biodiversity, preserve resources, and maintain riparian and other natural habitats. Revegetation and reforestation activities will emphasize enhancing native vegetative cover and minimizing exposed bare soil and erosion. This project will comply with the City's Climate Action Plan in the following ways: increased energy efficiency in public buildings, and providing a public resource for community outreach and empowerment.

#### RATIONALE FOR RECOMMENDATION

Compliance with City, State and Federal environmental and permit requirements required specialized construction phase biologic surveys and monitoring. The City does not possess the necessary specific expertise to complete this work.

#### ALTERNATIVE ACTIONS CONSIDERED

The City does not have the expertise required to complete the tasks covered by this contract. Therefore no alternative actions were considered.

#### CONTACT PERSON

Scott Ferris, Director, PRW, 981-6700  
Liza McNulty, Project Manager, PRW, 981-6437

Attachments:  
1: Resolution

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

CONTRACT NO. 7470 AMENDMENT: 2M ASSOCIATES FOR CONSTRUCTION  
PHASE ENVIRONMENTAL SERVICES FOR THE BERKELEY TUOLUMNE CAMP

WHEREAS, the City operated the Berkeley Tuolumne Camp, a residential family camp, since 1922 on United States Forest Service land pursuant to a special use permit; and

WHEREAS, in October 2007, in response to the United States Forest Service requirement that the City address a number of site conditions and prepare a Master Plan and environmental clearance documents, the City conducted a competitive Request for Qualifications (RFQ) for landscape architectural consultants, and selected the firm of 2M Associates; and

WHEREAS, on October 23, 2007, the City Council authorized the City Manager to execute a contract with 2M Associates to prepare a Master Plan for Berkeley Tuolumne Camp for an amount not to exceed \$75,000 for the period October 24, 2007 to December 31, 2008 (Resolution No. 63,861-N.S.); and

WHEREAS, on September 20, 2011, the City Council authorized the City Manager to execute a contract amendment with 2M Associates to provide the environmental review documents for the Berkeley Tuolumne Camp Master Plan for an amount not to exceed \$125,113, for a total contract amount not to exceed \$227,162, for a term ending on December 31, 2012 (Resolution No. 65,440-N.S.); and

WHEREAS, in August 2013, the Berkeley Tuolumne Camp was destroyed by the California Rim Fire; and

WHEREAS, on March 11, 2014, the City Council authorized the City Manager to execute a contract amendment with 2M Associates to update the Master Development Plan for an amount not to exceed \$300,000, for a total contract amount not to exceed \$527,162, for a term ending December 31, 2016 (Resolution No. 66,493-N.S.); and

WHEREAS, on June 14, 2015, the City Council authorized the City Manager to execute a contract amendment with 2M Associates to complete planning and design services for an amount not to exceed \$459,609, for a total contract amount not to exceed \$986,771, for a term ending December 31, 2018 (Resolution No. 67-148-N.S.); and

WHEREAS, on May 16, 2017, the City Council authorized the City Manager to execute a contract amendment with 2M Associates to complete Environmental Documentation and Permit services for an amount to not exceed \$275,000 for a total contract amount not to exceed \$1,261,770, for a term ending on December 31, 2019 (Resolution No. 68,002); and

WHEREAS on January 22, 2019, the City Council adopted the Berkeley Tuolumne Camp Negative Declaration and Mitigation, Monitoring and Reporting Program (Resolution No. 68,734); and



WHEREAS, there are a number of biological surveys required during the construction phase by the United States Forest Service Special Use Permit, the City's Mitigation, Monitoring and Reporting Program and the California Department of Fish and Wildlife Berkeley Tuolumne Camp Streambed Alteration Agreement; and

WHEREAS, funds for the additional scope of work in the amount of \$125,000 are available in the Camps Fund reserve, and an appropriation of \$125,000 will be included in the Third Amendment to the FY 2020 Annual Appropriations Ordinance in May 2020 and budgeted in Camps Fund budget code 125-52-543-583-0000-000-461-612310-PRWCP08001.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 7470 with 2M Associates for Construction Phase Environmental Services, increasing the contract by \$125,000 for a total contract amount not to exceed \$1,386,771.





Office of the City Manager

CONSENT CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Phillip L. Harrington, Director, Department of Public Works  
Subject: Contract No. 32000026 Amendment: APB General Engineering for the Hillview Road and Woodside Road Drainage Improvement Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 32000026 with APB General Engineering for the Hillview Road and Woodside Road Drainage Improvement Project, increasing the contract of \$240,000 by \$40,000 for a total amount not-to-exceed \$280,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment is available from the Clean Storm Water Fund (616). No other funding is required, and no other projects will be delayed due to this expenditure.

Original Contract .....	\$240,000
This Amendment.....	\$40,000
Amended contract amount	\$280,000

CURRENT SITUATION AND ITS EFFECTS

On September 24, 2019, the City Council approved settlement of Claim No. 0109BC2019-000 by Dhaliwal, Warren, and Fong. The settlement authorized the City Manager to accept a drainage easement on private property at 474 Boynton Avenue in exchange for rebuilding a storm drain pipe on the property that runs from the City roadway to Cerrito Creek. This amendment will allow the construction of the new storm drain pipe on the private property in accordance with the approved settlement, utilizing a contractor currently performing similar work for the City. Staff has negotiated a change order with APB General Engineering for which an increase in the not-to-exceed authorization is needed from the City Council.

BACKGROUND

On April 30, 2019 by Resolution No. 68,842-N.S., the City Council authorized Contract No. 32000026 with APB General Engineering in an amount not to exceed \$240,000 for the Hillview Road and Woodside Road Drainage Improvement project. The proposed drainage work at 474 Boynton Avenue is similar in nature to the drainage improvements

at Hillview and Woodside Roads. The work on Boynton includes replacement of a failed pipe, reconstruction of a drainage inlet, and grading of the work area. APB General Engineering has submitted a reasonable cost proposal to perform the work as a change order to their existing contract. The work would be performed in the spring after the rainy season.

The proposed amendment advances a Strategic Plan goal by providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

ENVIRONMENTAL SUSTAINABILITY

The rehabilitated storm drain line will eliminate soil erosion into Cerrito Creek.

RATIONALE FOR RECOMMENDATION

APB General Engineering is currently under contract with the City for the construction of the Hillview Road and Woodside Road Drainage Improvements. It is practical and cost-effective to amend the contract with APB General Engineering for the additional storm drain work, and there are funds available to cover the additional expense. The City does not have the resources to perform the work.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Phillip L. Harrington, Director, Department of Public Works, 981-6303  
Andrew Brozyna, Deputy Director, Department of Public Works, 981-6396  
Nisha Patel, Manager of Engineering, Department of Public Works, 981-6406  
Joe Enke, Supervising Civil Engineer, Department of Public Works, 981-6411

Attachments:

1: Resolution

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

CONTRACT NO. 32000026 AMENDMENT: APB GENERAL ENGINEERING FOR HILLVIEW ROAD AND WOODSIDE ROAD DRAINAGE IMPROVEMENT PROJECT

WHEREAS, on April 30, 2019 by Resolution No. 68,842-N.S., the City Council authorized Contract No. 32000026 with APB General Engineering in an amount not to exceed \$240,000 for the Hillview Road and Woodside Road Drainage Improvement project; and

WHEREAS, on September 24, 2019, the City Council approved settlement of Claim No. 0109BC2019-000 by Dhaliwal, Warren, and Fong; and

WHEREAS, the settlement authorized the City Manager to accept a drainage easement on private property at 474 Boynton Avenue in exchange for rebuilding a storm drain pipe on the property that runs from the City roadway to Cerrito Creek; and

WHEREAS, an increase of \$40,000 is needed to construct the storm drain improvements agreed to as part of settlement of Claim No. 0109BC2019-000; and

WHEREAS, \$40,000 in funds is available in the current year budget in the Clean Water Fund (616); and

WHEREAS, staff recommends APB General Engineering perform the work as a change order to Contract No. 32000026.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 32000026 with APB General Engineering for the Hillview Road and Woodside Road Drainage Improvement project, increasing the current contract amount of \$240,000 by \$40,000 for a total amount not to exceed \$280,000. A record copy of said contract amendment will be on file with the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip, L. Harrington, Director, Department of Public Works

Subject: Purchase Order: Pape Machinery, Inc. for One (1) John Deere, Co. 644L 20 Ton Hybrid Wheel Loader

RECOMMENDATION

Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (previously NJPA) contract #032515-JDC and authorizing the City Manager to execute a purchase order for one 2019 John Deere Co. 644L 20 Ton Hybrid Wheel Loader with Pape Machinery, Inc. in an amount not to exceed \$457,000.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of one (1) 2019 John Deere Co. 644L 20 Ton Hybrid Wheel Loader will not exceed \$457,000 and includes CA tire fees, extended warranty and sales tax. Funding is available in the FY 2021 Zero Waste Fund 601.

CURRENT SITUATION AND ITS EFFECTS

Berkeley provides its own refuse, recycling and food/green materials collection services for both residential and commercial community members. The City also operates a Solid Waste & Recycling Transfer Station to accept these same materials and third party delivered materials. The wheel loader is the primary equipment for the operation of the Transfer Station. The wheel loader moves materials from the Transfer Station's tipping floor into long haul tractor/trailers (up to 20 ton capacity trailers) that transport: 1) refuse to a landfill, 2) materials to recycling facilities for secondary sort and 3) green/food waste to composting locations.

This new purchase will replace the existing 2010 John Deere Wheel Loader equipment number 6503 that has exceeded its useful life. The Operating Cost to asset value ratio information is provided below. Operating cost averages 239% of value.

Total Operating Cost/ Last 3 Yrs.	Average Annual Cost / Last 3 Yrs.	Value of Asset	Maintenance Cost to Asset Value Ratio
\$287,326.00	\$95,775.33	\$40,000.00	239%

This purchase will support the City's Strategic Plan Goal of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

### BACKGROUND

Throughout the year, the Department of Public Works purchases equipment for City Departments paid through the Equipment Replacement Fund. If a purchase request exceeds \$25,000, the Department of Finance General Services Division solicits or "piggybacks" off competitively bid contracts to ensure City Departments receive the best pricing. Each City Department pays its proportionate share into the Equipment Replacement Fund, and those funds are utilized to replace equipment at the end of its useful life.

The City of Berkeley is a member and participant of Sourcewell (previously NJPA), a purchasing cooperative that clusters over 50,000 government, education, and nonprofit organizations and performs over \$3 billion in annual purchases through cooperative contracts. Sourcewell provides "Government-to-Government" nationwide procurement services that strive to make the public procurement process more lean and efficient by establishing competitively priced contracts for goods and services. Products offered through Sourcewell have been subjected to a public competitive bid process, and then made available to local governments and state agencies through Sourcewell consortium.

All Sourcewell contracts have been competitively solicited nationwide. On January 23, 2015, Sourcewell released RFP #032515 for Heavy Construction Equipment with Related Accessories, Attachments and Supplies. The solicitation was published for approximately three months and nine proposals were received on March 26, 2015. Upon their review, Sourcewell staff selected John Deere Co. as the most responsible and responsive proposer for wheel loaders, dump trucks, escalators, backhoes, loaders, brooms, dozers and motor graders. Sourcewell Proposal Evaluation Committee singled out the main advantages of John Deere's offer that specifically offers a large scale manufacturing and service force in addition to a long-term experience in the industry.

### ENVIRONMENTAL SUSTAINABILITY

The new Wheel Loader with bucket will utilize Hybrid Drive Motor in combination with an engine powered by renewable diesel fuel. The combined systems will reduce fuel consumption by an estimated 25% and reduce greenhouse gas emissions by as much as 50-80%.

Equipment Maintenance staff conducted research to ascertain whether electric versions of a 20 Ton Bucket Loader were available. Staff queried top manufacturer representatives and the findings are presented in the following table:



<b>Manufacturer</b>	<b>Response</b>
Sonsray (Case) Dealer	No Electric (EV) Version at this time. CNG Alternative in concept stage.
Peterson Caterpillar	No EV version available at this time.
Doosan/Bobcat Dealer	No EV Version available at this time.
Komatsu Dealership	No EV Version available at this time.
Volvo	No EV Version available at this time.
Hitachi	No EV available at present time. Hybrid Loader available but purchase would not assist with fleet standardization;

**RATIONALE FOR RECOMMENDATION**

Equipment must be replaced on a reasonable schedule to ensure the Public Works Equipment operators can efficiently and effectively carry out their duties.

**ALTERNATIVE ACTIONS CONSIDERED**

None. Keeping equipment longer than its useful life results in higher maintenance costs and excessive downtime in order to keep it operating in a safe and serviceable manner.

**CONTACT PERSON**

Greg Ellington, Superintendent, Public Works Maintenance, (510) 981-6469

Attachments:  
Resolution

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

PURCHASE ORDER: PAPE MACHINERY, INC. FOR ONE 644L 20 TON HYBRID  
WHEEL LOADER

WHEREAS, one (1) John Deere Co. 644L 20 Ton Hybrid Wheel Loader is needed by the Public Works Department Zero Waste Division to transfer City collected and third party delivered materials from the Transfer Station tipping floor into long haul tractor/trailers that transport these materials to landfills, recycling materials to secondary sort facilities, and compost locations; and

WHEREAS, equipment unit number 6503 being replaced is 10 years old and has reached the end of its useful life; and

WHEREAS, equipment must be replaced on a reasonable schedule that allows equipment operators to efficiently and effectively carry out their work; and

WHEREAS, City Charter XI Section 67.2 allows the City to purchase good without undergoing a competitive bid process if the City uses pricing obtained by another entity through competitive process; and

WHEREAS, Sourcewell Contract #032515-JDC satisfies the procurement requirement of the City of Berkeley; and

WHEREAS, Sourcewell awarded contract #032515-JDC to John Deere Co. as the most responsible and responsive proposer for wheel loaders, dump trucks, escalators, backhoes, loaders, brooms, dozers and motor graders; and

WHEREAS, funds in the amount of \$457,000 are available in the FY 2021 Zero Waste Fund 601.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley City Manager is authorized to execute a purchase order for one (1) 2019 John Deere Co. 644L 20 Ton Hybrid Wheel Loader with Pape Machinery, Inc. in an amount not to exceed \$457,000.



Office of the City Manager

CONSENT CALENDAR

March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: Vision Zero Action Plan

RECOMMENDATION

Adopt a Resolution approving the City of Berkeley Vision Zero Action Plan and directing the City Manager to form a Vision Zero Coordinating Committee; proceed with the “Vision Zero Program”, “Safer Streets for Everyone” and “Safer Streets by Everyone: Public Awareness” priority actions as described in the Plan; and work with the Vision Zero Coordinating Committee to develop a Vision Zero Traffic Enforcement policy before proceeding with the “Safer Streets by Everyone: Enforcement” actions described in the Plan.

FISCAL IMPACTS OF RECOMMENDATION

The recommendation has no direct fiscal impacts. Vision Zero Action Plan priority actions requiring additional funding for implementation will be proposed for funding appropriations through future City Budget adoptions.

INTRODUCTION

In March 2018, the Berkeley City Council adopted the Vision Zero goal of eliminating traffic deaths and severe injuries in Berkeley by 2028, and directed staff to form a Vision Zero Task Force and develop a Vision Zero Action Plan (Resolution No. 68,371-N.S.). The resolution specified that the multi-disciplinary Task Force include members with expertise in enforcement, education, public health, emergency response, equity, and all modes of transportation; research a minimum of five years of collision data to identify behaviors most associated with traffic deaths and injuries, and geographic locations and populations which bear a disproportionate burden of fatal and severe crashes; engage the community in developing the Action Plan; develop assurances against racial profiling and targeting as it pertains to Vision Zero enforcement; and ensure that communities of color, the Police Department, and community leadership are included in the development of enforcement plans or policies. This report provides information on the resulting Draft Vision Zero Action Plan.

CURRENT SITUATION AND ITS EFFECTS

Following the March 2018 City Council meeting, Public Works convened a Vision Zero Task Force and Vision Zero Advisory Committee, and has drafted a Vision Zero Action

Plan. The Task Force consisted of government agency representatives from multiple City of Berkeley Departments and partner agencies, including the Berkeley Police Department; Berkeley Fire Department; Department of Public Works; Department of Health, Housing, and Community Services; AC Transit; the University of California, Berkeley; and the Office of the City Manager. Representatives from the Mayor's and Council Members' offices also participated. The purpose of the Task Force was to provide an agency perspective on the development of the Vision Zero Action Plan. The Advisory Committee consisted of members of the public representing various parts of the Berkeley community, including City of Berkeley Commissions, the Berkeley Unified School District Board of Directors, Safe Routes to Schools parents, business associations, and pedestrian and bicycle advocates. The purpose of the Advisory Committee was to provide a public perspective on the development of the Vision Zero Action Plan.

In partnership with these two groups, Public Works staff have drafted a Vision Zero Action Plan. The process was structured around a series of five meetings with each group, as well as focus-group meetings with specific Task Force members. Each meeting was focused on one step in the Action Plan development process:

1. Vision: *"eliminate traffic deaths and severe injuries on our city streets by 2028"*;
2. Guiding Principles: *values that guide the development of action items, such as safety, equity, sustainability*;
3. Draft Actions: *specific recommendations including administrative, data analysis, street design, enforcement, and public awareness components*;
4. Prioritized Actions: *given constrained resources, which actions are first*;
5. Draft Action Plan: *all above elements in a coherent, actionable policy document*.

One of the priority actions recommends the creation of an ongoing Vision Zero implementation committee. After consultation with the City Clerk, Public Works staff recommends continuation of both the Task Force (agency staff) and the Advisory Committee (members of the public) in one consolidated "Vision Zero Coordinating Committee", formed to advise the City Manager on Action Plan implementation. Similar to the composition of the existing Task Force and Advisory Committee, this new Committee would consist of City staff from affected departments; Commissioners selected by their respective commissions; and other members of the Berkeley community as appropriate. The Committee would be an ad-hoc non-legislative body not subject to the Brown Act, and would meet quarterly to discuss a predetermined work plan and agenda. It would provide quarterly updates to the City Manager that the City Manager would in turn report to the City Council in the form of Information Items.

Following the final Task Force and Advisory Committee meetings, the Draft Vision Zero Action Plan was presented to the Berkeley Transportation Commission. On November 21, 2019, the Transportation Commission passed a motion that the Transportation Commission recommend the draft Vision Zero Action Plan, as revised and with added language from Chair Donald Lathbury, for approval by the Berkeley City Council. The added language is as follows:

*“The Transportation Commission recommends that the Vision Zero Action Plan be approved by the Berkeley City Council with the following concerns explicitly incorporated into the final plan:*

- *Vision Zero prioritization is engineering first, education second, and enforcement last, only when necessary, and with the best possible data*
- *To the extent enforcement is recalibrated, it should be focused in areas where engineering and education have already been implemented.”*

Motion: B. Ghosh, Second: K. Parolek, Vote: (8 Ayes: Bruzzone, Ghosh, Greene, Hutheesing, Lathbury, Parolek, Taplin, Zander; 0 Noes; 1 Absent: Garcia; 0 Abstain)

The Draft Action Plan has been revised to reflect this added language and was provided to the Task Force, Advisory Committee, and Transportation Commission. A detailed summary of Task Force, Advisory Committee, and Transportation Commission comments on the Draft Berkeley Vision Zero Action Plan are included as Attachment 2 to this report.

## BACKGROUND

Vision Zero is a safety-first approach to transportation that seeks to eliminate all traffic deaths and severe injuries. The Vision Zero approach to traffic safety was first adopted by Sweden’s parliament in 1997. By 2015, traffic deaths in Sweden dropped by over 50%, saving approximately 280 lives per year<sup>1</sup>. The first US city to adopt a Vision Zero policy or plan was Chicago in 2012. Since then, other US Cities have followed suit, including San Francisco, San Jose, Los Angeles, and Fremont, California. Vision Zero is a paradigm shift that emphasizes a “safe systems” approach to roadway design and engineering, supported by enforcement and public awareness efforts.

From 2013 to 2017, an average of two people per year were killed in traffic collisions on Berkeley streets and an additional twenty-one people per year were severely injured. Severe injuries are often debilitating or life threatening and require hospitalization. Of the people involved in severe and fatal collisions in Berkeley between 2013 and 2017, 24% were walking, 39% were bicycling, and 37% were driving motor vehicles at the

---

<sup>1</sup> *Development of Road Safety in Sweden*. Swedish Transport Agency, Swedish Transport Administration, Transport Analysis, and Swedish National Road and Transport Research Institute. See <http://bit.ly/2yLFUmi>; *Global Status Report on Road Safety 2015*. World Health Organization. See <http://bit.ly/2ciLUp7>.

time of the collision. People walking and riding bicycles are highly overrepresented among those killed and severely injured in traffic collisions in Berkeley.

The top traffic violations reported during the years 2013 to 2017 for collisions in Berkeley that resulted in death or severe injury were: traveling at unsafe speeds; violation of pedestrian right-of-way at a crosswalk; failure to yield while making left or U-turns; failure to stop at a red light; and failure to stop at a stop sign. Vision Zero focuses on the most significant traffic violations associated with severe and fatal traffic collisions. Reducing vehicle speed is particularly important for reducing pedestrian fatalities, as a pedestrian hit by a vehicle traveling at twenty miles per hour has a 90% chance of survival, but a pedestrian hit by a vehicle traveling at forty miles per hour has a 90% chance of dying

#### ENVIRONMENTAL SUSTAINABILITY

Walking and cycling trips do not release air pollutants or greenhouse gasses. Implementation of the Vision Zero Action Plan aims to increase walking and cycling trips by improving the safety and accessibility of these modes. A survey for the 2017 Berkeley Bicycle Plan found that 71% of Berkeley residents are interested in bicycling, but do not ride because they are concerned about safety. Increasing cycling and walking would help the City achieve the Berkeley Climate Action Plan greenhouse gas emission reduction targets of 33% below year 2000 levels by the year 2020, and 80% below year 2000 levels by 2050. The Climate Action Plan states that transportation modes such as walking and cycling must become the primary means of fulfilling the City's mobility needs in order to meet these targets.

#### RATIONALE FOR RECOMMENDATION

The Draft Berkeley Vision Zero Action Plan outlines a strategic, paradigm-shift approach to eliminating severe and fatal traffic collisions by the year 2028. The Draft Action Plan was developed in close collaboration with both City staff and members of the Berkeley community. The data- and equity-driven Draft Action Plan prioritizes engineering, education, and public awareness actions before enforcement.

#### ALTERNATIVE ACTIONS CONSIDERED

Council could opt not to approve the Draft Berkeley Vision Zero Action Plan, and instead continue to pursue traffic safety through existing City projects and programs.

#### CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works, 510-981-7061  
Beth Thomas, Principal Planner, Public Works, 510-981-7068  
Eric Anderson, Senior Planner, Public Works, 510-981-7062

Attachments:  
1: Resolution

Exhibit A: Draft Berkeley Vision Zero Action Plan  
2: Response to Comments on Draft Berkeley Vision Zero Action Plan

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

APPROVAL OF THE BERKELEY VISION ZERO ACTION PLAN

WHEREAS, from 2013 to 2017, an average of two people per year were killed in traffic collisions on Berkeley streets and an additional twenty-one people per year were severely injured; and

WHEREAS, in March 2018 the Berkeley City Council adopted the Vision Zero Policy with a goal of eliminating traffic deaths and severe injuries in Berkeley by 2028, and directed staff to form a Vision Zero Task Force and develop a Vision Zero Action Plan (Resolution No. 68,371-N.S.); and

WHEREAS, the Department of Public Works convened a Vision Zero Task Force and Vision Zero Advisory Committee to guide the creation of a Vision Zero Action Plan; and

WHEREAS, the Berkeley Vision Zero Action Plan outlines a strategic, paradigm-shift approach to eliminating severe and fatal traffic collisions by the year 2028; and

WHEREAS, Vision Zero is a data- and equity-driven strategy to eliminate all traffic fatalities and severe injuries, while increasing safe, healthy, equitable mobility for all; and

WHEREAS, Vision Zero is founded on a Safe Systems approach that recognizes humans will make mistakes and roadway systems and policies should be designed to protect them; and

WHEREAS, Vision Zero traffic safety goals are accomplished through a combination of engineering, education, and enforcement measures; and

WHEREAS, the Berkeley Vision Zero Action Plan prioritizes engineering, education, and public awareness strategies before enforcement to achieve Vision Zero in Berkeley.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby approves the City of Berkeley Vision Zero Action Plan and authorizes the City Manager to form a Vision Zero Coordinating Committee; proceed with the "Vision Zero Program", "Safer Streets for Everyone" and "Safer Streets by Everyone: Public Awareness" priority actions as described in the plan; and work with the Vision Zero Coordinating Committee to develop a Vision Zero Traffic Enforcement policy before proceeding with the "Safer Streets by Everyone: Enforcement" actions described in the Plan.

Exhibit

A: Berkeley Vision Zero Action Plan





DRIVE  
LIKE  
YOUR  
FRIEND  
DIED  
HERE

# CITY OF BERKELEY VISION ZERO ACTION PLAN

DRAFT - December 2019

## ACKNOWLEDGEMENTS

Thank you to the Task Force and Advisory Committee for helping to shape this plan.

### VISION ZERO PROGRAM

Eric Anderson, Vision Zero Program  
Coordinator  
Beth Thomas, Principal Transportation Planner  
Farid Javandel, Transportation Manager

### TASK FORCE

Dominika Bednarska, Public Works Department  
Kerry Birnbach, City Council Office - District 8  
Chief Dave Brannigan, Fire Department  
Andrew Brozyna, Public Works Department  
Steven Buckley, Planning Department  
Paul Buddenhagen, City Manager's Office  
Jim Cunradi, AC Transit  
Lori Droste, City Council – District 8  
Stefan Elgstrand, City Mayor's Office  
Joe Enke, Public Works Department  
Beth Gerstein, City Council Office – District 1  
Timothy Green, UC Berkeley Physical and  
Environmental Planning  
Phillip Harington, Public Works Department  
Todd Henry, UC Berkeley Physical and  
Environmental Planning  
Lisa Hernandez, Health, Housing and Community  
Services Department  
Lt. Randy Files, Police Department  
Jordan Klein, Economic Development  
Department  
Hamid Mostowfi, Public Works Department  
Ryan Murray, Police Department  
Nisha Patel, Public Works Department  
Alene Pearson, Planning Department  
Abe Roman, Fire Department  
Lars Skjerping, City Mayor's Office

### ADVISORY COMMITTEE

Gwen M. Allamby, Police Review Commission  
Stuart Baker, Telegraph Business Improvement  
District  
Dave Campbell, Bike East Bay  
Eugenie Candau, Commission on Aging  
John Caner, Downtown Berkeley Association  
Ben Gerhardstein, Walk Bike Berkeley  
Barnali Ghosh, Transportation Commission  
Shane Krpata, Public Works Commission  
Beatriz Leyva-Cutler, Berkeley Unified School  
Board  
Liza Lutzker, Safe Routes to Schools and Walk  
Bike Berkeley  
Petra Liljestrand, Berkeley resident  
Ethel Murphy, Commission on Aging  
Helen Walsh, Commission on Disability  
Sara Zimmerman, Safe Routes Partnership

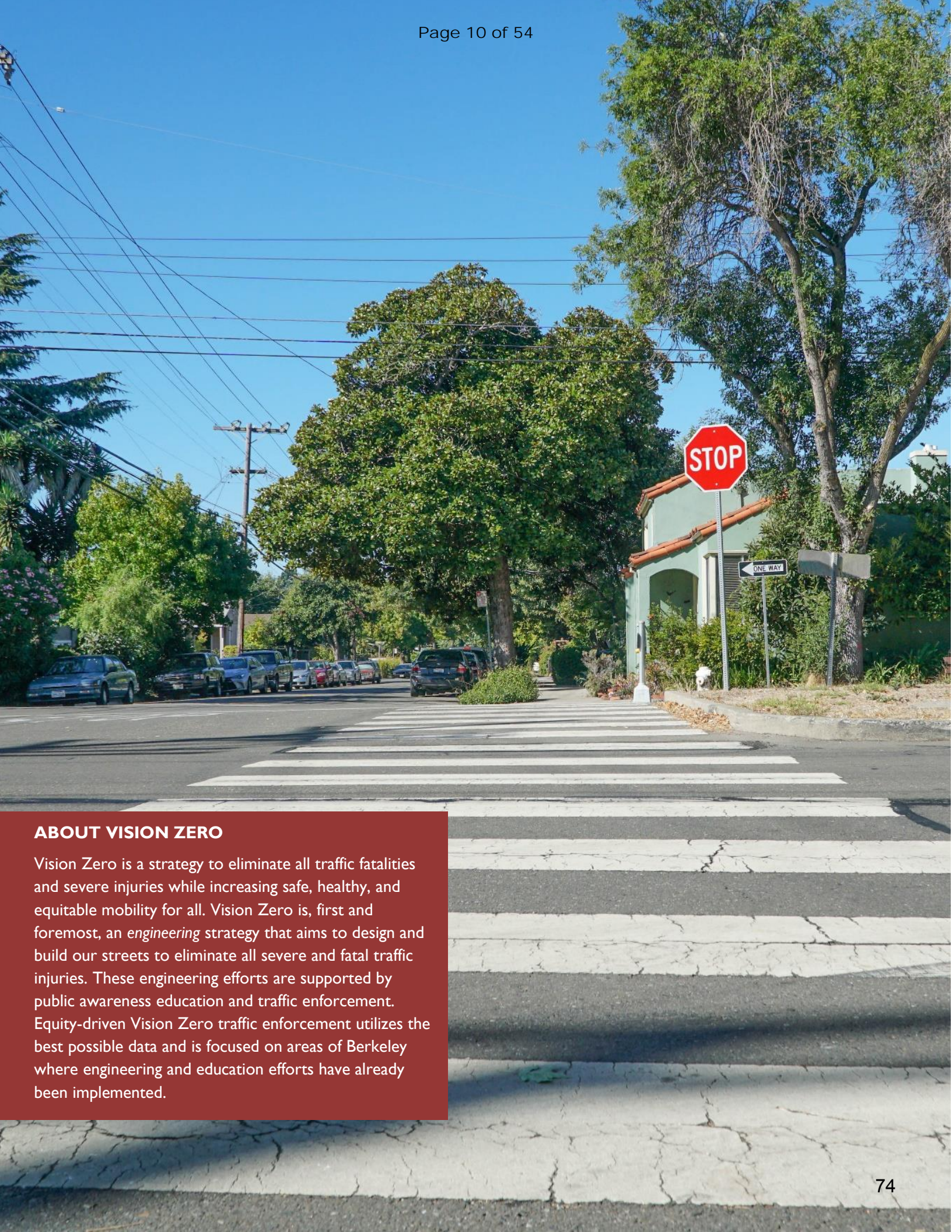
### CONSULTANT TEAM

Natalie Chyba, Fehr & Peers  
Meghan Mitman, Fehr & Peers  
Karina Schneider, Fehr & Peers  
Dana Weissman, Fehr & Peers  
Katie Miller, Left Lane Advisors

# TABLE OF CONTENTS

<b>Introduction</b> .....	<b>1</b>
Accountability .....	3
Equity .....	3
Priority Actions .....	4
Glossary .....	6
<b>Why We Need Vision Zero</b> .....	<b>7</b>
Berkeley Needs Vision Zero .....	9
Vision Zero is about the 4% .....	9
Vision Zero is about mode .....	9
Vision Zero is about Traffic Violations .....	10
Locations of Severe and Fatal Collisions .....	12
Map of High-injury Streets .....	13
<b>Vision and Guiding Principles</b> .....	<b>15</b>
<b>Taking Action</b> .....	<b>19</b>
The Vision Zero Program .....	21
Safer Streets for Everyone .....	21
Safer Streets By Everyone .....	21
1.1 The Vision Zero Program: Collaboration .....	22
1.2 The Vision Zero Program: Capacity .....	23
1.3 The Vision Zero Program: Transparency and Equity .....	24
2.1 Safer Streets for Everyone: Project Planning and Development .....	25
2.2 Safer Streets for Everyone: Project Design.....	26
2.3 Safer Streets for Everyone: Project Delivery.....	27
3.1 Safer Streets by Everyone: Public Awareness .....	28
3.2 Safer Streets by Everyone: Enforcement .....	29
<b>Appendices</b> .....	<b>31</b>
Appendix A: Vision Zero Action Plan Timeline & Process Diagram	
Appendix B: Prioritized Vision Zero Actions Matrix	
Appendix C: SWITRS Violation Code Data Tables	





## ABOUT VISION ZERO

Vision Zero is a strategy to eliminate all traffic fatalities and severe injuries while increasing safe, healthy, and equitable mobility for all. Vision Zero is, first and foremost, an *engineering* strategy that aims to design and build our streets to eliminate all severe and fatal traffic injuries. These engineering efforts are supported by public awareness education and traffic enforcement. Equity-driven Vision Zero traffic enforcement utilizes the best possible data and is focused on areas of Berkeley where engineering and education efforts have already been implemented.





# INTRODUCTION





## **CAPTURING SITES OF FATAL AND SEVERE COLLISIONS**

All photos in this plan were taken at locations in Berkeley where someone lost their life or sustained a severe injury in a traffic collision. The images demonstrate that there is rarely any way for someone passing by to know a tragedy took place, since things often continue as they did before. Vision Zero challenges this status quo and strips away the societal acceptance that fatal and severe traffic collisions are a necessary byproduct of mobility. As part of this plan, rapid-response communications and safety project protocols will be established to help tell victims' stories and deliver quick-build projects where engineering countermeasures may effectively improve safety.



Every year, an average of two people die and 21 people are severely injured in Berkeley due to traffic violence. Vision Zero is about recognizing that these deaths and severe injuries are preventable and unacceptable – no one should lose their life or experience a life-altering injury while traveling on Berkeley streets, no matter who they are or how they travel.

We began our commitment to Vision Zero in 2018 through the adoption of a Vision Zero resolution to end all traffic-related deaths and severe injuries on City streets by 2028. Since then, we have established two working groups: a Task Force, comprised of key City staff, elected officials, and partner agencies; and an Advisory Committee, comprised of representatives from advocacy groups, the public, Berkeley Unified School District, and City of Berkeley Commissions. The Task Force and Advisory Committee have worked together to craft the Vision, Guiding Principles, and Actions presented in this plan. To learn more about the process, see **Appendix A: Vision Zero Action Plan Development**.

While every action item introduced in this plan is fundamental to the success of Vision Zero, the priority actions presented on the next page are the near-term focus of Vision Zero in Berkeley, based on feedback from the Task Force and Advisory Committee on existing resources, and staff and community priority. The full list of actions for the City of Berkeley is introduced later in this plan, in “Taking Action.”

Throughout the development of this plan, two key themes were frequently discussed: this plan must be accountable, and this plan must be crafted through an equity lens.

## ACCOUNTABILITY

This plan takes strategic and pointed actions to keep Vision Zero front and center in the City of Berkeley – calling for continuous plan updates to remain in line with best practices and trends; an audit conducted by the City Auditor to make sure Vision Zero has the appropriate level of staff and resources to be effective; and building redundancy by integrating Vision Zero actions into other guiding documents, including the Berkeley Strategic Plan and departmental work plans.

## EQUITY

This plan is equity-driven, starting with recognizing that we do not understand the full magnitude of inequities today due to gaps in key safety datasets. The plan recommends that we utilize Berkeley Police Department collision report data to better understand who are the victims of traffic collisions; perform a robust assessment of other key gaps in safety datasets as part of the first update to this plan; and elevate community voices to understand the perception of safety and personal security in our most vulnerable communities. This plan also includes actions to create a traffic ticket diversion program for bicyclists and pedestrians, and calls for partnerships with community-based organizations and culturally-relevant and context-specific outreach and educational campaigns. The plan emphasizes engineering and education actions first, supported by equity- and data-driven traffic enforcement conducted consistent with the City of Berkeley’s Fair and Impartial Policing Policy.

## PRIORITY ACTIONS

- **Establish a standing Vision Zero Coordinating Committee** consisting of City staff, Commissioners, partner institutions, members of the community, advocacy groups, and community-based organizations who have a role in advancing Vision Zero action items with quarterly meetings organized around a predetermined annual agenda. Seek to establish a funding source to compensate members of the community and community-based organizations to enable their participation.
- **Conduct a citywide Vision Zero Action Plan assessment** of existing staffing and funding capacity to complete Vision Zero action items.
  - **Create a staffing matrix** of existing and proposed staff for the delivery of high-priority Vision Zero action items. New or realigned staff needs are anticipated in Public Works safety project team; Public Works Vision Zero Program support staff; Public Information Officers in key Vision Zero departments, including Police and Health, Housing, and Community Services; Berkeley Police Department Vision Zero collision data analysis; Health, Housing, and Community Service Vision Zero data analysis and public awareness programs.
  - **Establish a milestone staffing and funding schedule** to complete high-priority Vision Zero action items, including City and grant funds.
- **Proactively build capital-intensive and quick-build safety projects** on all Vision Zero High-Injury Streets on a schedule to complete such projects by 2028.

## PRIORITIZATION APPROACH

This plan prioritizes engineering, education, and public awareness before enforcement to achieve Vision Zero in Berkeley. Each action item is prioritized based on feedback from the Task Force and Advisory Committee on existing resources, and staff and community priority, as well as the potential transformative impact of each item:

- **Existing Resources:** Actions are prioritized that likely already have the needed resources, both staff and funding, to deliver.
- **Staff Priority:** Actions are prioritized that are of interest and priority to the Task Force and Vision Zero Program staff.
- **Community Priority:** Actions are prioritized that are of interest and priority to the Advisory Committee.
- **Transformative/High Impact:** Actions are prioritized that would have major positive impacts on safety or City collaboration, based on the Institute of Transportation Engineer's *Core Elements of Vision Zero* and ongoing City efforts.

The actions introduced here are the near-term focus for the City of Berkeley. The full list of actions in priority order can be reviewed in **Appendix B: Prioritized Actions Matrix**.



- **Request a Vision Zero Performance Audit** to be performed during the FY21 audit period to evaluate the implementation of the Action Plan and make any additional needed recommendations, including additional and/or realigned staffing and funding, for effective Vision Zero Action Plan implementation. Provide required six-month updates to City Council.
- **Establish a Vision Zero Rapid Response Safety Communication Protocol.** Employ a communication strategy in response to recent severe and fatal collisions aimed at the human element of traffic safety, including health and prevention messaging to the Berkeley community.
- **Support statewide traffic safety legislation** allowing automated speed enforcement by local agencies, designation of speed limits on local streets based on desired safety outcomes rather than the existing prevailing speed, and the reduction of local residential street speed limits to below 25 MPH, which would allow for 20 MPH speed limit on local residential streets, consistent with “20 Is Plenty” campaigns. Utilize existing legislated automated enforcement strategies, such as red light cameras.
- **Establish a Complete Streets Repaving and Development Project Checklist** to ensure proactive and reactive Vision Zero safety infrastructure for people of all ages and abilities are included with each repaving project and in the conditions of approval for development projects. With the Vision Zero Coordinating Committee, consider establishing an equity-driven approach to prioritizing repaving projects.
- **Develop and proactively deliver a Vision Zero branding, promotional, and educational campaign** to increase awareness about Vision Zero and the top traffic violations for severe and fatal injuries in Berkeley, elevating victims’ stories. Regularly update the campaign to ensure it is context-specific, accessible, and culturally relevant. Collaborate with community-based organizations to distribute material and promote messages and public events that normalize active transportation and transit as healthy and responsible transportation choices.
- **Develop a publicly accessible matrix and map to prioritize and track projects.** Prioritize both new/existing requests/referrals and delivery of established infrastructure project lists (e.g., Five Year Repaving Program, BeST Plan, etc.) according to the Vision Zero High-Injury Streets map and equity-driven prioritization from City Council adopted plans such as the Bicycle Plan and forthcoming Pedestrian Plan.
- **Utilize the Berkeley Police Department’s collision report data on parties involved,** such as housing status or whether parties involved are disabled, to help address equity gaps in Statewide Integrated Traffic Records System (SWITRS) collision data. Confirm that Berkeley Police Department report training emphasizes consistent use of these collision report data fields and, if needed, provides training resources for avoiding transportation mode bias in collision reporting. When necessary, update the collision report form to be consistent with emerging mobility modes.
- **Focus traffic enforcement efforts proportionately on the most significant traffic violations for severe and fatal collisions by party at fault.** Focus enforcement efforts on areas of Berkeley where engineering and education efforts have already been implemented. Conduct traffic enforcement consistent with the City of Berkeley’s Fair and Impartial Policing Policy.

## GLOSSARY

### Equity

Race, ethnicity, gender, age, socioeconomic status, or physical or mental ability can no longer be used to predict access to safe transportation, and safety and access for all groups are improved.

This definition is adapted from the Government Alliance on Race & Equity's *Racial Equity Toolkit*. The City of Berkeley is a core member of the Government Alliance on Race & Equity (GARE).

### Severe Injury

A severe injury is based on the reporting police officer's visual assessment of a victim at the scene of the collision. The California Highway Patrol's *Collision Investigation Manual* defines a severe injury as an injury other than a fatal injury which results in broken bones, dislocated or distorted limbs, severe lacerations, or unconsciousness at or when taken from the collision scene. It does not include minor lacerations. Some severe injuries may not be classified as such by the reporting officer if they are not visible or otherwise apparent.

### Vulnerable Users

Users of the roadway that are more vulnerable to traffic-related death or injury due to their demographic, socioeconomic status, physical or mental ability, or mode of travel. This may include people of color, people with no or low income, people with no or limited English proficiency, people experiencing homelessness, youth, seniors, people with disabilities, and people who walk and bike.





## WHY WE NEED VISION ZERO?





## BERKELEY NEEDS VISION ZERO

Every year, on average two people die and 21 people sustain severe injuries on Berkeley streets due to traffic violence. This is unacceptable and preventable – no one should lose their life or suffer a life-altering injury when traveling in our city. All statistics presented on this page are based on data between 2013 and 2017 - the most recent five years of collision data available through the Statewide Integrated Traffic Records System (SWITRS).

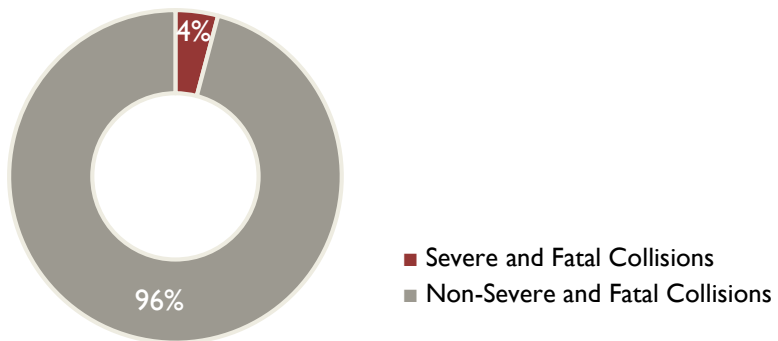
### DISPROPORTIONATE BURDEN

We know that people of color, people with no or low income, people with no or limited English proficiency, people experiencing homelessness, youth, seniors, and people with disabilities are over-represented in fatal and severe injury collisions, but we currently have limited data within SWITRS collision reports to understand the magnitude of the disproportionate burden. This plan addresses those data gaps head-on and establishes strategies to start collecting and utilizing more meaningful data to understand inequities on our streets. We also are not waiting for more data to take an equity-driven approach to Vision Zero. Read more about our proposed strategies in “Taking Action.”

### VISION ZERO IS ABOUT THE 4%

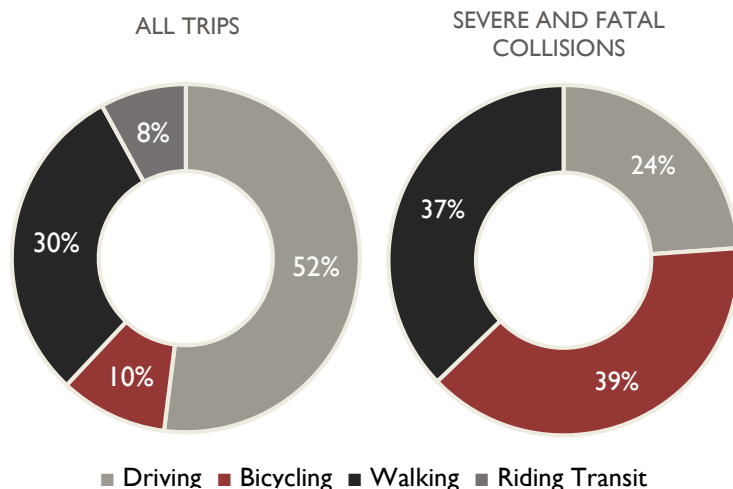
On average, 4% of collisions on Berkeley streets result in a fatality or severe injury.

**That is 4% too many.**



### VISION ZERO IS ABOUT MODE

Collisions disproportionately impact people riding bicycles and people walking. The numbers are stark – collisions involving someone riding a bicycle or walking make up almost **80%** of collisions that result in death or severe injury, despite making up just **40%** of trips in Berkeley.



Collision Data: SWITRS five-year injury collision data, 2013-2017

Mode Data: California Household Travel Survey for the City of Berkeley, 2012

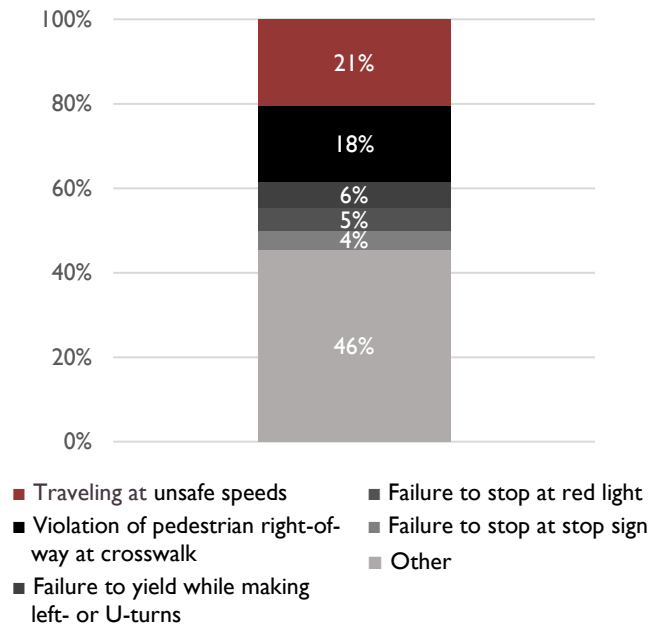
## VISION ZERO IS ABOUT TRAFFIC VIOLATIONS

Every collision involves multiple factors. The top traffic violations reported during the years 2013 to 2017 for collisions in Berkeley that resulted in death or severe injury were **traveling at unsafe speeds, violation of pedestrian right-of-way at a crosswalk, failure to yield while making left or U-turns, failure to stop at a red light, and failure to stop at a stop sign**. Vision Zero focuses on the most significant factors associated with severe and fatal traffic collisions in order to make the greatest impact.

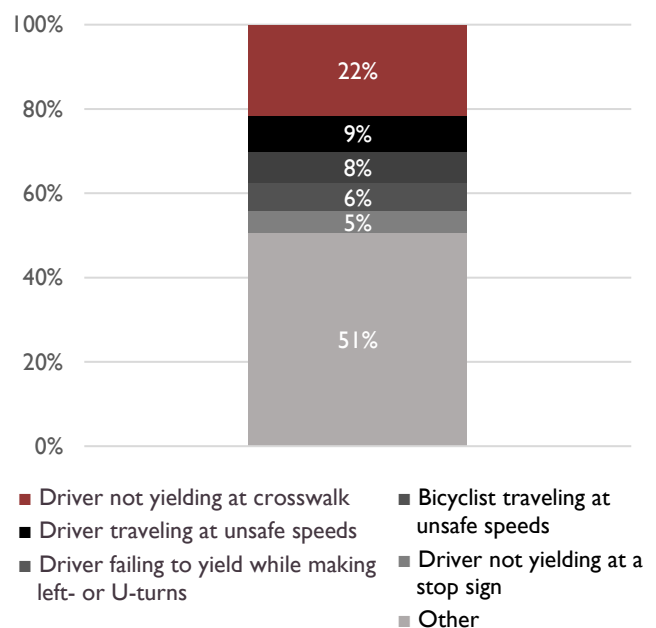
Safety is also about how we share public space and how we interact on our streets. When we consider the primary party at fault, the top traffic violations for severe and fatal vehicle-involved collisions in Berkeley were **drivers not yielding at crosswalks; drivers traveling at unsafe speeds; drivers failing to yield to oncoming traffic when making a left- or U-turn; bicyclists traveling at unsafe speeds; and drivers not yielding at stop signs**. While party at fault data is subjective and may not include the victim’s perspective, it can add to our understanding of the unsafe behaviors that result in severe and fatal collisions.

Violation data tables are provided in **Appendix C: SWITRS Violation Code Data Tables**.

TOP VIOLATIONS IN SEVERE AND FATAL COLLISIONS



TOP VIOLATIONS BY PARTY AT FAULT IN SEVERE AND FATAL COLLISIONS



Collision Data: SWITRS five-year injury collision data, 2013-2017



Source: US Department of Transportation, Literature Review on Vehicle Travel Speeds and Pedestrian Injuries March 2000





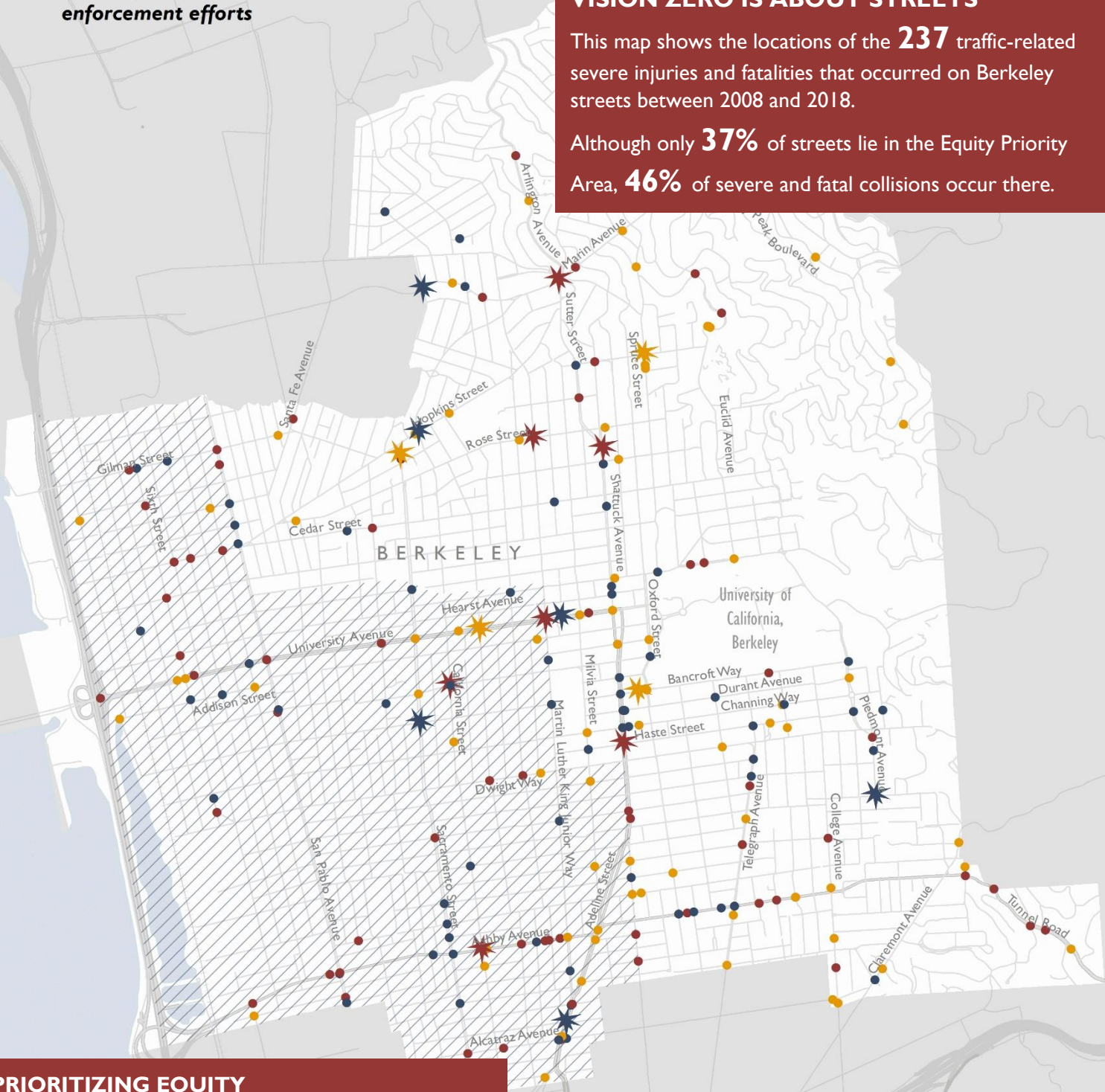
# LOCATIONS OF SEVERE AND FATAL COLLISIONS

*This map is not for use in developing focused enforcement efforts*

## VISION ZERO IS ABOUT STREETS

This map shows the locations of the **237** traffic-related severe injuries and fatalities that occurred on Berkeley streets between 2008 and 2018.

Although only **37%** of streets lie in the Equity Priority Area, **46%** of severe and fatal collisions occur there.



### PRIORITIZING EQUITY

Lower income residents and people of color are disproportionately impacted by the risk of traffic injuries and fatalities. The Equity Priority Area considers historic Home Owners' Loan Corporation "redlining," racial/ethnic composition, property value, and cultural centers to guide the City of Berkeley in prioritizing infrastructure projects that remedy systemic inequity. A full description of the Equity Priority Area methodology can be found in the City of Berkeley Pedestrian Plan.

/// Equity Priority Area

**Collision Type**

- ★ Bicycle - Fatal
- ★ Pedestrian - Fatal
- ★ Driver - Fatal
- Bicycle - Severe Injury
- Pedestrian - Severe Injury
- Driver - Severe Injury

Collision Data: SWITRS ten-year injury collision data, 2008-2018



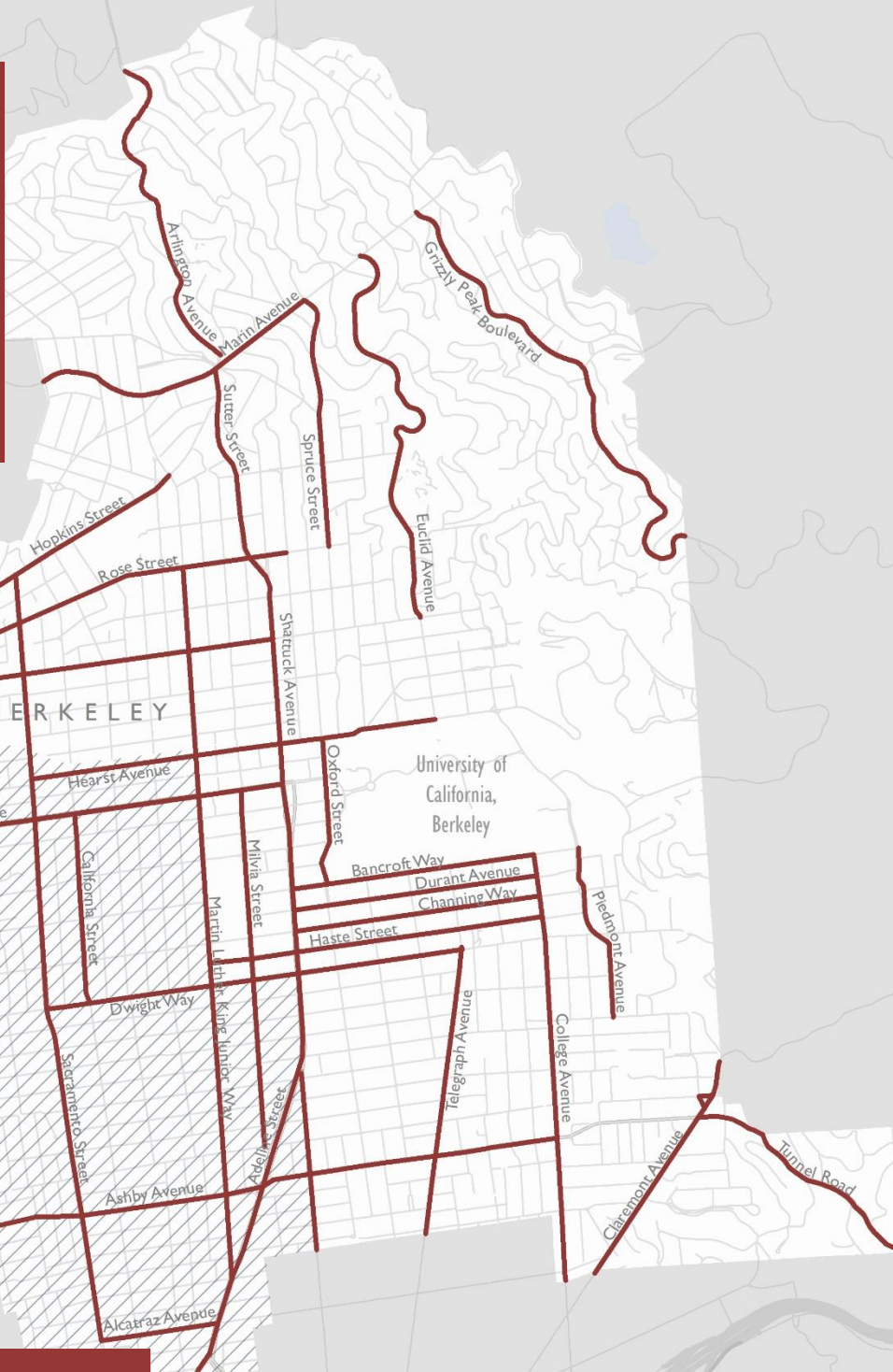
# HIGH-INJURY STREETS

*This map is not for use in developing focused enforcement efforts*

## VISION ZERO IS ABOUT STREETS

The High-Injury Streets map represents the City of Berkeley's streets with the most severe injuries and fatalities based on data between 2008 and 2018.

**91%** of Berkeley's severe and fatal collisions occur on just **16%** of City streets.



## PRIORITIZING EQUITY

Lower income residents and people of color are disproportionately impacted by the risk of traffic injuries and fatalities. The Equity Priority Area considers historic Home Owners' Loan Corporation "redlining," racial/ethnic composition, property value, and cultural centers to guide the City of Berkeley in prioritizing infrastructure projects that remedy systemic inequity. A full description of the Equity Priority Area methodology can be found in the City of Berkeley Pedestrian Plan.

— High-Injury Streets

//// Equity Priority Area

*Collision Data: SWITRS ten-year injury collision data, 2008-2018*







## VISION AND GUIDING PRINCIPLES



*The City of Berkeley is committed to an equity-focused, data-driven effort to eliminate traffic deaths and severe injuries on our city streets by 2028.*

1. **Safety is our highest priority.** Human life is more important than speed, convenience, or property. We will evaluate trade-offs and make both proactive and reactive engineering decisions about street design based on this value.
2. **Traffic deaths and severe injuries are preventable and unacceptable.** Using a holistic, data-driven, systems-level approach to street design, we will treat fatal and severe collisions as preventable and unacceptable incidents that can and must be addressed.
3. **People make mistakes.** We will design our streets so that mistakes do not result in death or severe injury.
4. **Slower streets are safer streets.** We will design, construct, and operate our streets for slower speeds with the goal of eliminating all fatal and severe collisions, and protecting our most vulnerable street users.
5. **We will create safer transportation options for people who walk, bike, and take transit.** Creating safer and more comfortable transportation options for people to walk, bike, and take transit can make these modes more attractive and reduce the number of car trips in Berkeley. Fewer car trips can mean fewer severe and fatal collisions.







6. **Street safety must be achieved equitably.** We will respond to the disproportionate burden of traffic deaths and severe injuries on people of color, people with no or low income, people with no or limited English proficiency, people experiencing homelessness, youth, seniors, people with disabilities, and people who walk and bike. Enforcement strategies recommended as part of this plan will be designed to minimize racial profiling. Further, this plan emphasizes engineering and education actions first, supported by equity- and data-driven enforcement in an effort to conduct equitable traffic enforcement consistent with the City of Berkeley's Fair and Impartial Policing Policy.
  
7. **Vision Zero will be accountable, transparent, and data-driven.** Actions will be data-driven to respond to the causal factors of deaths and severe injuries on Berkeley streets. This response will utilize both proven methods and innovative strategies. We will perform annual monitoring, reporting, and evaluation through an equity lens. We will communicate clearly what resources are necessary to achieve Vision Zero, why street design modifications are proposed, and the basis for prioritizing competing improvements.



## TAKING ACTION





The City of Berkeley's Vision Zero action items described on the following pages demonstrate a **comprehensive, integrated approach** to get the City to zero. They rest on three pillars: 1) The Vision Zero Program, 2) Safer Streets for Everyone, and 3) Safer Streets by Everyone. This plan prioritizes engineering, education, and public awareness before enforcement strategies to achieve Vision Zero in Berkeley.



## THE VISION ZERO PROGRAM

### 1.1 Collaboration

Collaborate with City departments, regional and community partners, and mobility providers to achieve Vision Zero goals. Continue commitment from Berkeley elected officials.

### 1.2 Capacity

Build sustainable funding and staffing to complete Vision Zero action items, including program management, data analysis, infrastructure projects, and education, engagement, and enforcement.

### 1.3 Transparency and Equity

Establish a milestone reporting schedule. Incorporate equity into data collection, analytics, evaluation, engagement, and reporting.



## SAFER STREETS FOR EVERYONE

### 2.1 Project Planning and Development

Prioritize high-injury streets and the most vulnerable street users.

## ACTION ITEM DEVELOPMENT

These actions represent months of collaboration and coordination between the Task Force and Advisory Committee and build on opportunity areas established through a comprehensive review of best practices and Berkeley's current safety efforts.

### 2.2 Project Design

Design for vulnerable users of the transportation network, including people of all ages and abilities.

### 2.3 Project Delivery

Deliver Vision Zero traffic safety infrastructure improvements both reactively and proactively.



## SAFER STREETS BY EVERYONE

### 3.1 Public Awareness

Create a culture of traffic safety by promoting awareness through public information programs and campaigns.

### 3.2 Enforcement

Transition from a request-based to an equitable and data-driven enforcement strategy focused on the most significant safety violations resulting in fatalities and severe injuries.

## I.1 THE VISION ZERO PROGRAM: COLLABORATION

Priority	Action	Lead Department	Timeline
☆	<p><b>Establish a standing Vision Zero Coordinating Committee</b> consisting of City staff, Commissioners, partner institutions, members of the community, advocacy groups, and community-based organizations who have a role in advancing Vision Zero action items with quarterly meetings organized around a predetermined annual agenda. Seek to establish a funding source to compensate members of the community and community-based organizations to enable their participation.</p>	City Manager's Office	
	<p><b>Incorporate Vision Zero goals and actions into plan and policy updates</b> of all departments and partner institutions, including the upcoming City of Berkeley Zoning Ordinance update and General Plan Update, UC Berkeley's Long-Range Development Plan, Berkeley Unified School District's Sustainability Plan, the City's Strategic Plan, Departmental Priority Projects Lists, and departmental and individual staff work plans.</p>	City Manager's Office	
	<p><b>With the Metropolitan Transportation Commission, Alameda County Transportation Commission, and Alameda County Department of Public Health, establish a peer-to-peer Bay Area Vision Zero Network</b> for information-sharing and collaboration on countywide and regional initiatives such as a public health analysis of collision victim hospital data.</p>	Mayor's Office	
	<p><b>Develop a focused, strategic Vision Zero staff training plan</b> to send key staff responsible for implementing the Vision Zero Action Plan, such as Public Works, Police, Health, Housing, and Community Services, and City Manager's Office and elected officials, to Vision Zero-related conferences and trainings.</p>	City Manager's Office	

## I.2 THE VISION ZERO PROGRAM: CAPACITY

Priority	Action	Lead Department	Timeline
☆	<p><b>Conduct a citywide Vision Zero Action Plan assessment</b> of existing staffing and funding capacity to complete Vision Zero action items.</p> <ul style="list-style-type: none"> <li>• <b>Create a staffing matrix</b> of existing and proposed staff for the delivery of high-priority Vision Zero action items. New or realigned staff needs are anticipated in the areas listed below: <ul style="list-style-type: none"> <li>○ Public Works safety project team</li> <li>○ Public Works Vision Zero Program support staff</li> <li>○ Public Information Officers in key Vision Zero departments including Police and Health, Housing, and Community Services</li> <li>○ Berkeley Police Department Vision Zero collision data analysis</li> <li>○ Health, Housing, and Community Services Vision Zero data analysis and public awareness programs</li> </ul> </li> <li>• <b>Establish a milestone staffing and funding schedule</b> to complete high-priority Vision Zero action items, including City and grant funds.</li> </ul>	City Manager's Office; Public Works	
☆	<p><b>Request a Vision Zero Performance Audit</b> to be conducted during the FY21 audit period to evaluate the implementation of the Action Plan and make any needed recommendations, including additional and/or realigned staffing and funding, for effective Vision Zero Action Plan implementation. Provide required six-month updates to City Council.</p>	Public Works	

### I.3 THE VISION ZERO PROGRAM: TRANSPARENCY AND EQUITY

Priority	Action	Lead Department	Timeline
☆	<p><b>Utilize the Berkeley Police Department’s collision report data on parties involved</b>, such as housing status or whether parties involved are disabled, to help address equity gaps in Statewide Integrated Traffic Records System (SWITRS) collision data. Confirm that Berkeley Police Department report training emphasizes consistent use of these collision report data fields and, if needed, provides training resources for avoiding transportation mode bias in collision reporting. When necessary, update the police collision report form to be consistent with emerging mobility modes.</p>	Public Works; Police	
	<p><b>Provide an annual Vision Zero Progress Report</b>, reviewed by the City Auditor, to City Council, City Department Directors, Vision Zero Coordinating Committee, and Transportation Commission, on progress reducing fatal and severe collisions, including in historically underserved neighborhoods, equity in traffic enforcement, and on meeting the funding, staffing, and Vision Zero program delivery schedules. Include an updated Vision Zero High-Injury Streets map. Utilize Berkeley Police Department collision data to supplement the Statewide Integrated Traffic Records System dataset to avoid lag in data availability.</p>	Public Works	
	<p><b>Complete a full update of the Vision Zero Action Plan every three years</b> to ensure continued relevancy of the Action Plan by integrating advancements in best practices and technologies. The first update will include an equity evaluation to identify gaps in safety and collision datasets and develop milestones to address inequities, as well as identify strategies to include hospital data provided by Alameda County Department of Public Health, linked to emergency medical services data and police reports, in Vision Zero analyses and maps.</p>	Public Works	
	<p><b>Maintain an understanding of the Berkeley community’s perception of safety and personal security.</b> Focus direct public engagement to residents of Berkeley’s historically underserved neighborhoods and other vulnerable users.</p>	Health, Housing, and Community Services	

## 2.1 SAFER STREETS FOR EVERYONE: PROJECT PLANNING AND DEVELOPMENT

Priority	Action	Lead Department	Timeline
☆	<b>Develop a publicly accessible matrix and map to prioritize and track projects.</b> Prioritize both new/existing requests/referrals and delivery of established infrastructure project lists (e.g., Five Year Repaving Program, BeST Plan, etc.) according to the Vision Zero High-Injury Streets map and equity-driven prioritization from City Council adopted plans such as the Bicycle Plan and forthcoming Pedestrian Plan.	City Manager's Office	
☆	<b>Establish a Complete Streets Repaving and Development Project Checklist</b> to ensure proactive and reactive Vision Zero safety infrastructure for people of all ages and abilities are included with each repaving project and in the conditions of approval for development projects. With the Vision Zero Coordinating Committee, consider establishing an equity-driven approach to prioritizing repaving projects.	Public Works	
	<b>Establish a Vision Zero Rapid Response Safety Project Protocol</b> that utilizes data from the renamed Fatal Accident Investigation Team (FAIT), to identify quick-build projects if engineering countermeasures may effectively improve safety. The protocol should outline a path forward for Public Works staff to be a part of the immediate on-the-ground response to an investigation of severe and fatal collisions.	Public Works; Police	
	<b>Conduct before and after studies</b> of a sample of Vision Zero quick-build projects to evaluate countermeasure effectiveness where existing understanding is insufficient.	Public Works	
	<b>Undertake a Standards of Coverage/Response Time Study</b> to provide a data-driven understanding of how safety improvements impact emergency response times.	Fire	
	<b>Establish a pre-approved toolbox of traffic safety infrastructure design treatment improvements</b> with the Vision Zero Coordinating Committee to streamline the implementation of projects.	Public Works	

## 2.2 SAFER STREETS FOR EVERYONE: PROJECT DESIGN

Priority	Action	Lead Department	Timeline
	<b>Establish Vision Zero Design Guidelines that consolidate policies and design guidelines from Council-adopted plans</b> such as the Pedestrian Plan, Bicycle Plan, and Complete Streets Policy to guide Berkeley's street design, traffic, and parking procedures in order to prioritize safety and reduce the incidence of severe and fatal collisions. Ensure revisions and updates are reviewed by the Vision Zero Coordinating Committee to maintain accessibility for people of all ages and abilities.	Public Works	
	<b>Develop Curbside Management Guidelines</b> and incorporate them into the Vision Zero Guidelines to ensure Berkeley addresses safety concerns at the curb due to existing and emerging mobility options.	Public Works	
	<b>Update the Berkeley Municipal Code</b> to be consistent with the Vision Zero Design Guidelines.	Public Works	
	<b>Refine the existing traffic calming toolbox</b> to include design guidelines for all street types, utilizing Council-adopted plans where applicable. Ensure the traffic calming toolbox is reviewed by the Vision Zero Coordinating Committee to streamline the implementation of projects.	Public Works	

## 2.3 SAFER STREETS FOR EVERYONE: PROJECT DELIVERY

Priority	Action	Lead Department	Timeline
☆	<b>Proactively build capital-intensive and quick-build safety projects</b> on all Vision Zero High-Injury Streets on a schedule to complete such projects by 2028.	Public Works	
	<b>Reactively build newly identified quick-build projects</b> at locations with recent severe and fatal collisions if engineering countermeasures may effectively improve safety, based on Rapid Response Safety Project Protocol.	Public Works	
	<b>Continue to deliver traffic calming projects.</b> Utilize the traffic calming toolbox and evaluate requests based on an equity- and data-driven approach to implementation for both residential and Vision Zero High-Injury Streets. Increase public awareness of the traffic calming program.	Public Works	

### 3.1 SAFER STREETS BY EVERYONE: PUBLIC AWARENESS

Priority	Action	Lead Department	Timeline
☆	<b>Develop and proactively deliver a Vision Zero branding, promotional, and educational campaign</b> to increase awareness about Vision Zero and the top traffic violations for severe and fatal injuries in Berkeley, elevating victims' stories. Regularly update the campaign to ensure it is context-specific, accessible, and culturally relevant. Collaborate with community-based organizations to distribute material and promote messages and public events that normalize active transportation and transit as healthy and responsible transportation choices.	Health, Housing, and Community Services	
☆	<b>Establish a Vision Zero Rapid Response Safety Communication Protocol.</b> Employ a communication strategy in response to recent severe and fatal collisions aimed at the human element of traffic safety, including health and prevention messaging to the Berkeley community.	Public Works	
	<b>Partner with UC Berkeley, Berkeley City College, and Berkeley Unified School District</b> to distribute targeted Vision Zero messaging for students.	Public Works	
	<b>Integrate Vision Zero traffic safety awareness and education into training for City employees</b> who drive City vehicles or drive while on City business, including Police, Fire, Public Works, and all City departments and divisions.	City Manager's Office	



### 3.2 SAFER STREETS BY EVERYONE: ENFORCEMENT

Priority	Action	Lead Department	Timeline
☆	<b>Focus traffic enforcement efforts proportionately on the most significant traffic violations for severe and fatal collisions by party at fault.</b> Focus enforcement efforts on areas of Berkeley where engineering and education efforts have already been implemented. Conduct traffic enforcement consistent with the City of Berkeley's Fair and Impartial Policing Policy.	Police	
☆	<b>Support state-wide traffic safety legislation</b> allowing automated speed enforcement by local agencies, designation of speed limits on local streets based on desired safety outcomes rather than the existing prevailing speed, and the reduction of local residential street speed limits to below 25 MPH, which would allow for 20 MPH speed limit on local residential streets, consistent with "20 Is Plenty" campaigns. Utilize existing legislated automated enforcement strategies, such as red light cameras.	City Manager's Office	
	<b>Rename the Fatal Accident Investigation Team</b> to replace the word "accident" with "collision" and include reference to near-fatal and major collisions, to acknowledge that most collisions are preventable, and to be in line with Vision Zero philosophies.	Police	
	<b>Continue and regularly update a collision data-driven enforcement strategy</b> focusing on collision reports from the renamed Fatal Accident Investigation Team (FAIT) to supplement collision data from SWITRS. Focus on areas of Berkeley where engineering and education efforts have already been implemented. Conduct traffic enforcement consistent with the City of Berkeley's Fair and Impartial Policing policy.	Police	
	<b>Seek opportunities to educate before issuing citations</b> during traffic enforcement.	Police	
	<b>Develop a traffic ticket diversion program</b> for bicycle and pedestrian traffic tickets to promote access to bicycle and pedestrian safety courses and programs.	Police	



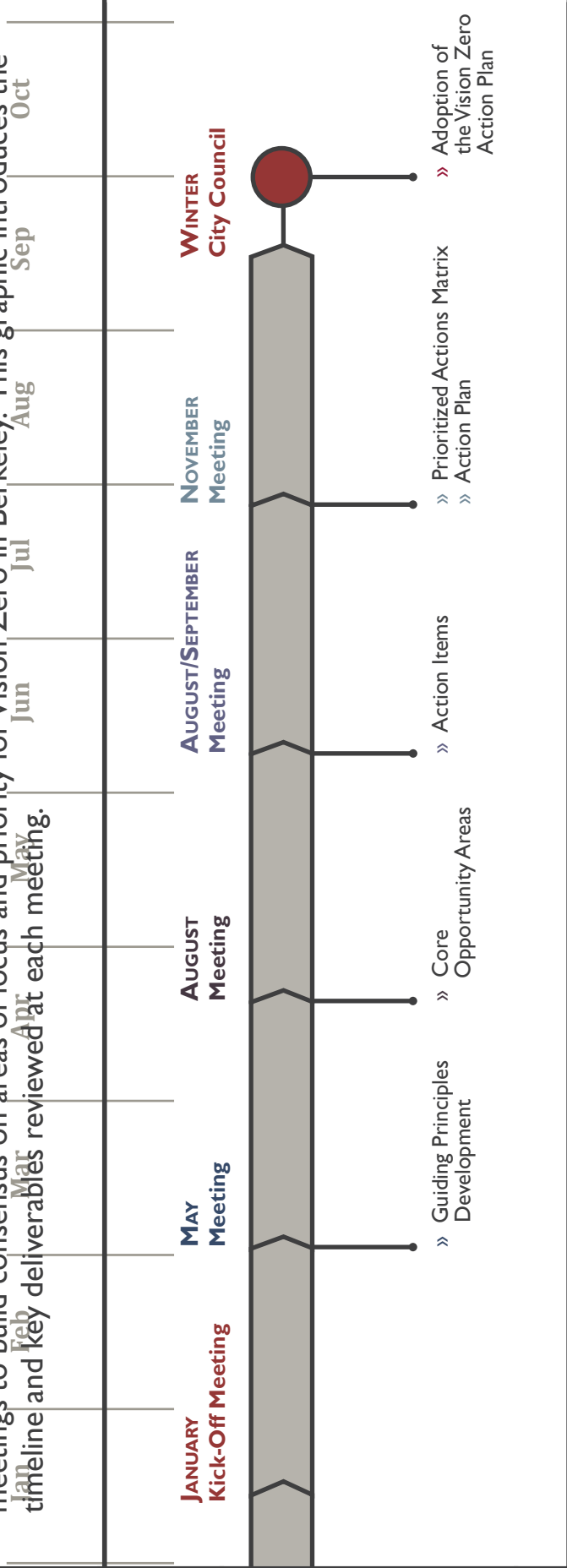


## APPENDICES



# APPENDIX A: VISION ZERO: ACTION PLAN TIMELINE & PROCESS DIAGRAM

The Vision Zero Action Plan development was facilitated by a series of five Task Force and Advisory Committee meetings to build consensus on areas of focus and priority for Vision Zero in Berkeley. This graphic introduces the timeline and key deliverables reviewed at each meeting.



MEETING SCHEDULE

DETAILS & DELIVERABLES

## GUIDING PRINCIPLES DEVELOPMENT

An introduction to key Vision Zero concepts that resonate in the City of Berkeley. Meetings included a group exercise to develop Guiding Principles for the Vision Zero Action Plan.

## CORE OPPORTUNITY AREAS

A best practices review and benchmarking assessment summarized as core opportunity areas for Berkeley Vision Zero. The best practices review focused on systemic safety strategies from other U.S. cities, while the benchmarking assessment provided an understanding of baseline safety conditions and practices in the City of Berkeley.

## ACTION ITEMS

A list of actions to address the identified safety needs, as documented in the Core Opportunity Areas memo.

## PRIORITIZED ACTIONS MATRIX

A matrix of prioritized Vision Zero actions for the City of Berkeley, based on input provided throughout the Task Force and Advisory Committee meeting series.

## ACTION PLAN

The final summarizing document, documenting the significance of Vision Zero in Berkeley and introducing the City's Vision Zero action items.



## APPENDIX B: PRIORITIZED VISION ZERO ACTIONS MATRIX

This matrix documents the action item prioritization for Berkeley's Vision Zero Action Plan. The intention of this prioritization is to help the City determine the list of near-term, immediate actions the City should embark on to achieve Vision Zero. The matrix is not intended to be static – it can be used for each Vision Zero Action Plan update to re-evaluate the near-term focus of Vision Zero for the City. The criteria the prioritization utilizes are:

- **Transformative/High Impact:** Actions are prioritized that would have major positive impacts on safety or City collaboration, based on the Institute of Transportation Engineer's Core Elements of Vision Zero and ongoing City efforts.
- **Existing Resources:** Actions are prioritized that likely already have the needed resources, both staff and funding, to deliver.
- **Staff Priority:** Actions are prioritized that are of interest and priority to the Task Force.
- **Community Priority:** Actions are prioritized that are of interest and priority to the Advisory Committee.

These criteria are based on the existing priorities of the City of Berkeley. The criteria are meant to be fluid and re-evaluated with each new Vision Zero Action Plan update. Each action item will receive a point for each criterion it fulfills. The top performing actions should be the near-term focus of Vision Zero efforts.



## PRIORITIZATION RUBRIC

All actions that have a score of 3.5 or greater are considered near-term priorities for the City of Berkeley.

Metric	1	0.5	0
<b>Transformative/ High Impact</b>	Action directly correlates to an ITE Vision Zero Core Element <i>and</i> is an item the City is not currently doing	A Core Element, but lesser transformative impact because the City is already undertaking this effort	Not a Core Element
<b>Existing Resources</b>	High existing staff availability (based on Task Force and Vision Zero Program staff feedback)	Medium existing staff availability	Low existing staff availability
<b>Staff Priority</b>	High priority item (based on Task Force and Vision Zero Program staff feedback)	Medium priority item	Low priority item
<b>Community Priority</b>	High priority item (based on Advisory Committee feedback)	Medium priority item	Low priority item

## Berkeley Vision Zero Action Plan

Pillar	Opportunity Area	Action	Transformative/ High Impact	Existing Resources	Staff Priority	Community Priority	Score
VZ Program	Collaboration	Establish a standing Vision Zero Coordinating Committee	1	1	1	1	4
VZ Program	Capacity	Conduct a citywide Vision Zero Action Plan assessment	1	1	1	1	4
Safe Streets for Everyone	Project Delivery	Proactively build capital-intensive and quick-build safety projects	1	0.5	1	1	3.5
VZ Program	Capacity	Request a Vision Zero Performance Audit	1	1	0.5	1	3.5
Safe Streets by Everyone	Public Awareness	Establish a Vision Zero Rapid Response Safety Communication Protocol	1	0.5	1	1	3.5
Safe Streets by Everyone	Enforcement	Support state-wide traffic safety legislation	1	0.5	1	1	3.5
Safe Streets for Everyone	Project Planning & Development	Establish a Complete Streets Repaving and Development Project Checklist	1	0.5	1	1	3.5
Safe Streets by Everyone	Public Awareness	Develop and proactively deliver a Vision Zero branding, promotional, and educational campaign	1	0.5	1	1	3.5
Safe Streets for Everyone	Project Planning & Development	Develop a publicly accessible matrix and map to prioritize and track projects	1	0.5	1	1	3.5
VZ Program	Transparency & Equity	Utilize the Berkeley Police Department's collision report data on parties involved	1	0.5	1	1	3.5
Safe Streets by Everyone	Enforcement	Focus traffic enforcement efforts proportionately on the most significant traffic violations for severe and fatal collisions by party at fault.	1	1	1	0.5	3.5
VZ Program	Collaboration	Incorporate Vision Zero goals and actions into near-term plan and policy updates	1	1	0	1	3
Safe Streets for Everyone	Project Delivery	Reactively build newly identified quick-build projects	1	0.5	0.5	1	3
Safe Streets for Everyone	Project Planning & Development	Establish a Vision Zero Rapid Response Safety Project Protocol	1	0.5	0.5	1	3
Safe Streets for Everyone	Project Design	Establish Vision Zero Design Guidelines that consolidate policies and design guidelines from Council-adopted plans	0.5	0.5	1	1	3
VZ Program	Transparency & Equity	Provide an annual Vision Zero Progress Report	0.5	1	0.5	1	3
VZ Program	Transparency & Equity	Complete a full update of the Vision Zero Action Plan every three years	0.5	1	0.5	1	3
VZ Program	Collaboration	Develop a focused, strategic Vision Zero staff training plan	0.5	0.5	1	1	3
Safe Streets by Everyone	Enforcement	Continue and regularly update a collision data-driven enforcement strategy	0.5	0.5	1	1	3
Safe Streets for Everyone	Project Planning & Development	Conduct before and after studies	1	0.5	1	0.5	3
Safe Streets by Everyone	Enforcement	Seek opportunities to educate before issuing citations	0.5	0.5	0.5	1	2.5

Pillar	Opportunity Area	Action	Transformative/ High Impact	Existing Resources	Staff Priority	Community Priority	Score
Safe Streets by Everyone	Enforcement	<i>Rename the Fatal Accident Investigation Team</i>	0.5	1	0.5	0.5	2.5
VZ Program	Transparency & Equity	<i>Maintain an understanding of the Berkeley community's perception of safety and personal security</i>	1	0	0.5	1	2.5
Safe Streets by Everyone	Public Awareness	<i>Partner with UC Berkeley, Berkeley City College, and Berkeley Unified School District</i>	0.5	0.5	0.5	1	2.5
Safe Streets for Everyone	Project Delivery	<i>Continue to deliver traffic calming projects</i>	1	0.5	0.5	0.5	2.5
Safe Streets by Everyone	Public Awareness	<i>Integrate Vision Zero traffic safety awareness and education into training for City employees</i>	0.5	0.5	0.5	1	2.5
Safe Streets for Everyone	Project Design	<i>Update the Berkeley Municipal Code</i>	0.5	0.5	0.5	0.5	2
Safe Streets for Everyone	Project Planning & Development	<i>Undertake a Standards of Coverage/Response Time Study</i>	0	0.5	0.5	0.5	1.5
Safe Streets by Everyone	Enforcement	<i>Develop a traffic ticket diversion program</i>	0	0	0.5	1	1.5
VZ Program	Collaboration	<i>With the Metropolitan Transportation Commission, Alameda County Transportation Commission, and Alameda County Department of Public Health, establish a peer-to-peer Bay Area Vision Zero Network</i>	0	1	0	0.5	1.5
Safe Streets for Everyone	Project Design	<i>Refine the existing traffic calming toolbox</i>	0.5	0	0.5	0.5	1.5
Safe Streets for Everyone	Project Planning & Development	<i>Establish a pre-approved toolbox of traffic safety infrastructure design treatments</i>	0	0.5	0	0.5	1
Safe Streets for Everyone	Project Design	<i>Develop Curbside Management Guidelines</i>	0	0	0.5	0.5	1

## Berkeley Vision Zero Action Plan

## APPENDIX C: SWITRS VIOLATION CODE DATA TABLES

Table I: Cited California Vehicle Code Violation by Party at Fault<sup>1</sup>

Cited California Vehicle Code Violation	Party Cited as at Fault						Total
	Driver	Ped	Parked Vehicle	Bicyclist	Other	None Cited	
Traveling at unsafe speeds	11			12			23
Failure to yield at crosswalk	20						20
Failure to yield to oncoming traffic when making a left turn or U-turn	7						7
Failure to stop at a red light	3			3			6
Failure to yield at a stop sign	5						5
Opening door in unsafe conditions	3		1			1	5
Failure to signal	2			2			4
Crossing outside crosswalk or legal crossing	1	3					4
Pedestrian suddenly leaving curb		4					4
Failure to yield to oncoming traffic when entering or crossing road from property or alley	2			1			3
Pedestrian had flashing DON'T WALK		3					3
Passing unsafely	2						2
Driving with 0.04% or more alcohol in blood with a passenger for hire in the vehicle	2						2
Failure to proceed straight or yield properly	1						1
Driving on the wrong side of the road	1						1
Driver passes bicyclist unsafely	1						1
Disobeying traffic control device	1						1
Reckless driving causing bodily injury	1						1
Driving under the influence	1						1
Driving under the influence and driving unlawfully, leading to bodily injury to any person other than the driver	1						1
Driving a vehicle in an unsafe condition or not safely loaded	1						1
Bicyclist has same rights and subject to same rules as motor vehicles				1			1
Driver not yielding to pedestrians during right turn on red		1					1
Pedestrian crossing between signalized intersections		1					1
Failure to stop at stop bar				1			1
No violation cited	1	1		4		6	12
<i>Total</i>	<i>67</i>	<i>13</i>	<i>1</i>	<i>24</i>	<i>1</i>	<i>6</i>	<i>112</i>

## Notes:

1. SWITRS five-year severe and fatal injury collision data, 2013-2017

**Table 2: Cited CA Vehicle Code Violations by Parties Involved in Severe and Fatal Collisions<sup>1</sup>**

Violation by Party at Fault for Severe or Fatal Collisions		# of Severe or Fatal Collisions <sup>3</sup>	Other Parties Involved <sup>2</sup>					Solo Collisions
Cited Party at Fault	California Vehicle Code Summary		Driver	Pedestrian	Parked Vehicle	Bicyclist	Other	
Driver	Failure to yield at crosswalk	20	1	21	0	0	0	0
Driver	Traveling at unsafe speeds	8	3	3	3	1	0	3
Driver	Failure to yield to oncoming traffic when making a left turn or U-turn	7	5	0	0	2	0	0
Bicyclist	Traveling at unsafe speeds	6	5	0	0	1	0	6
Driver	Failure to yield at a stop sign	5	3	0	0	2	0	0
Pedestrian	Pedestrian suddenly leaving curb	4	4	0	0	0	0	0
Driver	Opening door in unsafe conditions	3	0	0	0	3	0	0
Pedestrian	Crossing outside crosswalk or legal crossing	3	3	0	0	0	0	0
Pedestrian	Pedestrian had flashing DON'T WALK	3	3	0	0	0	0	0
Bicyclist	Failure to stop at a red light	3	2	0	0	0	1	0
Driver	Failure to stop at a red light	3	1	1	0	1	0	0
Driver	Driving with 0.04% or more alcohol in blood with a passenger for hire in the vehicle	2	0	1	0	1	0	0
Driver	Failure to signal	2	1	0	0	1	0	0
Driver	Failure to yield to oncoming traffic when entering or crossing road from property or alley	2	1	0	0	1	0	0
Bicyclist	Failure to signal	1	0	0	1	0	0	1
Driver	Passing unsafely	1	1	0	0	0	0	1
Driver	Driving under the influence and driving unlawfully, leading to bodily injury to any person other than the driver	1	0	1	0	0	0	0
Driver	Reckless driving causing bodily injury	1	1	1	0	0	0	0
Other	Opening door in unsafe conditions	1	0	0	0	1	0	0
Parked Vehicle	Opening door in unsafe conditions	1	0	0	0	1	0	0
Bicyclist	Failure to stop at stop bar	1	1	0	0	0	0	0
Driver	Disobeying traffic control device	1	1	0	0	0	0	0
Pedestrian	Pedestrian crossing between signalized intersections	1	1	0	0	0	0	0
Driver	Crossing outside crosswalk or legal crossing	1	0	1	0	0	0	0

## Berkeley Vision Zero Action Plan

Violation by Party at Fault for Severe or Fatal Collisions		# of Severe or Fatal Collisions <sup>3</sup>	Other Parties Involved <sup>2</sup>					Solo Collisions
Cited Party at Fault	California Vehicle Code Summary		Driver	Pedestrian	Parked Vehicle	Bicyclist	Other	
Bicyclist	Failure to yield to oncoming traffic when entering or crossing road from property or alley	1	1	0	0	0	0	0
Driver	Driver passes bicyclist unsafely	1	0	0	0	1	0	0
Pedestrian	Driver not yielding to pedestrians during right turn on red	1	0	0	0	1	0	0
Driver	Failure to proceed straight or yield properly	1	1	0	0	0	0	0
Bicyclist	Bicyclist has same rights and subject to same rules as motor vehicles	1	1	0	0	0	0	0
Driver	Driving a vehicle in an unsafe condition or not safely loaded	0	0	0	0	0	0	1
Driver	Driving under the influence	0	0	0	0	0	0	1
Driver	Driving on the wrong side of the road	0	0	0	0	0	0	1
	No Violation Cited	7	7	1	0	4	0	5
	<i>Total</i>	<i>93</i>	<i>47</i>	<i>30</i>	<i>4</i>	<i>21</i>	<i>1</i>	<i>19</i>

## Notes:

1. SWITRS five-year severe and fatal injury collision data, 2013-2017

2. Parties involved will not sum to total number of collisions

3. This number excludes solo collisions. To understand the total number of severe or fatal collisions, sum this column with the number of solo collisions.

## BERKELEY VISION ZERO ACTION PLAN

This matrix documents the response to comments received from the Task Force, Advisory Committee, and Transportation Commission on the Draft Berkeley Vision Zero Action Plan.

Received by	Comment	Response	
		Action Plan Revision Page #	Noted for Implementation
Task Force	Establish a standing Vision Zero Coordinating Committee: Change “implementing” to “advancing” to clarify this action is not limited to project delivery	4; 22	
Task Force	Apply for a Vision Zero Performance Audit: Change “Apply for” to “Request”	5; 23	
Task Force	Incorporate Vision Zero goals and actions into plan and policy updates: Add City of Berkeley General Plan update	22	
Task Force	Amend the Berkeley Police Department’s collision report: Change to acknowledge that BPD already collects information on housing and disability status of parties involved.	5; 24	
Task Force	Continue to deliver traffic calming projects: Update to maintain request-based program	27	
Task Force	Conduct before and after studies: Clarify by adding “...to evaluate countermeasure effectiveness.”	25	
Task Force	Establish a pre-approved list of safety infrastructure improvements: Update to a toolbox of traffic safety infrastructure design treatment improvements to clarify the intention of the action	25	
Task Force	Focus traffic enforcement efforts proportionately on the top violations as opposed to primary collision factors	5; 29	
Task Force	The messaging must be that all actions are important and that the prioritized actions simply represent the near-term focus	3	
Task Force	Conduct before and after studies: Increase existing resources and staff priority scores	Appendix B	
Task Force	Continue and regularly update a collision data-driven enforcement strategy: Increase staff priority score	Appendix B	
Task Force	Vision Zero branding, promotion, and education: Increase overall score	Appendix B	



**Berkeley Vision Zero Action Plan**  
**December 2019**

Received by	Comment	Response	
		Action Plan Revision Page #	Noted for Implementation
Advisory Committee	Establish a standing Vision Zero Coordinating Committee: Update language to clearly state that members of the community, advocacy groups, and community-based organizations will be compensated for their participation	4; 22	
Advisory Committee	Incorporate Vision Zero goals and actions into plan and policy updates: Include Berkeley Unified School District's Sustainability Plan	22	
Advisory Committee	Utilize Berkeley Police Department's collision report data on parties involved: Ensure that adequate training is provided and that adequate data is collected on emerging mobility options.	5; 24	
Advisory Committee	Proactively build already-identified capital projects and quick-build safety projects: Update language to clearly state the intention of this action item – build projects on every high-injury street by 2028.	3; 27	
Advisory Committee	Conduct before and after studies: Update language to ensure that quick-build projects are evaluated when existing understanding of effectiveness is insufficient	25	
Advisory Committee	Continue to deliver traffic calming projects: Add language to increase public awareness of the traffic calming program	27	
Advisory Committee	Make Vision Zero a household term: Consolidate this action with "Develop and proactively deliver a Vision Zero educational campaign"	5; 28	
Advisory Committee	Continue and regularly update a collision data-driven enforcement strategy: Add language to ensure traffic enforcement does not result in racial profiling.	29	
Advisory Committee	Incorporated Vision Zero goals and actions into plan and policy updates: Decrease community priority score	Appendix B	
Advisory Committee	Utilize the Berkeley Police Departments' collision report data on parties involved: Increase the transformative/high impact and staff priority score	Appendix B	
Advisory Committee	Develop a publicly accessible matrix and map to prioritize and track projects: Increase the existing resources score	Appendix B	
Advisory Committee	Focus traffic enforcement efforts proportionally on the top traffic violations for severe and fatal collisions: Decrease community priority score	Appendix B	

**Berkeley Vision Zero Action Plan**  
**December 2019**

Received by	Comment	Response	
		Action Plan Revision Page #	Noted for Implementation
Advisory Committee	Develop and proactively deliver a Vision Zero promotional and education campaign: Increase existing resources score	Appendix B	
Transportation Commission	Focus on engineering and education strategies above enforcement in implementing Vision Zero	3; 4; 18; 21	
Transportation Commission	Clearly state the desired transition from the existing request-based to an equity- and data-driven Vision Zero enforcement strategy	3; 21	
Transportation Commission	Ensure that any enforcement is conducted in line with the Fair & Impartial Policing Policy	3; 5; 18; 29	
Transportation Commission	Ensure that there are black voices in the Vision Zero Coordinating Committee		✓
Transportation Commission	Remove the High Injury Streets map as an input to the data-driven enforcement strategy. Vision Zero should not result in heightened policing in the equity priority area.	29	
Transportation Commission	Ensure the City Manager's office has a large role in implementing Vision Zero	<i>Lead department on several action items</i> 21-29	
Transportation Commission	Ensure communication and education are prioritized	5	
Transportation Commission	Incorporate language on red light cameras	5; 29	



Homeless Commission

## CONSENT CALENDAR

March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Homeless Commission  
 Submitted by: Carole Marasovic, Chairperson, Homeless Commission  
 Subject: Utilize Substantial Portion of Cannabis Tax Proceeds to Fund Subsidies under 1000 Person Plan

### RECOMMENDATION

That Council direct a substantial portion of the incoming cannabis tax proceeds to fund subsidies under the 1000 Person Plan.

### POLICY COMMITTEE RECOMMENDATION

On February 13, 2020, the Budget and Finance Committee adopted the following action: M/S/C (Arreguin/Droste) to move the item with a negative recommendation back to the City Council and request that Council consider allocating additional general fund funding for permanent housing subsidies. Vote: Ayes - Arreguin, Droste; Noes – None; Abstain – Davila; Absent – None.

### SUMMARY

In November, 2019, the City of Berkeley will begin receiving revenue from cannabis tax proceeds.

As the numbers of homeless persons continue to grow in Berkeley and Measure P monies may not be sufficient, Council should consider allocating a substantial amount of the cannabis tax proceeds towards funding subsidies under the 1000 Person Plan.

### FISCAL IMPACTS OF RECOMMENDATION

Cannabis tax monies would provide partial funding of the 1000 Person Plan subsidies.

### CURRENT SITUATION AND ITS EFFECTS

The numbers of homeless persons continue to grow in Berkeley with no end in sight.

On April 30, 2019, Council heard the City of Berkeley Homeless Services Coordinator present the 1000 Person Plan proposing that over 570 subsidies be funded by the City over 5 years to house the growing homeless population.

The numbers of homeless persons, based on the Homeless Count, has increased in Alameda County by 43% from 2017 to 2019. Berkeley is waiting for the Berkeley-

specific numbers to be released from the County. In the interim, it has been estimated that as many as 2,000 persons experience homelessness in Berkeley in a year.

In order to house people under the 1000 Person Plan, monies need to be allocated. The only perceived current source of possible revenue is Measure P monies which either may not be wholly granted for this purpose and/or may not be substantial enough for the 1000 Person Plan to begin fulfilling its purpose.

### BACKGROUND

The Homeless Commission voted at its July 10, 2019 meeting as follows:

**Action:** M/S/C Mulligan/ Hirpara that the Homeless Commission recommends that a substantial amount of the proceeds from the cannabis tax be allocated towards funding subsidies under the 1000 Person Plan.

**Vote:** Ayes: Hill, Mulligan, Marasovic, Hirpara, Kealoha-Blake.  
Noes: None. *Abstain:* None. *Absent:* Behm-Steinberg.

### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects.

### RATIONALE FOR RECOMMENDATION

Monies are needed to fund the over 570 subsidies recommended under the 1000 Person Plan. Measure P monies may not be sufficient and additional funding may be needed to fulfill the mission.

### ALTERNATIVE ACTIONS CONSIDERED

The only alternative is to rely only on Measure P monies.

### CITY MANAGER

The City Manager does not recommend that the City Council take action on this item at this point in time. This recommendation is based on the following:

- Measures O, U1, and P, which were passed in 2016 and 2018, provide significant resources to address homelessness. Measure O provides for the sale of bonds to increase the supply of affordable housing. City staff anticipates selling \$35 million in bonds towards the end of 2019 / early 2020 that will be used to fund the Berkeley Way Project and other affordable housing projects. Measures U1 and P are both general taxes that are deposited into the City's General Fund. As such, revenues from Measure U1 and P could be allocated to implement programs that address homelessness as discussed in the 1000 Person Plan. In addition to the new revenue streams that have been recently adopted by Berkeley voters, the State continues to allocate funding to address homelessness. For example, the \$4.0 million Homeless Emergency Aid Program (HEAP) allocation to Berkeley is being used to fund the STAIR Center, Dorothy Day House shelter, sanitation and trash

services to encampments, and other City priorities. City staff will continue to track the various programs created by the state and will pursue opportunities as they arise.

- There are a number of commissions (i.e. Community Health, Cannabis, and Civic Arts Commission) that are preparing recommendations for City Council as to how cannabis revenues could be deployed to support education, arts and equity programs. By not taking action at this time, City Council would be able to consider feedback from other commissions.
- The Health, Housing and Community Services Department and Planning and Development Department are working on a number of cannabis related initiatives that pertain to education and enforcement. As the programs take shape, it is likely that resources will be needed for implementation. Delaying action on this item will provide City Council with an opportunity to consider recommendations from city staff.

#### CONTACT PERSON

Kristen S. Lee, Housing & Community Services Manager, HHCS, (510) 981-5427.





Office of the Mayor

CONSENT CALENDAR  
March 10, 2020

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, and Councilmembers Ben Bartlett, Susan Wengraf, and Cheryl Davila

Subject: Oppose S.2059 - Justice for Victims of Sanctuary Cities Act of 2019

RECOMMENDATION

Adopt a Resolution opposing S.2059 – Justice for Victims of Sanctuary Cities Act of 2019. Send a copy of the Resolution to Congressmember Barbara Lee, Senators Diane Feinstein and Kamala Harris, and President Donald Trump.

BACKGROUND

Berkeley has been a Sanctuary City since 1971 when it passed a resolution to protect sailors resisting the Vietnam War. Over the decades, the Sanctuary City Resolution has been updated to protect immigrant communities. In 1986, it was revised in response to a growing refugee population from civil unrest in Central America. In 2007, the Council reaffirmed our status as a city of refuge after ICE raids took place in the region. After the 2016 election, the Resolution was updated after increasing rhetoric and federal actions against the immigrant community. More recently, Berkeley became the first city to adopt a New Border Vision Resolution, calling on Congress to implement a new framework that expands public safety and protects human rights in border communities.

In the 2020 State of the Union Address, President Donald Trump spent nearly 8 minutes spreading lies and misinformation about immigration, safety, and sanctuary cities. Below are some of the claims made in the speech, accompanied with fact checks.

**Claim:** “Tragically, there are many cities in America where radical politicians have chosen to provide sanctuary for these criminal illegal aliens”.

**Fact:** Sanctuary cities help protect people from criminal elements. Many crimes against people will go unreported if they fear that their immigration status will lead to deportation. If local law enforcement ends up doing the work of federal immigration enforcement, the immigrant community is less likely to trust and interact with local law officials, undermining public safety. Public safety is not a radical idea, and it is the responsibility of a city to ensure the protection and safety of all its residents.

**Claim:** “In Sanctuary Cities, local officials order police to release dangerous criminal aliens to prey upon the public, instead of handing them over to ICE to be safely removed”.



**Fact:** No such order to release dangerous criminals exist, and is merely sharp rhetoric designed to ignite the President's base. Berkeley, along with other sanctuary cities, do not interfere with the criminal justice process. The reality is Berkeley's sanctuary city policy is as follows in relation to cooperation with ICE:

*Except in limited circumstances where ICE agents have a valid judicial warrant, after review and consultation with the Department Director and City Attorney, city departments, agencies, commissions, officers or employees are **not required to:***

- *Cooperate with ICE agents*
- *Answer ICE agents' questions*
- *Comply with an ICE Administrative Warrant*
- *Immediately comply with a subpoena served by ICE agents*
- *Speak with ICE agents at all*

*City officers or employees shall not consent to a warrantless search by ICE agents of a non-public area or non-public city records.*

**Claim:** "The State of California passed an outrageous law declaring their whole state to be a stankuary [sic] for criminal illegal immigrants – a very terrible sanctuary with catastrophic results".

**Fact:** There are less crimes in jurisdictions that provide sanctuary compared to other jurisdictions. A 2017 report by the Center for American Progress states that "crime is statistically significantly lower in sanctuary counties compared to non-sanctuary counties. Moreover, economies are stronger in sanctuary counties—from higher median household income, less poverty, and less reliance on public assistance to higher labor force participation, higher employment-to-population ratios, and lower unemployment." Specifically, on average there are 35.5 fewer crimes committed per 10,000 people in sanctuary jurisdictions, the average annual income is \$4,353 higher, the poverty rate is 2.3% lower, and unemployment is 1.1% lower. Multiple studies have found similar results, using government data.

One of the major takeaways from this segment of the State of the Union Address was his call for the immediate passage of S.2059, the Justice for Victims of Sanctuary Cities Act of 2019. Introduced by Senator Thom Tillis (R-NC), the bill would allow people to sue sanctuary city jurisdictions if they or a family member become the victim of a crime committed by someone who is undocumented. This bill does not give someone the right to sue a jurisdiction that is not a sanctuary city, even though someone is more likely to be a victim of a crime in a place that is not a sanctuary city.

In 2015, the City Council expressed opposition to H.R. 3009, which would have blocked certain federal funds to jurisdictions that are sanctuary cities. While it was approved by the House, it was not brought up in the Senate. Similarly, S.2059 aims to financially target sanctuary cities by greenlighting the ability to commence frivolous lawsuits against such jurisdictions. Bills such as these, which are designed to discredit and delegitimize sanctuary cities, along with justifications through anecdotal or cherry picked

examples, inversely end up having the opposite effect of its advertised intention. Ultimately, S.2059 is a false solution to a problem that does not exist.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

Not applicable

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

- 1: Resolution
- 2: Text of S.2059

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

OPPOSING S.2059 – JUSTICE FOR VICTIMS OF SANCTUARY CITIES ACT OF 2019

WHEREAS, the City of Berkeley has long espoused our commitment to welcoming immigrants, refugees, and those in exile; and

WHEREAS, the City of Berkeley declared itself to be a City of Refuge in 1971 to protect sailors that were resisting the Vietnam War (Resolution 44,784-N.S.), reaffirmed that decision in 1986 relating to Central American refugees (Resolution 52,526-N.S.), in 2007 after ICE raids took place in Bay Area communities (Resolution 63,711-N.S.), and again in 2016 due to increased hate crimes after the election of Donald Trump, and xenophobic rhetoric used during the campaign (Resolution 67,763-N.S.); and

WHEREAS, in January 2020, the City Council adopted a resolution in support of a New Border Vision Resolution, calling on Congress to implement a new framework that expands public safety and protects human rights in border communities (Resolution 69,280-N.S.); and

WHEREAS, multiple studies have proven that jurisdictions that provide sanctuaries are safer and economically more prosperous compared to other jurisdictions. Specifically, a 2017 report by the Center for American Progress shows that on average there are 35.5 fewer crimes committed per 10,000 people in sanctuary jurisdictions, the average annual income is \$4,353 higher, the poverty rate is 2.3% lower, and unemployment is 1.1% lower; and

WHEREAS, in the interest of promoting public safety, it is important to create an environment in which people feel comfortable interacting with local law enforcement. If local law enforcement ends up doing the work of federal immigration enforcement, the immigrant community is less likely to trust and interact with local law officials, undermining public safety; and

WHEREAS, Berkeley's sanctuary city policy aims to provide that trust, by not interacting with ICE officials without interfering with the criminal justice process; and

WHEREAS, on February 4, 2020, President Donald Trump announced in his State of the Union Address his support and request for the immediate approval of S.2059 – the Justice for Victims of Sanctuary Cities At of 2019; and

WHEREAS, introduced by Senator Thom Tillis (R-NC), this bill would allow people to sue sanctuary city jurisdictions if they or a family member become the victim of a crime committed by someone who is undocumented; and

WHEREAS, S.2059 fails to acknowledge the facts and statistics around Sanctuary Cities, and if implemented could result in increased crimes and reduce the likelihood of such crimes being reported.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby opposes S.2059 – the Justice for Victims of Sanctuary Cities Act of 2019.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Congressmember Barbara Lee, Senators Diane Feinstein and Kamala Harris, and President Donald Trump.

116TH CONGRESS  
1ST SESSION

# S. 2059

To provide a civil remedy for individuals harmed by sanctuary jurisdiction policies, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

JULY 9, 2019

Mr. TILLIS (for himself, Mr. GRAHAM, Mr. GRASSLEY, Mrs. BLACKBURN, Ms. ERNST, and Mr. CRUZ) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To provide a civil remedy for individuals harmed by sanctuary jurisdiction policies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice for Victims  
5 of Sanctuary Cities Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) SANCTUARY JURISDICTION.—

9 (A) IN GENERAL.—Except as provided in  
10 subparagraph (B), the term “sanctuary juris-

1           diction” means any State or political subdivi-  
2           sion of a State that has in effect a statute, ordi-  
3           nance, policy, or practice that prohibits or re-  
4           stricts any government entity or official from—

5                   (i) sending, receiving, maintaining, or  
6                   exchanging with any Federal, State, or  
7                   local government entity information re-  
8                   garding the citizenship or immigration sta-  
9                   tus of any alien; or

10                   (ii) complying with a request lawfully  
11                   made by the Department of Homeland Se-  
12                   curity under section 236 or 287 of the Im-  
13                   migration and Nationality Act (8 U.S.C.  
14                   1226 and 1357) to comply with a detainer  
15                   for, or notify about the release of, an alien.

16           (B) EXCEPTION.—A State or political sub-  
17           division of a State shall not be deemed a sanc-  
18           tuary jurisdiction based solely on having a pol-  
19           icy whereby its officials will not share informa-  
20           tion regarding, or comply with a request made  
21           by the Department of Homeland Security under  
22           section 236 or 287 of the Immigration and Na-  
23           tionality Act (8 U.S.C. 1226 and 1357) to com-  
24           ply with a detainer regarding, an alien who

1 comes forward as a victim or a witness to a  
2 criminal offense.

3 (2) SANCTUARY POLICY.—The term “sanctuary  
4 policy” means a statute, ordinance, policy, or prac-  
5 tice referred to in paragraph (1)(A).

6 (3) SANCTUARY-RELATED CIVIL ACTION.—The  
7 term “sanctuary-related civil action” means a civil  
8 action brought against a sanctuary jurisdiction by  
9 an individual (or the estate, survivors, or heirs of an  
10 individual) who—

11 (A) is injured or harmed by an alien who  
12 benefitted from a sanctuary policy of the sanc-  
13 tuary jurisdiction; and

14 (B) would not have been so injured or  
15 harmed but for the alien receiving the benefit of  
16 such sanctuary policy.

17 **SEC. 3. CIVIL ACTION FOR HARM BY AN ALIEN THAT BENE-**  
18 **FITTED FROM A SANCTUARY POLICY.**

19 (a) PRIVATE RIGHT OF ACTION.—

20 (1) CAUSE OF ACTION.—Any individual, or a  
21 spouse, parent, or child of such individual (if the in-  
22 dividual is deceased or permanently incapacitated),  
23 who is the victim of a murder, rape, or any felony  
24 (as defined by the State) for which an alien (as de-  
25 fined in section 101(a)(3) of the Immigration and

1 Nationality Act (8 U.S.C. 1101(a)(3))) has been ar-  
2 rested, convicted, or sentenced to a term of impris-  
3 onment of at least 1 year, may bring an action for  
4 compensatory damages against a State or a political  
5 subdivision of a State in the appropriate Federal or  
6 State court if the State or political subdivision failed  
7 to comply with—

8 (A) a request with respect to an alien that  
9 was lawfully made by the Department of Home-  
10 land Security under section 236 or 287 of the  
11 Immigration and Nationality Act (8 U.S.C.  
12 1226 and 1357); and

13 (B) a detainer for, or notify about the re-  
14 lease of, the alien.

15 (2) STATUTE OF LIMITATIONS.—An action  
16 brought under this subsection may not be brought  
17 later than 10 years after the occurrence of the  
18 crime, or death of a person as a result of such  
19 crime, whichever occurs later.

20 (3) ATTORNEY'S FEE AND OTHER COSTS.—In  
21 any action or proceeding under this subsection the  
22 court shall allow a prevailing plaintiff a reasonable  
23 attorney's fee as part of the costs, and include ex-  
24 pert fees as part of the attorney's fee.

25 (b) WAIVER OF IMMUNITY.—



1           (1) IN GENERAL.—Any State or political sub-  
2           division of a State that accepts a grant described in  
3           paragraph (2) from the Federal Government shall  
4           agree, as a condition of receiving such grant, to  
5           waive any immunity of such State or political sub-  
6           division relating to a sanctuary-related civil action.

7           (2) GRANTS DESCRIBED.—The grants described  
8           in this paragraph are—

9                   (A) a grant for public works and economic  
10                  development under section 201(a) of the Public  
11                  Works and Economic Development Act of 1965  
12                  (42 U.S.C. 3141(a));

13                  (B) a grant for planning and administra-  
14                  tive expenses under section 203(a) of such Act  
15                  (42 U.S.C. 3143(a));

16                  (C) a supplemental grant under section  
17                  205(b) of such Act (42 U.S.C. 3145(b));

18                  (D) a grant for training, research, and  
19                  technical assistance under section 207(a) of  
20                  such Act (42 U.S.C. 3147(a)); and

21                  (E) except as provided in paragraph (3), a  
22                  community development block grant made pur-  
23                  suant to title I of the Housing and Community  
24                  Development Act of 1974 (42 U.S.C. 5301 et  
25                  seq.).

1           (3) EXCEPTION.—Grants described in para-  
 2           graph (2)(E) shall not include any disaster relief  
 3           grants to address the damage in an area for which  
 4           the President has declared a disaster under title IV  
 5           of the Robert T. Stafford Disaster Relief and Emer-  
 6           gency Assistance Act (42 U.S.C. 5170 et seq.).

7 **SEC. 4. ENSURING COOPERATION BETWEEN FEDERAL AND**  
 8                           **LOCAL LAW ENFORCEMENT OFFICERS TO**  
 9                           **SAFEGUARD OUR COMMUNITIES.**

10           (a) AUTHORITY TO COOPERATE WITH FEDERAL OF-  
 11           FICIALS.—A State, a political subdivision of a State, or  
 12           an officer, employee, or agent of such State or political  
 13           subdivision that complies with a detainer issued by the De-  
 14           partment of Homeland Security under section 236 or 287  
 15           of the Immigration and Nationality Act (8 U.S.C. 1226  
 16           and 1357)—

17                   (1) shall be deemed to be acting as an agent of  
 18                   the Department of Homeland Security; and

19                   (2) shall comply with section 287(d) of the Im-  
 20                   migration and Nationality Act (8 U.S.C. 1357(d))  
 21                   and section 287.5(d) of title 8, Code of Federal Reg-  
 22                   ulations.

23           (b) LEGAL PROCEEDINGS.—In any legal proceeding  
 24           brought against a State, a political subdivision of State,  
 25           or an officer, employee, or agent of such State or political

1 subdivision challenging the legality of the seizure or deten-  
2 tion of an individual pursuant to a detainer issued by the  
3 Department of Homeland Security under section 236 or  
4 287 of the Immigration and Nationality Act (8 U.S.C.  
5 1226 and 1357)—

6 (1) the State or political subdivision of a State  
7 shall not be liable for any action taken in accordance  
8 with the detainer; and

9 (2) if the actions of the officer, employee, or  
10 agent of the State or political subdivision were taken  
11 in accordance with the detainer—

12 (A) the officer, employee, or agent shall be  
13 deemed—

14 (i) to be an employee of the Federal  
15 Government and an investigative or law  
16 enforcement officer; and

17 (ii) to have been acting within the  
18 scope of his or her employment under sec-  
19 tion 1346(b) of title 28, United States  
20 Code, and chapter 171 of such title;

21 (B) section 1346(b) of title 28, United  
22 States Code, shall provide the exclusive remedy  
23 for the plaintiff; and

24 (C) the United States shall be substituted  
25 as defendant in the proceeding.

8

1       (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
2 tion may be construed to provide immunity to any person  
3 who knowingly violates the civil or constitutional rights of  
4 an individual.

○





Office of the Mayor

CONSENT CALENDAR  
March 10, 2020

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, and Councilmembers Ben Bartlett, Kate Harrison, and Susan Wengraf

Subject: Support of AB 1839 – California Green New Deal

RECOMMENDATION

Adopt a Resolution in support of Assembly Bill (AB) 1839, which would create the California Green New Deal Council with specified membership appointed by the Governor. The bill would require the California Green New Deal Council to submit a report to the Legislature no later than Jan 1, 2022.

Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Rob Bonta.

BACKGROUND

A report published in October from the UN Intergovernmental Panel on Climate Change warns that there is a twelve-year window for global warming to be kept to a maximum threshold of 1.5C increase above pre-industrial levels. This report emphasizes the scale and speed of transformation required at all levels of the economy and society to prevent cataclysmic climate change. “The report finds that limiting global warming to 1.5°C would require “rapid and far-reaching” transitions in land, energy, industry, buildings, transport, and cities. Global net human-caused emissions of carbon dioxide (CO2) would need to fall by about 45 percent from 2010 levels by 2030, reaching ‘net zero’ around 2050. This means that any remaining emissions would need to be balanced by removing CO2 from the air.”<sup>1</sup>

AB 1839, Introduced by Assembly Members Bonta, Chiu, Reyes and Weber, would create the California Green New Deal Council with a specified membership appointed by the governor. The Council membership will include the Secretaries of the Natural Resources Agency, Environmental Protection, Transportation, Health and Human Services, Business, Consumer Services and Housing, and Labor and Workforce Development, as well as the Director of the Office of Planning and Research.

---

<sup>1</sup><https://www.ipcc.ch/2018/10/08/summary-for-policymakers-of-ipcc-special-report-on-global-warming-of-1-5c-approved-by-governments/>

AB 1839 directs this body of state leaders to submit a report by January 1, 2022 that makes recommendations on appropriate policies to achieve the following goals:

- a) Enacting measures to ensure a just transition in California for workers impacted by the phasing out of fossil fuels.
- b) Ensuring that the jobs created or maintained by climate policy are good, family-supporting jobs with career ladders, benefits and protections for workers' rights to organize, and that pipelines into these jobs are created for workers from historically disadvantaged communities, in accord with the recommendations of the climate labor report mandated in Chapter 135 of the Statutes of 2017 (Assembly Bill 398).
- c) Significantly increasing measures to assist those impacted by the effects of climate change, including, but not limited to, floods, fires, heatwaves, sea level rise, droughts, and disease.
- d) Significantly reducing disparate standard of living indices for historically impacted communities of color, including income inequality, educational achievement gaps, health care access gaps, and environmental burdens by 2030.
- e) Increasing affordable housing and public transportation by double their current availability by 2030, maximizing safe, complete streets for walking and biking, and replacing remaining gas vehicles with electric vehicles.
- f) Accelerating reductions of air pollution to avoid the most catastrophic impacts of climate change.

AB 1839 also makes important findings and declarations on the rights of all residents in the state in line with human rights, principles of environmental justice, and a just transition.

Berkeley has a strong history of leadership on climate change. Voters overwhelmingly approved Measure G in 2006, and the Berkeley Climate Action Plan was adopted in 2009 - setting the goal of reducing greenhouse gas emissions by 33% of 2000 levels by 2020, and 80% by 2050. Building on this plan, the award-winning Resiliency Strategy was developed in 2016, in part to ensure that Berkeley is "resilient and prepared for the impacts of global warming." In June 2018, the Berkeley City Council unanimously declared a climate emergency.

#### FINANCIAL IMPLICATIONS

None.

#### ENVIRONMENTAL SUSTAINABILITY

Supporting a plan for a Green New Deal will further the goals set forward in the Climate Action Plan and Resiliency Strategy by developing state policies and funding opportunities to support our city, region, state and nation's efforts responding to climate change impacts and actualizing a more resilient city.

#### CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

#### Attachments:

- 1: Resolution
- 2: Text of AB 1839

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

## IN SUPPORT OF AB 1839 CALIFORNIA GREEN NEW DEAL

WHEREAS, human activities have warmed the Earth enough to end the 12,000-year period of climate stability that allowed agriculture and human civilization to develop; and

WHEREAS, the world came together in December 2015 to address the end to this period of climate stability due to global warming, agreeing to keep warming to "well below 2°C above pre-industrial levels" and to "pursue efforts to limit the temperature increase to 1.5°C";and

WHEREAS, in 2017 the global surface temperature was over 1°C warmer than the pre-industrial base period<sup>2</sup>;and

WHEREAS, global warming has already set in motion catastrophic changes to the Earth system, including accelerating ice mass loss from the Greenland and West Antarctic Ice Sheets and the thawing of the borders of the vast Arctic permafrost, which holds twice as much stored carbon as the entire atmosphere; and

WHEREAS, according to the latest climate projections, humanity is on track to warm the Earth a sustained average of 1.5°C above pre-industrial levels as soon as 2026<sup>3</sup>;and

WHEREAS, the Greenland Ice Sheet, which is likely to completely collapse at 1.6°C warming, which NASA scientists have concluded would lead to 23 feet of sea-level rise, billions of climate refugees, and a "global-scale catastrophe"; and

WHEREAS, it is estimated that sustained 1.5°C warming could cause a long-term, "continuous thaw" of the Arctic permafrost, which could turn the tundra from a carbon sink into source in the 2020s;and

WHEREAS, such tipping points must be avoided at all costs, as they will have positive feedback effects on the climate system, causing further and increasingly uncontrollable global warming;and

WHEREAS, failure to uphold the Paris goal of keeping warming "well below 2°C" would lead to the disappearance of island nations and "certain death" for Africa, Chief Negotiator for the G77 Lumumba Stanislaus Di-Aping warned in 2009;and

---

<sup>2</sup> Hansen, James, et al., Global Temperature in 2017 (18 January 2018).

<sup>3</sup> See, inter alia, Henley, B. J., and A. D. King (2017), Trajectories toward the 1.5°C Paris target: Modulation by the Interdecadal Pacific Oscillation, *Geophysical Research Letters*, 44, 4256--4262, doi: 10.1002/2017GL073480; Jacob, D., Kotova, L., Teichmann, C., Sobolowski, S. P., Vautard, R., Donnelly, C., Koutroulis, A. G., Grillakis, M. G., Tsanis, I. K., Damm, A., Saka Evi, A. and van Vliet, M. T. (2018), Climate Impacts in Europe Under +1.5°C Global Warming. *Earth's Future*, 6: 264-285. doi:10.1002/2017EF000710



WHEREAS, over 19,000 scientists have signed a Second Warning to Humanity proclaiming that "a great change in our stewardship of the Earth and the life on it is required, if vast human misery is to be avoided"; and

WHEREAS, climate-fueled droughts, famines, and diseases have already killed millions of people in the Global South, and displaced millions more; and

WHEREAS, indigenous and low-income communities and communities of color in the United States and abroad have suffered the gravest consequences of the extractive economy since its inception; and

WHEREAS, according to the National Centers for Environmental Information (NCEI), in 2017, "the U.S. was impacted by 16 separate billion-dollar disaster events tying 2011 for the record number of billion-dollar disasters for an entire calendar year," with a cumulative cost of \$309.5 billion, shattering the previous U.S. annual record cost of \$219.2 billion in 2005 due to Hurricanes Dennis, Katrina, Rita and Wilma;<sup>4</sup>and

WHEREAS, the UN Intergovernmental Panel on Climate Change warns that there is a twelve-year window for global warming to be kept to a maximum threshold of 1.5C increase above pre-industrial levels; and

WHEREAS, we cannot wait for more devastating floods, heatwaves, fires, droughts, rising sea levels, and public health and humanitarian crises that threaten local residents, ecologies, businesses, and the broader Bay Area population to begin the necessary emergency response; and

WHEREAS, the City of Berkeley is deeply committed to sustainability and addressing climate change; and

WHEREAS, voters overwhelmingly approved Measure G in 2006, and the Berkeley Climate Action Plan was adopted in 2009 - setting the goal of reducing greenhouse gas emissions by 33% of 2000 levels by 2020, and 80% by 2050; and

WHEREAS, the award-winning Resilience Strategy was developed in 2016, building upon one of the Climate Action Plan goals to ensure Berkeley is "resilient and prepared for the impacts of global warming"; and

WHEREAS, in declaring a Climate Emergency the City of Berkeley resolved to call on the United States of America to initiate a just national emergency mobilization effort to reverse global warming, which ends national greenhouse gas emissions as quickly as possible and immediately initiates an effort to safely draw down carbon from the atmosphere; and

---

<sup>4</sup> In fact, NCEI notes, "2017 arguably has more events than 2011 given that [its] analysis traditionally counts all U.S. billion-dollar wildfires, as regional-scale, seasonal events, not as multiple isolated events." NOAA NCEI U.S. Billion-Dollar Weather and Climate Disasters (2018).

WHEREAS, Assembly Bill 1839 introduced by Assembly Members Bonta, Chiu, Reyes and Weber would create the California Green New Deal Council with specified membership appointed by the Governor; and

WHEREAS, The bill would require the California Green New Deal Council to submit a specified report to the Legislature no later than Jan 1. 2022

WHEREAS, Assembly Bill 1839 reflects Berkeley's climate and environmental commitments, as well as efforts to address affordable housing and homelessness; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports Assembly Bill 1839.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Rob Bonta;

**ASSEMBLY BILL**

**No. 1839**

---

---

**Introduced by Assembly Members Bonta, Chiu, Kalra, Reyes, and  
Weber**

**(Coauthors: Assembly Members Berman, Bloom, Chu, Gloria,  
McCarty, Robert Rivas, Mark Stone, and Wicks)**

January 6, 2020

---

---

An act to add Part 8 (commencing with Section 71440) to Division 34 of the Public Resources Code, relating to climate change.

LEGISLATIVE COUNSEL'S DIGEST

AB 1839, as introduced, Bonta. Climate change: California Green New Deal.

Existing law establishes various environmental and economic policies.

This bill would create the California Green New Deal Council with a specified membership appointed by the Governor. The bill would require the California Green New Deal Council to submit a specified report to the Legislature no later than January 1, 2022. The bill also would make various findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Part 8 (commencing with Section 71440) is added
- 2 to Division 34 of the Public Resources Code, to read:

## 1 PART 8. CALIFORNIA GREEN NEW DEAL

2

3 71440. (a) This part shall be known, and may be cited, as the  
4 California Green New Deal.5 (b) It is the intent of the Legislature that the state adopt a policy  
6 framework to implement, through principles and goals, a  
7 commitment to reduce severe climate change impacts while  
8 protecting the public health and the environment, to overcome  
9 systemic racial injustice, and to ensure all California residents  
10 enjoy a 21st century standard of living without regard to their  
11 wealth or income.12 (c) The Legislature finds and declares that all residents of the  
13 state have the right to do all of the following:14 (1) Contribute to, and be sustainably compensated for, services  
15 or other meaningful work in advancement of the public good.16 (2) Contribute to a sufficiently funded public sector, to which  
17 those who accumulate extraordinary wealth will provide a  
18 significantly greater contribution.19 (3) Have access to clean, affordable, carbon-free, and reliable  
20 utilities, including energy and communications.21 (4) Have access to justice and reconciliation for the communities  
22 most severely impacted by institutional racism, including  
23 environmental racism, from the birth of this nation to the present.24 (5) Be able to have equality and the full inclusion of immigrant  
25 and refugee communities in a just society.26 (6) Have access to affordable housing in a healthy and  
27 sustainable community.28 (7) Have access and mobility within and between communities,  
29 including safe, affordable, reliable, healthy, and carbon-free  
30 transportation choices, including public transportation.31 (8) Have clean air, clean drinking water, healthy food, access  
32 to nature and natural outdoor spaces, and live in a stable climate.33 (9) Obtain protection from current and increasing climate change  
34 impacts.35 (10) Have equal opportunity to influence the decisions that  
36 affect our communities and workplaces, regardless of wealth or  
37 status.38 (11) Have access to debt-free and quality public education from  
39 preschool through college, including job training for those seeking  
40 to transition to new clean-economy jobs.

1 (12) Have comprehensive, affordable health care.  
2 71441. The Legislature further finds and declares all of the  
3 following:

4 (a) The state will continue to experience significant climate  
5 change impacts by 2050 that include human mortality, coastal  
6 degradation, extreme droughts, wildfires, flooding, and increased  
7 air pollution. By 2100, if emissions of greenhouse gases continue  
8 to rise at current rates, the increasing frequency of extreme weather  
9 will have a dramatic impact on all facets of living in the state.  
10 Wildfires will increase significantly, up 77 percent by the end of  
11 the century based on recent moderate averages. Sea-level rise will  
12 affect not only coastlines and beaches but also public and private  
13 property, including airports and freeways. Drought periods will  
14 be longer and more frequent than the state has experienced before,  
15 which will impact the amount of water that the state will need to  
16 supply resident needs, from showers to food crops. Diseases and  
17 other public health risks will lead to an increased mortality rate,  
18 particularly for the most vulnerable populations in the state.

19 (b) The state has committed to reducing emissions of greenhouse  
20 gases to 40 percent below 1990 levels by 2030 (Chapter 249 of  
21 the Statutes of 2016 (Senate Bill 32)) with the goal of reaching  
22 carbon neutrality by 2045. Furthermore, a majority of Californians  
23 have said it is important for the state to be a leader on climate  
24 change. The international body of scientists tracking climate change  
25 has determined that temperatures are rising faster than anticipated  
26 and climate impacts are accelerating sooner than expected. The  
27 international community, including California, must reduce  
28 emissions of greenhouse gases faster and more dramatically than  
29 previously believed to avoid a climate catastrophe.

30 (c) The anticipated costs associated with the impacts of climate  
31 change by 2050 in the state, from human health impacts to  
32 infrastructure damage, are on the order of hundreds of billions of  
33 dollars. Adaptation efforts and resources to prepare communities  
34 and minimize climate impacts, particularly to disadvantaged  
35 communities, are needed to ensure the resiliency of vulnerable  
36 populations in the state.

37 (d) California was one of the first states in the nation to put  
38 environmental justice considerations into law and defines  
39 environmental justice as the fair treatment of people of all races,  
40 cultures, and incomes with respect to the development, adoption,

1 implementation, and enforcement of environmental laws,  
2 regulations, and policies.

3 (e) The state has among the highest costs of living, one of the  
4 highest rates of homelessness, and the highest level of childhood  
5 poverty of any state in the nation. Income inequality is widening  
6 throughout the state, and wage stagnation has continued for many  
7 workers. Low-income populations are the most likely to suffer  
8 from extreme weather, fires, and other impacts of climate change.

9 (f) The state's social compact of the 1950s and 1960s promised  
10 that every child who studied hard would have access to an  
11 affordable college education. It promised that no state resident  
12 would be without shelter. It promised that all state residents would  
13 share in bearing the costs of this compact in an equitable way  
14 because all state residents and state business enterprises would  
15 benefit. That compact was weakened in the 1970s, 1980s, and  
16 1990s. In the 2000s, the Legislature has slowly begun to restore  
17 the compact. Those efforts must accelerate to reduce the state's  
18 poverty rate, increase equity, restore educational and job  
19 opportunities, and protect public health and the environment.

20 71442. It is the intent of the Legislature that the Legislature  
21 and state agencies consider all of the following goals:

22 (a) Enacting measures to ensure a just transition in California  
23 for workers impacted by the phasing out of fossil fuels.

24 (b) Ensuring that the jobs created or maintained by climate  
25 policy are good, family-supporting jobs with career ladders,  
26 benefits and protections for workers' rights to organize, and that  
27 pipelines into these jobs are created for workers from historically  
28 disadvantaged communities, in accord with the recommendations  
29 of the climate labor report mandated in Chapter 135 of the Statutes  
30 of 2017 (Assembly Bill 398).

31 (c) Significantly increasing measures to assist those impacted  
32 by the effects of climate change, including, but not limited to,  
33 floods, fires, heatwaves, sea level rise, droughts, and disease.

34 (d) Significantly reducing disparate standard of living indices  
35 for historically impacted communities of color, including income  
36 inequality, educational achievement gaps, health care access gaps,  
37 and environmental burdens by 2030.

38 (e) Increasing affordable housing and public transportation by  
39 double their current availability by 2030, maximizing safe,

1 complete streets for walking and biking, and replacing remaining  
2 gas vehicles with electric vehicles.

3 (f) Accelerating reductions of air pollution to avoid the most  
4 catastrophic impacts of climate change.

5 71443. (a) The California Green New Deal Council is hereby  
6 created in state government. The governor shall appoint to the  
7 California Green New Deal Council all of the following:

8 (1) The Secretary of the Natural Resources Agency.

9 (2) The Secretary for Environmental Protection.

10 (3) The Secretary of Transportation.

11 (4) The Secretary of California Health and Human Services.

12 (5) The Secretary of Business, Consumer Services, and Housing.

13 (6) The Secretary of Labor and Workforce Development.

14 (7) The Director of the Office of Planning and Research.

15 (b) (1) Notwithstanding Section 10231.5 of the Government  
16 Code, no later than January 1, 2022, the California Green New  
17 Deal Council shall submit a report to the Legislature that makes  
18 recommendations on appropriate policies to achieve the goals of  
19 Section 71442.

20 (2) The report to be submitted pursuant to this subdivision shall  
21 be submitted in compliance with Section 9795 of the Government  
22 Code.

O



Office of the Mayor

CONSENT CALENDAR  
March 10, 2020

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmembers Kate Harrison, Sophie Hahn, and Lori Droste

Subject: Support AB 2037 – Hospital Closure Notification

RECOMMENDATION

Adopt a Resolution in support of AB 2037, which will require hospitals to provide a 180 day notice before closing or reducing emergency services. Send a copy of the Resolution to Assemblymember Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.

BACKGROUND

California has seen a spike in the number of emergency department visits, despite a lack of growth in the creation of new departments. Between 2006 and 2016, the number of emergency department visits increased from 10.1 million annually to 14.6 million, an increase of 44.6%. During the same time period, the number of emergency departments in the state shrank from 337 to 334. However, the number of treatment stations in these departments has grown by 30%, showing that existing hospitals have been strained to take in significantly more patients.

Hospital closures create increased risks to the health and safety of residents of impacted areas, and place significant burdens on neighboring hospitals. When Doctors Medical Center in San Pablo closed in 2015, the number of ambulance transports in West Contra Costa County that went to the Kaiser Richmond Emergency Department increased from 31% to 52%. Berkeley's Alta Bates saw a 123% increase in ambulance transports from West Contra Costa between 2014 and 2016. It also saw a 39% increase in total patients from that area between 2013 and 2016. With Sutter Health announcing their intentions to close Alta Bates hospital by 2030, the impacts along the I-80 corridor could cripple the region's healthcare infrastructure.

Under current law, hospitals that provide emergency medical services must provide at least 90 days' notice prior to an elimination or reduction of emergency services and 30 days for closing of facilities and eliminating or relocating supplemental services (defined as an organized inpatient or outpatient service which is not required to be provided by law or regulation). The brevity of this timeline can prove dangerous to residents in the service areas of hospitals that are closing or reducing services, with neighboring hospitals unable to gather the resources needed to handle an inevitable uptick in patients.



AB 2037, introduced by Assemblymember Buffy Wicks, would increase the notice to 180 days for elimination of reduction of emergency services and closing of facilities, and 90 days eliminating or relocating supplemental services. Additional notices and postings would also be required, including written notice to the city council of the city where the health facility is located, notices posted on the health facility's website, the entrance of every community clinic within the affected county in which the health facility is located that grants voluntary permission for posting, and publications in local newspapers.

The Berkeley City Council has taken action in the past on similar bills. In May 2018, Council approved a letter in support of AB 2874, which also would have placed a 180 day notice on closures, in addition to getting written consent from the State Attorney General before closing. That bill was unable to pass the Assembly. In April 2017, Council adopted Resolution No. 67,930–N.S., in support of SB 687, which would have given the Attorney General the authority to oversee and consent to the sale/closure of non-profit hospitals. While that bill was approved by the state legislature, it was vetoed by then-Governor Jerry Brown.

#### FINANCIAL IMPLICATIONS

None

#### ENVIRONMENTAL SUSTAINABILITY

Not applicable

#### CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

#### Attachments:

- 1: Resolution
- 2: Text of AB 2037

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

IN SUPPORT OF AB 2037

WHEREAS, California has seen a 44.6% spike in patients visiting emergency departments between 2006 and 2016, while at the same time the number of emergency departments in the state has decreased from 337 to 334; and

WHEREAS, hospital closures create increased risks to the health and safety of residents of impacted areas, and place significant burdens on neighboring hospitals; and

WHEREAS, the closure of Doctors Medical Center in San Pablo in 2015 had a ripple effect on neighboring hospitals, with Kaiser's Richmond Medical Center taking on an additional 21% of ambulance transports in West Contra Costa County and Alta Bates seeing a 123% increase in ambulance transports and 39% increase in total patients from that area; and

WHEREAS, Sutter Health has announced their intentions to close Alta Bates hospital by 2030, which could significantly impact health infrastructure along the I-80 corridor; and

WHEREAS, under current law, hospitals that provide emergency medical services must provide at least 90 days' notice prior to an elimination or reduction of emergency services and 30 days for closing of facilities and eliminating or relocating supplemental services; and

WHEREAS, such short notices can prove dangerous to residents in the service areas of hospitals that are closing or reducing services, with neighboring hospitals unable to gather the resources needed to handle an inevitable uptick in patients; and

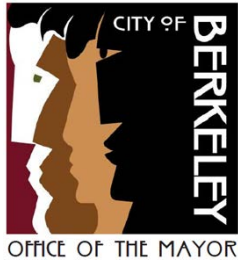
WHEREAS, AB 2037, introduced by Assemblymember Buffy Wicks, would increase the notice to 180 days for elimination or reduction of emergency services and closing of facilities, and 90 days eliminating or relocating supplemental services; and

WHEREAS, the bill would also require additional notifications and postings, including to the city council of the city the healthcare facility is located, the health facility's website, the entrance of every community clinic within the affected county that grants voluntary permission for posting, and local newspapers; and

WHEREAS, the Berkeley City Council has expressed support for similar bills in the past that ultimately did not become law, including AB 2874, which also would have placed a 180 day notice on closures, in addition to getting written consent from the State Attorney General before closing, and SB 687, which would have given the Attorney General the authority to oversee and consent to the sale/closure of non-profit hospitals.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports AB 2037.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Assemblymember Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.

CONSENT CALENDAR

March 10, 2020

TO: Honorable Members of the City Council

FROM: Mayor Arreguín and Councilmember Wengraf

SUBJECT: Referral: Update the definition of “Research and Development”

RECOMMENDATION

Refer to the Planning Commission to update the definition of “Research and Development.”

BACKGROUND

In the 21st century, Research and Development has evolved to take on many new forms, such that it can be performed in spaces that may, at first glance, appear to be an office or light industrial environment rather than a traditional “laboratory” with, for example, benches and sinks.

The Planning Commission is encouraged to update the definition of “Research and Development”<sup>1</sup> to reflect evolving business practices and consider language such as:

Research and Development: An establishment comprised of laboratory or other associated and ancillary space, engaged in one or more of the following activities: industrial, technological, biological or scientific research; product design; associated software development; development and testing; and limited fabrication and/or manufacturing necessary for the production and assemblage of prototypical products.”

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No environmental impact.

CONTACT

Mayor Jesse Arreguín  
 mayor@cityofberkeley.info | 510-981-7100

---

<sup>1</sup> BMC — 23F.04.010 Definitions





**Councilmember Ben Bartlett**  
 City of Berkeley, District  
 2180 Milvia Street, 5<sup>th</sup> Floor  
 Berkeley, CA 94704  
 PHONE: 510-981-7130  
 EMAIL: [bbartlett@cityofberkeley.info](mailto:bbartlett@cityofberkeley.info)

CONSENT CALENDAR  
 March 10, 2020

To: The Honorable Mayor & Members of the City Council  
 From: Councilmember Ben Bartlett, Councilmember Cheryl Davila,  
 and Mayor Jesse Arreguin  
 Subject: Siting the African American Holistic Resource Center and Affordable  
 Housing at 1890 Alcatraz

RECOMMENDATION

That the City Council refers to the City Manager to study the feasibility of using the city-owned property located at 1890 Alcatraz Avenue (currently temporary Mental Health Division offices) for the African American Holistic Resource Center (AAHRC) and also developing affordable housing on the site. The City Manager should report back on the costs and implementation steps to repurpose the property for the AAHRC using the AAHRC Feasibility study as a guide, including what physical improvements would need to be made, and cost for ongoing operations by a non-profit. The City Manager and Planning Department should also conduct an analysis of potential site capacity looking at site context and yield and report on how much housing could be developed on the site under current zoning, including the AAHRC on the ground floor. Additionally, the City Manager and Planning Commission should incorporate the Community Preference policy in selecting applicants for the affordable housing units created by this project.

BACKGROUND

**African American Holistic Resource Center**

Members from the African American/Black Professional & Community Network (AABPCN) and Berkeley NAACP (BNAACP) have been advocating and leading efforts — in the city for the past 8 years — for the creation of the African American Holistic Resource Center (AAHRC). Members of the AABPCN shared the vision for the AAHRC and began gathering information from the community via focus groups, town hall meetings, small group discussions, and formal presentations to several Berkeley Commissions, the Berkeley City Council, and other stakeholder groups.

The 2016 City of Berkeley Community Health Commission report strongly recommends that the City of Berkeley “take immediate action steps towards the development and support of the African American Holistic Resource Center in South Berkeley”<sup>1</sup>. The Peace and Justice Commission also submitted a letter of support to the City Council. Following the commission reports and community advocacy, councilmembers responded with overwhelming support for the development of the AAHRC, and they

---

<sup>1</sup> Kwanele, Babalwa, and Barbara A. White. 2018. *African American Holistic Resource Center FEASIBILITY STUDY*. Research Study, Berkeley: Neguse Consulting

allocated funding for a feasibility study, as well as other required activities needed for the establishment of the facility.

The City Manager supported the AAHRC project by adding the African American Holistic Resource Center in the City of Berkeley's Strategic Work Plan; the AAHRC is also included in the Mayor's and the District 3 Councilmember's work plans. In February of 2018, the Department of Health, Housing, and Community Services provided funding to start the AAHRC feasibility study and signed a contract with a consultant to collaborate with members of the AAHRC Steering Committee to complete the AAHRC feasibility study. In 2019, the findings were released.

### **Right to Return**

Minority groups in Berkeley have been, and continue to be, pushed out of the neighborhoods in which they live. Such displacement has a long-term negative impact on Black residents in the City of Berkeley and the entire citizenship in the city. Right to Return policies allow those who are evicted as a result of rent increases or new developments to return to the areas from which they were displaced, consistent with the Fair Housing Act.

### **Community Preference Policies**

Community preference policies work to prioritize former residents of gentrified neighborhoods and low-income individuals in affordable housing decisions. As of today, the City of Berkeley does not operate any housing or participate in the review of applicants for affordable units. Rather, each individual property has the autonomy to seek out and select applicants for their affordable units, in addition to maintaining their own waitlists. Currently, preferences are available for seniors, those with special needs (defined as those with a documented mental, physical, or psychological disability), families, and people emerging from homelessness. It is important to distinguish community preference policies, which give priority to these applicants, from policies that guarantee housing.

### **CURRENT SITUATION**

The results from the feasibility study recommend a series of steps to develop the AAHRC, which include:

- (1) acquiring professional expertise in the areas of funding and building design
- (2) securing a physical location for the AAHRC
- (3) beginning a fundraising campaign
- (4) starting marketing and promotions, and
- (5) continuing community engagement.

In the Adeline Corridor draft plan, the City of Berkeley aspires to convert many of the areas surrounding Adeline Way into affordable housing, hoping that at least 50% of the housing projects will be affordable. Some of the buildings around that area are publicly owned, but many others are privately owned. In order to ensure that we achieve our goal in maximizing affordable housing, the city should demolish and repurpose the

city-owned building located at 1890 Alcatraz Ave. As the facility is currently used by Berkeley Mental Health until their clinic is completed within 6 months, the building should later be developed into the African American Holistic Resource Center, with affordable housing and neighborhood preferences on top. Such preferences mean that previous residents who were displaced out of this neighborhood have a higher chance of living in one of these units. Therefore, it is in the City's best interest to repurpose the use of this property for the AAHRC and low-income housing.

### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

The plan is to have the AAHRC be a state-of-the-art, green building between 5,000-6,000 square feet that includes the following features:

- Ecologically responsible building with plenty of natural light
- Two classrooms
- Multipurpose room with dividing wall (seating for 250)
- Dance studio
- Library (will have spaces for the South Berkeley Legacy Project and a children's section)
- Children's playroom/game room
- Computer lab
- Classroom kitchen
- Medical screening room
- Two private therapy rooms
- Lockers in hallway
- Utility room
- Four bathrooms (one with a shower)
- Reception/waiting area
- Built-in projectors and AV equipment in classrooms, multipurpose room and library
- Facility completely ADA compliant

There are two existing potential blueprints that support plans for the AAHRC. The first blueprint houses everything on one main floor, and the second blueprint breaks up the design into two floors.<sup>2</sup>

### RATIONALE FOR RECOMMENDATION

The African American/Black community in Berkeley has the highest rate of morbidity and mortality of any racial/ethnic group. According to the City of Berkeley's Health Status Summary Report 2018, "African Americans are 2.3 times more likely to die in a given year from any condition compared to Whites". The report further indicates that "The risk of an African American mother having a low-birth weight (LBW) rate baby is 2.5 times higher than the risk for White mothers".<sup>3</sup>

<sup>2</sup> Kwanele, Babalwa, and Barbara A. White. 2018. *African American Holistic Resource Center FEASIBILITY STUDY*. Research Study, Berkeley: Neguse Consulting

<sup>3</sup> Kwanele, Babalwa, and Barbara A. White. 2018. *African American Holistic Resource Center FEASIBILITY STUDY*. Research Study, Berkeley: Neguse Consulting



In comparing 2013 and 2018 COB Health Status Summary Reports, the rate of poverty among African American families has quadrupled. During a five-year period the poverty rate for African Americans has gone from two times more likely to live in poverty to eight times more likely to live in poverty in the City of Berkeley. It is well documented that poverty is linked to poor health outcomes and a shorter life expectancy. Unfortunately even without the role of poverty, middle class and affluent Black people's health is worse compared to their white counterparts in Berkeley.

Preliminary research of African American/Black Resource Centers nationwide found that most centers are located on college campuses or affiliated with colleges and universities. The few African American/Black Resource Centers that are not located on or in partnership with a college or university are membership-based organizations. Having a resource center in the City of Berkeley that is accessible to all black communities is vital because the feasibility study found that various inequities disproportionately impact the health, wealth, education, and safety of African Americans across their lifespan. These inequalities include, but are not limited to, birth outcomes, morbidity and mortality rates, which indicates that they are not thriving in the City of Berkeley. Culturally appropriate integrated services and community-defined practices that are embedded in the creation of a holistic system of care must be developed, or the Black population will continue to decline.

Furthermore, the expansion of affordable housing provided by this project is crucial to ensuring the vitality of the Black community in Berkeley. As gentrification continuously pushes Black people and other people of color out of the City, including some long-term residents who maintain employment in Berkeley, the city becomes less inclusive. Right to Return policies allow those who have been displaced by gentrification to return to their home neighborhoods and thus, upholds Berkeley's status as a diverse and welcoming city.

#### ENVIRONMENTAL SUSTAINABILITY

The building would meet the requirements of the California State Green Building Code (CALGreen). This will ensure that the building maximizes savings through the efficient use of energy and water and limit construction impacts on the natural environment and the surrounding community.

If contaminants are found on the property during demolition and/or reconstruction, then a mitigation process must be determined to ensure that the construction team and building occupants are not affected. Also, according to Proposition 65, it is mandatory to warn individuals who live or work in or near a contaminated property or land about the risks associated with carcinogens and/or other health-related risks. In addition, the property must pass the Alameda County's Environmental Health Agency's regulations for land use. The reconstruction of this building will comply with all these standards.

### FISCAL IMPACTS

Building the AAHRC has a number of different fiscal impacts. The exact cost of demolishing the existing building and constructing the new building has yet to be determined. The current estimated costs to renovate the AAHRC facility range from \$300 per square foot to \$380 per square foot. A projected space of 5,000-5,700 square feet to be used to develop the building will have a construction budget that ranges between approximately \$1.6 million to \$2 million. The estimated cost to build affordable housing units above the AAHRC is about \$600,000 per unit.<sup>4</sup> Other costs associated with permits and meeting regulation standards may apply.

### CONTACT PERSON

Councilmember Ben Bartlett:  
James Chang  
Jerry Wong

[bbartlett@cityofberkeley.info](mailto:bbartlett@cityofberkeley.info)  
[jchang@cityofberkeley.info](mailto:jchang@cityofberkeley.info)  
[jzwong@cityofberkeley.info](mailto:jzwong@cityofberkeley.info)

---

<sup>4</sup> Cortright, Joe. 2017. "Why Is 'Affordable' Housing So Expensive to Build?" *City Lab*. 19 Oct. Accessed Aug. 19, 2019. <https://www.citylab.com/equity/2017/10/why-is-affordable-housing-so-expensive-to-build/543399/>





Vice Mayor Sophie Hahn  
Councilmember District 5

CONSENT CALENDAR

March 10, 2020

To: Honorable Members of the City Council  
From: Vice Mayor & Councilmember Sophie Hahn on behalf of the  
Land Use, Housing & Economic Development Committee  
Subject: Allocation of U1 General Fund Revenues

RECOMMENDATION

Accept the Housing Advisory Commission's (HAC) recommendations, as presented in the Measure U1 Budget draft projections table, for the allocation of U1 General Fund revenues with the following amendments:

1. Allocation of \$1M for small sites;
2. Addition of \$100K in FY 2022 and FY 2023 in organizational capacity building (BACLT);
3. Add \$150K in 2021-2023 for new programs under the category of development of new housing programs;
4. Allocations for staffing to implement programs; and
5. Allocate \$2.5M in 2023 for the Housing Trust Fund.

In addition, the Committee asked City staff for clarification of Health Housing and Community Services (HHCS) Department personnel line items of \$558,214 in FY 2020, with cost of living adjustment increases to \$577,751 (FY 2021), \$597,973 (FY 2022), and \$618,902 (FY 2023). A staff memo dated January 6, 2020 providing an overview of these costs will be submitted in Supplemental 1.

POLICY COMMITTEE RECOMMENDATION

On November 21, 2019, the Land Use, Housing & Economic Development policy committee adopted the following action: M/S/C (Hahn/Droste) to move the item with a positive recommendation to accept the Housing Advisory Commission's (HAC) recommendations for the allocation of U1 General Fund revenues in the format that staff presented in the Measure U1 Budget draft projections table including the following amendments:

1. Allocation of \$1M for small sites;
2. Addition of \$100K in FY 2022 and FY 2023 in organizational capacity building (BACLT);
3. Add \$150K in 2021-2023 for new programs under the category of development of new housing programs; and

4. Allocate \$2.5M in 2023 for the Housing Trust Fund.  
Vote: All Ayes.

#### BACKGROUND

The Land Use, Housing & Economic Development policy committee considered the Housing Advisory Commission's Spring 2019 Bi-Annual Report on Funding for Housing Programs at four meetings in 2019: October 3, October 24, November 7, and November 21.

On October 3, a discussion was held on allocation of U1 General Fund revenues, and the committee requested more information on the full funding picture including allocations made, the full balance, conditions, and legal restrictions for Measure O, the Housing Trust Fund and U1 revenues. Further discussions were held on October 24 and November 7.

On November 21, the committee held a discussion and then voted unanimously to move the item with a positive recommendation to accept the Housing Advisory Commission's recommendations with amendments, as represented in the attached spreadsheet. In taking this action, the Committee carefully considered the HAC recommendations as well as materials presented by staff and worked to ensure HAC's priorities were reflected in the Committee's recommendation. At the time action was taken, the Committee was comprised of Councilmembers Ben Bartlett, Lori Droste, and Sophie Hahn.

Councilmember Hahn was asked at that time to produce this report, working with City staff. Since the November 21 meeting, there have been internal discussions among City staff and the office of Councilmember Hahn with regard to the process for presenting these materials. The attached Measure U1 Projections document is submitted exactly as approved by the Committee. Any proposed changes can be filed as a Supplemental.

#### CONTACT INFORMATION

Vice Mayor Sophie Hahn, Council District 5, (510) 981-7150

#### ATTACHMENTS/SUPPORTING MATERIALS

1. Draft Measure U1 Projections Post Land Use Policy Committee - 12-12-19
2. Housing Advisory Commission, Spring 2019 Bi-Annual Report on Funding for Housing Programs

	FY 2018 Actuals	FY 2019 Actuals	FY 2020 Estimated	FY 2021 Estimated	FY 2022 Planned	FY 2023 Planned
<b>Revenues</b>						
<i>Beginning Fund Balance</i>	\$5,161,615	\$4,161,615	\$7,953,493	\$6,224,483	\$4,164,575	\$2,097,074
<b>ADD: Revenues</b>		5,787,158	5,000,000	5,000,000	5,000,000	5,000,000
<i>Transfer In/Fr Fund</i>						
<b>Total Revenues and Available Fund Balance</b>	5,161,615	9,948,773	12,953,493	11,224,483	9,164,575	7,097,074
<b>LESS: Total Expenses</b>	1,000,000	1,995,280	6,729,011	7,059,908	7,067,501	5,618,902
<b>Personnel Costs</b>						
<i>Rent Board</i>	350,000	345,280	908,214	927,751	947,973	968,902
<i>HHCS (Measure O/Housing Trust Fund)</i>			558,214	577,751	597,973	618,902
<i>Finance (Rev Dev Position &amp; Admin Costs)</i>	350,000	345,280	350,000	350,000	350,000	350,000
<b>Non-Personnel and Other Program Costs</b>						
<b>Small Sites/Community Land Trusts</b>	650,000	1,650,000	5,820,797	6,132,157	6,119,528	4,650,000
1638 Stuart/Small Sites predev (BACLT)		50,000				
1638 Stuart/Small Sites loan (BACLT)		950,000				
2321-2323 10th St. predev (NCLT)			50,000			
RFP: 2321-2323 10th St. loan (NCLT)			1,570,640			
Small Sites Program				1,000,000	1,000,000	1,000,000
<b>Housing Trust Fund</b>						
2001 Ashby predev (RCD)			368,000			
2001 Ashby predev (RCD)			1,200,000			
2527 San Pablo Ave predev (SAHA)			500,000			
2012 Berkeley Way reserves (BRIDGE/BFHP)			0	3,000,000	3,023,365	
Housing Trust Fund Program						2,500,000
<b>Development of New Housing Programs</b>						
Organizational Capacity Bldg (BACLT)			100,000	100,000	100,000	100,000
Berkeley Unified School District Planning Grant			150,000			
New Housing Programs/Land Trust/Coops				150,000	150,000	150,000
<b>Anti-Displacement</b>						
Rent Board (EDC & EBCLC)	300,000	300,000				
East Bay Community Law Center (EBCLC)	250,000	250,000	275,000	275,000	275,000	275,000
Housing Retention Program (EBCLC)			250,000	250,000	250,000	250,000
Eviction Defense Center (EDC)			275,000	275,000	275,000	275,000
Flexible Housing Subsidy Pool (BACS)	100,000	100,000	100,000	100,000	100,000	100,000
<b>Additional City Priorities</b>						
1001, 1011 University Ave. acquisition			982,157	982,157	946,163	
Fiscal Year Surplus (Shortfall)	4,161,615	3,791,878	(1,729,011)	(2,059,908)	(2,067,501)	(618,902)
Ending Fund Balance	\$4,161,615	\$7,953,493	\$6,224,483	\$4,164,575	\$2,097,074	\$1,478,172



Housing Advisory Commission

CONSENT CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Housing Advisory Commission  
 Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission  
 Subject: Spring 2019 Bi-Annual Report on Funding for Housing Programs

RECOMMENDATION

Accept the Housing Advisory Commission's (HAC) recommendations for the allocation of U1 General Fund revenues to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

SUMMARY

This report is the first Bi-Annual Report in 2019 that the HAC is submitting to the Council. The expenditure of \$5 million dollars of discretionary funds recommended in this Report (Small Sites/Community Land Trusts, Housing Trust Fund, and Development of New Housing Programs) is broad enough to be useful for existing, proposed, and future housing programs. In late 2019 or early 2020, the Housing Advisory Commission will submit a second bi-annual report. This forthcoming report will, to the extent feasible, report on the actual expenditures and commitments of funds for 2019, as well as lay out a clear, structured, and goals oriented process as to how the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

FISCAL IMPACTS OF RECOMMENDATION

The funds to pay for these recommendations come from a special Business License tax that is charged on properties consisting of five or more units. It is estimated that the revenues will total approximately \$5 million during the upcoming fiscal year. Staff time is included within the administrative costs listed in the summary table of proposed allocations.

CURRENT SITUATION AND ITS EFFECTS

At the May 2, 2019 meeting, the HAC took the following vote to adopt the Bi-Annual Housing Policy Report Subcommittee recommendations to Council, as amended by Commissioner Johnson, to Council to allocate \$5 million in General Fund revenue as follows:

Small Sites/Community Land Trusts	\$1,000,000
Housing Trust Fund	\$2,500,000
Development of New Housing Programs (Housing Co-Ops, Land Trusts)	\$250,000
Anti-Displacement	\$900,000
Administrative Costs	\$350,000
<b>Total (2019)</b>	<b>\$5,000,000</b>

M/S/C (Wright/Tregub):

Ayes: Johnson, Lewis, Sargent, Sharenko, Tregub, Wolfe and Wright. Noes: Lord.  
Abstain: None. Absent: Owens (unexcused) and Simon-Weisberg (excused).

### BACKGROUND

Ballot Measure U1 charged the Housing Advisory Commission with providing annual or bi-annual recommendations to the City Council on “how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.” This report is the first Bi-Annual Report in 2019 that the HAC is submitting to the Council. The expenditure of \$5 million dollars of discretionary funds recommended in this Report (Small Sites/Community Land Trusts, Housing Trust Fund, and Development of New Housing Programs) is broad enough to be useful for existing, proposed, and future housing programs.

In late 2019 or early 2020, the Housing Advisory Commission will submit a second bi-annual report. This forthcoming report will, to the extent feasible, report on the actual expenditures and commitments of funds for 2019, as well as lay out a clear, structured, and goals oriented process as to how the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report, since the City does not know at this time the locations of the housing units to be assisted.

### RATIONALE FOR RECOMMENDATION

The actions recommended by the HAC are consistent with Berkeley’s existing housing programs and policies. Recommended expenditures support existing programs and potential new programs to be explored, such as alternative forms of housing ownership.

### ALTERNATIVE ACTIONS CONSIDERED

Another option for the City to consider would be to deposit all U1 General Fund Revenues into the City’s Housing Trust Fund (HTF). However since one of the uses of



U1 General Fund Revenues is to protect Berkeley residents from homelessness, the HAC decided not to deposit all the funds into the HTF in order to provide revenues for anti-displacement activities. In addition, U1 General Fund Revenues are, by definition, more discretionary than other funds deposited into the HTF. This will allow the City to assist innovated programs needed given the housing affordability crisis.

#### CITY MANAGER

The City Manager recommends referring these recommendations to a Council Policy Committee for further discussion.

The City Council has already authorized General Fund revenue received pursuant to Measure U1 for the following projects:

- \$150,000 to the Berkeley Unified School District as a planning grant for educator housing;
- \$368,000 for Resources for Community Development predevelopment loan application for its proposed development at 2001 Ashby Avenue;
- \$900,000 for anti-displacement activities each year for FY20 and FY21; and
- \$100,000 capacity building for housing cooperatives each year for FY20 and FY21.

At the time of the writing Resources for Community Development has applied for an additional \$1.2M for a predevelopment loan for its proposed development at 2001 Ashby Avenue.

#### CONTACT PERSON

Mike Uberti, Commission Secretary, HHCS, (510) 981-5114

#### Attachments:

- 1: Spring 2019 Revised Draft Bi-Annual Report
- 2: Housing Revenues and Expenditures
- 3: Future Program Recommendations in Development by the HAC
- 4: Funding Summary Table as of May 2, 2019

To: Members of the Housing Advisory Commission

From: Xavier Johnson, Chairperson, Housing Advisory Commission

Subject: Spring 2019 Revised Draft Bi-Annual Report

Date: April 25, 2019

### RECOMMENDATION

In keeping with the Housing Advisory Commission's (HAC) annual/biannual obligation to "make recommendations...to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness," this Report recommends the City of Berkeley allocate \$5 million in general fund revenue as follows:

● Small Sites/Community Land Trusts	\$1,000,000
● Housing Trust Fund	\$2,500,000
● Development of New Housing Programs (Housing Co-Ops, Land Trusts)	\$250,000
● Anti-Displacement	\$900,000
● Administrative Costs	\$350,000
<b><u>Total (2019)</u></b>	<b><u>\$5,000,000</u></b>

Further information on how the City of Berkeley should establish programs to increase the supply of affordable housing and protect Berkeley residents from homelessness will follow in future reports to the Berkeley City Council.

### SUMMARY

The City of Berkeley (City) is currently experiencing a major shortfall in funding for affordable housing for its residents, and many existing residents find that they are unable to keep up with rising rents and may face displacement from their current homes. The purpose of U1, a ballot measure that passed by a majority of Berkeley's residents in November 2016 was to increase funding for these two vitals areas (increasing the supply of affordable housing and preventing displacement). However, since these funds are part of the General Fund, the City actually has the option of spending them on non-housing related expenditures.

Measure U1 charged the Housing Advisory Commission with providing annual or bi-annual recommendations to the City Council on "how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness." This report is the first Bi-Annual Report in 2019 that the HAC is submitting to the Council. The expenditure of \$5 million dollars of discretionary funds recommended in this Report (Small Sites/Community Land Trusts,

**Attachment 1: Spring 2019 Revised Draft Bi-Annual Report**

Housing Trust Fund, and Development of New Housing Programs) is broad enough to be useful for existing, proposed, and future housing programs.

In late 2019 or early 2020, the Housing Advisory Commission will submit a second bi-annual report. This forthcoming report will, to the extent feasible, report on the actual expenditures and commitments of funds for 2019, as well as lay out a clear, structured, and goals oriented process as to how the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

### FISCAL IMPACTS OF RECOMMENDATION

This report recommends the allocation of \$5 million dollars in General Fund revenue. It is acknowledged that the City has already, in some cases temporarily and in other cases indefinitely, committed various sources of revenue to various projects. To truly be able to maximize the allocation and effectiveness of resources this recommendation suggests the City will have to take into account all available funding sources and commitments made by the City; this will ensure there are no more additional unfunded commitments moving forward.

### CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley continues to be in the midst of a major housing crisis. U1 directed the Housing Advisory Commission to look at all possible avenues and strategies the City can take to increase the supply of affordable housing and protect Berkeley residents from homelessness.

### BACKGROUND

This report provides the following information:

1. *History*  
The history of Measure U1, as well as the previous reports the Housing Advisory Commission has issued.
2. *Current Funding for Affordable Housing and Prevention of Displacement:*  
An approximate summary of expenditures and allocations for affordable housing and prevention of homelessness. While this list is subject to constant change, and the number of sources grows, this list offers some context and background on some of the many resources currently available to the City.

**Attachment 1: Spring 2019 Revised Draft Bi-Annual Report**

3. *Recommendations for 2019 Expenditures*

Recommendations for future expenditures for housing as well as potential programs and ideas, will be more thoroughly explored and evaluated by the Housing Advisory Commission as part of its regular business.

4. *Potential Future Recommendations under Consideration by the Housing Advisory Commission*

As part of our 2018 Work Plan, the HAC came up with numerous ideas for programs and funding that it is currently evaluating and reviewing. While the HAC is beginning to start the 2019 process, we thought it was important to review the ideas that are still in the works and under review.

1. *History*

Measure U1, which was passed in November 2016, authorized an increase in the Business License Tax charged on properties that consist of five or more residential units. In addition and separately, Measure U1 provided that the HAC will make recommendations on how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness. After the measure passed, it was incorporated into Berkeley's Municipal Code. The HAC was required under measure U1 to provide a report to the City Council and specified that HAC make annual or bi-annual recommendations to the Council. The HAC has chosen to set as its timeline April and October as reporting dates for each year.

In its first annual report to the City Council in 2018, the HAC recommended funding at these levels for the following uses:

● Anti-Displacement	\$550,000
● Small Sites Program	\$1,000,000
● Housing Trust Fund	\$2,000,000
● Reserve for pipeline housing programs	\$400,000
● Administrative Costs	<u>\$50,000</u>
 Total	 \$4,000,000

This report is the second report to the City Council and is the first Bi-Annual Report for 2019. It provides information to the City Council to assist the Council in its decision-making regarding the allocation of funds to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

## Attachment 1: Spring 2019 Revised Draft Bi-Annual Report

## 2. Current Funding for Affordable Housing and Prevention of Displacement

The City of Berkeley has a number of sources of funding available to expand the supply of affordable housing and prevent homelessness. The subcommittee decided it would be good to understand the overall level of funds designated for affordable housing and homelessness prevention. First, Table 1 provides information on the most recent commitments from General Fund revenue

Secondly, working with staff, the subcommittee obtained information on housing related expenditure and allocations from several local sources including General Funds, In-Lieu and Housing Mitigation Fees, and federal sources, such as HOME and CDBG. This information is summarized in Table 2 and more information on actual expenditures is presented in Attachment 1.<sup>1</sup> Finally Attachment 3 provides information on committed expenditures.

Table 1: Allocations<sup>2</sup>

	Allocation
<b>COMMITTED EXPENDITURES</b>	
<i>Anti-Displacement</i>	
FY 2018	
Eviction Defense (Rent Board)	\$300,000
Retention - East Bay Comm Law Center HHCS	\$250,000
Rapid Rehousing HHCS	\$100,000
<i>Subtotal</i>	<i>\$650,000</i>
FY 2019 EXPENDITURES	
Eviction Defense (Rent Board)	\$300,000
Retention - East Bay Comm Law Center HHCS	\$250,000
Rapid Rehousing HHCS	\$100,000
<i>Subtotal</i>	<i>\$650,000</i>
<i>STAFF AND ADMIN. FY 2018</i>	
Staff Position	\$150,757
Other Administrative Costs	\$199,243

<sup>1</sup> Note: The total HOME funds listed in Table 2 do not include funding for public services projects, planning and administration, public facilities, and all ESG, since these uses do not fall directly under the policy framework for U1. ESG is primarily used to help those who are already homeless.

<sup>2</sup>As of February 2019. Also, Table 1 does not include expenditures from ESG or City's matching funds for ESG. See tables in Attachment 1  
Source: City Staff

## Attachment 1: Spring 2019 Revised Draft Bi-Annual Report

Subtotal	\$350,000
<i>HOUSING</i>	
Future Small Sites Program Activities - HHCS	\$950,000
Organizational Capacity Building (BACLT)	\$50,000
Subtotal	\$1,000,000
<b>TOTAL: COMMITTED AND ASSIGNED</b>	<b>\$2,650,000</b>

Table 2: FY 2018-19 Committed and Reserved Funds for Housing

<i>Committed Housing Trust Funds</i>	<i>CDBG</i>	<i>Home</i>	<i>Local Funds (1)</i>	<i>Total</i>
Bridge/Berkeley Food & Housing			\$3,967,548	\$3,967,548
1638 Stuart St (BACLT Small Sites)			\$50,000	\$50,000
SAHA (Oxford Street)			\$25,000	\$25,000
SAHA/Grayson Apartments	\$876,000	\$1,020,827	\$598,173	\$2,495,000
Subtotal				\$6,537,548
<i>Development - Reserved</i>				
Bridge/Berkeley Food & Housing(2)				\$23,500,000
BACLT Small Sites			\$950,000	\$950,000
SAHA (2)				\$6,000,000
Subtotal				\$30,450,000
Total HOME Projects				\$813,509
Community Allocations for Housing Development and Rehab.				\$451,662
<i>Prevention of Displacement</i>				
FY 2018			\$650,000	\$650,000
FY 2019			\$650,000	\$650,000
Subtotal				\$1,300,000

**Attachment 1: Spring 2019 Revised Draft Bi-Annual Report**

<i>Staffing and Administration</i>				
Subtotal				\$350,000
<b>TOTAL FUNDS COMMITTED AND RESERVED</b>				<b>\$39,902,719</b>

- 1) Local funding sources include Housing Trust Funds, U1 and additional General Funds.
- 2) No sources indicated.

Finally, the City passed Measure O in Fall 2018. This measure authorized the City to issue up to \$135 million in bonds to be paid for by an increase in the property tax for 36 years. These bonds can be used “to fund housing for "low-, very low-, low-, median, and middle-income individuals and working families, including teachers, seniors, veterans, the homeless, students, people with disabilities, and other vulnerable populations," according to ballot language. These bonds have not yet been issued, so the future financial resources from this bond measure are not included in this report.3.

*Recommendations for 2019 Expenditures*

Table 3 provides the Housing Advisory Commission’s funding recommendations for 2019 designed to increase the supply of affordable housing and protect Berkeley residents from homelessness. It should be noted that there is some overlap. For example, funding for a small sites program could be provided by the Housing Trust Fund, and a small sites program could also be based on a land trust model. In addition, this is not intended to be an exhaustive list of the City’s expenditures for increasing the supply of affordable housing or for protecting residents from homelessness.

**Table 3: 2019 Funding Recommendations**

		<b>% of Committed Funds</b>
Anti-Displacement	\$900,000	18%
Administrative Costs	\$350,000	7%
Small Sites/Community Land Trusts	\$1,000,000	20%
Housing Trust Fund	\$2,500,000	50%
Development of New Housing Programs (Housing Co-Ops)	\$250,000	5%
<b>Total (2019)</b>	<b>\$5,000,000</b>	<b>100%</b>

## Attachment 1: Spring 2019 Revised Draft Bi-Annual Report

#### 4. Potential Future Recommendations under Consideration by the Housing Advisory Commission

As part of the 2018 work plan, the Housing Advisory Commission identified numerous potential programs, which it is in the process of evaluating and designing. Moving forward, the HAC may put some of these ideas forward to the City Council. The current nine members of the Housing Commission responded to a poll regarding some of the strategies/programs included in the most recent Work Plan.<sup>3</sup> Table 4 presents poll results. The poll required a “yes” or “no” vote.

- The strategies supported by all commissioners included funds for the Housing Trust Fund and Community Land Trusts.
- Those strategies supported by almost all of the Commissioners included anti-displacement services, expansion of the small sites program, and group equity/zero equity co-ops.
- Finally, home sharing and supportive mental health services received support from less than two-thirds of the Commissioners, but still a majority of the members.<sup>4</sup>

Since a majority of Commissioners supported all these activities/strategies, they represent a good starting point for recommendations on how 2019/20 housing funds could be allocated. With the exception of home sharing and supportive mental health services, three-quarters of the commissioners supported the other strategies listed in Table 4.

---

<sup>3</sup> A more detailed description of these Work Plan recommendations can be found at [https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/Commission\\_for\\_Housing\\_Advisory/2018-7-11%20HAC%20Agenda%20Packet%20COMPLETE\(2\).pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/Commission_for_Housing_Advisory/2018-7-11%20HAC%20Agenda%20Packet%20COMPLETE(2).pdf)

<sup>4</sup>According to two commissioners who provided comments, mental health services are outside the auspices of the HAC and Housing Division. Another member indicated that they need more information in order to assess support for these services. Additional comments included in the poll results are included in Attachment 2.



## Attachment 1: Spring 2019 Revised Draft Bi-Annual Report

**Table 4: Commissioner Poll Results**

<b>Activities/Strategies</b>	<b>Percent Supporting</b>
East Bay Community Law Center to help tenants who are at-risk of displacement (1)	88%
Supportive Mental Health Services to assist Residents who have housing remain housed (1)	63%
Expand Supply of Affordable Housing (Small Sites Program)	89%
Housing Trust Fund (for leveraging of new construction)	100%
ADU Development	78%
Tenant Option to Purchase	78%
Group Equity and Zero Equity Co-ops (1)	88%
Community Land Trusts	100%
Home Sharing	56%

- (1) The percentage of HAC members supporting these three issues is based on responses from eight out of nine members of the HAC. One of the members did not vote on these three strategies, because the member indicated more information was needed to provide input.

## Attachment 2: Housing Revenues and Expenditures

**Table 1.1:  
February 2019 U1 Revenues**

FY 2018 Revenues	\$5,161,615
FY 2019 YTD Revenues	\$865,451
<b>Total</b>	<b>\$6,027,066</b>

Source: City of Berkeley

**Table 1.2: February 2019 Committed Expenditures Preventing Homelessness**

Use	Anti-Displacement FY18	Anti-Displacement FY19
Eviction Defense - Rent Board	\$300,000	\$300,000
Retention - East Bay Community Law Center - HHCS	\$250,000	\$250,000
Rapid Rehousing - HHCS	\$100,000	\$100,000
<b>Total</b>	<b>\$650,000</b>	<b>\$650,000</b>

Source: City of Berkeley

**Table 1.3: February 2019 Committed Expenditures Increasing Housing Supply**

Future Small Sites Program Activities – HHCS (not yet provided)	\$950,000
Organizational Capacity Building (BACLT Contract)	\$50,000
<b>Sub-Total</b>	<b>\$1,000,000</b>

Source: City of Berkeley

**Table 1.4: Staff and Administrative Costs Funded by the General Fund**

Finance Development Spec II Position - FY18	\$150,757
Other Administrative Costs - Fin FY18	\$199,243
<b>Sub-total</b>	<b>\$350,000</b>

**Table 1.5: HOME Projects Allocations FY 2018-2019**

HOME Admin.	\$81,351
CHDO Operating Funds	\$28,115
Housing Trust Fund	\$704,043
<b>Subtotal HOME Projects FY 2018-2019</b>	<b>\$813,509</b>

Source: City of Berkeley Annual Action Plan. (Does not include all funding)

### **Attachment 3: Future Program Recommendations in Development by the HAC**

Additional comments written on the Commissioner's Poll include the following:

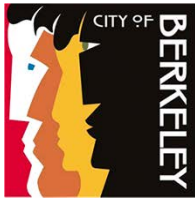
- Small Sites Program - Perhaps use funds for organizational/program development minor support rather than support for purchasing sites at this time. Developers that have experience in affordable housing development should only be considered given the financial risks of this type of development and the complexities of small scattered-site developments.
- Tenant Option to Purchase - This is good for apartment buildings that contain fewer than 20 units. This approach could be combined with the institutional structure of Community Land Trusts. CLTs are an important model that can be used to support these types of ownership structures.
- Group Equity and Zero Equity Co-ops - It is possible that those most interested in co-ops would be UC Berkeley students. Is this the City of Berkeley's priority given the transient nature of university students?
- Home Sharing - Assistance to a service organization like HIP Housing is a good idea, but this strategy is a service and not affordable housing development of new units. Also, the City should be very careful with supporting this type of service given potential for abuse by tenants and/or landlords.

## Attachment 4: Summary Table as of May 2, 2019

	CDBG 2018-19	HOME 2018-19	Housing Trust Fund	Other	General Fund 2018-19	General Fund 2019-2020	No Source	Total
<b>Committed-New Affordable Housing</b>								
Bridge/Berkeley Food & Housing Project			\$3,967,548				\$23,500,000	\$27,467,548
SAHA (Oxford Street)			\$25,000					\$25,000
SAHA (Grayson Apartments)	\$876,000	\$1,020,827	\$598,173					\$2,495,000
SAHA (Oxford Street)							\$6,000,000	
<b>Subtotal-New Affordable Housing</b>	<b>\$876,000</b>	<b>\$1,020,827</b>	<b>\$4,590,721</b>				<b>\$29,500,000</b>	<b>\$35,987,548</b>
<b>Committed-Preservation</b>								
BACLT Small Sites Program (1638 Stuart St.)					\$950,000			\$950,000
BACLT Small Sites Capacity Building					\$50,000			\$50,000
Housing Development & Rehabilitation	\$380,613			\$56,230	\$14,819			\$451,662
<b>Subtotal-Preservation</b>	<b>\$380,613</b>			<b>\$56,230</b>	<b>\$1,014,819</b>			<b>\$1,451,662</b>
<b>Home Projects Allocations (FY 2018-2019)</b>								
Administration		\$81,351						\$81,351
CHDO Operating Funds		\$28,115						\$28,115
Housing Trust Fund			\$704,043					\$704,043
<b>Subtotal Home Projects</b>		<b>\$109,466</b>	<b>\$704,043</b>					<b>\$813,509</b>
<b>Committed-Anti-Displacement</b>								
Eviction Defense-Rent Board					\$300,000	\$300,000		\$600,000
East Bay Community Law Center					\$250,000	\$250,000		\$500,000
Rapid Re-Housing					\$100,000	\$100,000		\$200,000
<b>Subtotal – Anti- Displacement</b>					<b>\$650,000</b>	<b>\$650,000</b>		<b>\$1,300,000</b>
<b>Administrative Overhead</b>								
Finance Development Specialist II						\$150,757		
Other Administrative Costs						\$199,243		
<b>Subtotal-Administrative Overhead</b>						<b>\$350,000</b>		<b>\$350,000</b>

	CDBG 2018-19	Home 2018-19	Housing Trust Fund	Other	General Fund 2018-19	General Fund 2019-2020	No Source	Total
<b>Total Funds Committed and Reserved</b>	<b>\$1,256,613</b>	<b>\$1,130,293</b>	<b>\$5,294,764</b>	<b>\$56,230</b>	<b>\$1,664,819</b>	<b>\$1,000,000</b>	<b>\$29,500,000</b>	<b>\$39,902,719</b>





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson and Mayor Jesse Arreguin  
 Subject: Letter in Support of Reviving Berkeley Bus Rapid Transit

RECOMMENDATION

Send a letter to AC Transit, the Alameda County Transportation Commission, Assemblymember Buffy Wicks, and State Senator Nancy Skinner in support of expanding Bus Rapid Transit into Berkeley on Telegraph Avenue at the first possible opportunity.

POLICY COMMITTEE RECOMMENDATION

On February 18, 2020, the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee adopted the following action: M/S/C (Robinson/Harrison) to send the item, as revised by the committee, with a positive recommendation back to City Council. Vote: Ayes – Robinson, Harrison; Noes – None; Abstain – Davila; Absent – None.

BACKGROUND

Bus Rapid Transit, or BRT, is a growing tool in urban planning that centers the concept of transit right-of-way. Dedicated bus lanes can increase bus speeds by 6 to 12 percent,<sup>1</sup> reducing delays by ensuring that buses do not have to slow or stop for other vehicles (which accounts for 57 percent of delays), or wait to merge back into traffic after making a stop (24 percent of delays).<sup>2</sup>

Traffic congestion disproportionately affects public transit operations because of the multiplier effect — late buses have to pick up more passengers at every stop, causing them to fall even more behind schedule. This effect also means that more buses need to be deployed to maintain scheduled frequencies, costing taxpayers money.<sup>3</sup>

BRT makes it possible for transit agencies to run reliable bus service independent of how many cars are on the road. However, it is also intended to benefit non-transit users. Buses and cars sharing lanes poses a danger to drivers, who are put at risk by buses that suddenly merge into traffic or slow to make a stop. Once dedicated bus lanes are implemented, emergency vehicles can use them to bypass private automobile traffic, improving response times. Furthermore, the traffic calming, sidewalk widening, and general public realm improvements that are encompassed in a comprehensive BRT

<sup>1</sup> BRT for Berkeley: A Proposal for Consideration, pg. 1-2

<sup>2</sup> BRT for Berkeley: A Proposal for Consideration, pg. 1-12

<sup>3</sup> BRT for Berkeley: A Proposal for Consideration, pg. 1-2

project are community benefits that enhance the streetscape for pedestrians, bicyclists, and local businesses alike.<sup>4</sup>

The AC Transit East Bay Bus Rapid Transit project was originally proposed to be implemented as a three-city project, connecting the Cities of Berkeley, Oakland, and San Leandro. The proposal would have provided bus service connecting the Downtown Berkeley and Bay Fair BART stations that was 18 percent faster, more frequent, and more reliable than current service. By 2015, BRT was expected to attract 6,820 new riders to transit per weekday over the no-build alternative, reducing vehicle miles traveled (VMT) by 6.2 million per year.<sup>5</sup>

As part of an AC Transit Major Investment Study (MIS) process, the Berkeley City Council adopted implementation of BRT as an official City policy in a 2001 unanimous vote. The policy, Resolution 61,170-N.S., states that Berkeley has a “Transit First Policy that supports the creation of exclusive transit lanes,” and specifically calls out supporting “bus rapid transit as the preferred transit mode” on Telegraph Avenue. This aligns with the findings of the MIS, which found BRT to be more cost-effective and beneficial than any less robust improvements. The study also found Telegraph Avenue to be a better route for BRT than College Avenue or Shattuck Avenue.<sup>6</sup>

However, in a 2010 reversal, the Council rejected Telegraph BRT by a 4-2-2 vote, citing stakeholder concerns about impacts on traffic, parking, and loading.<sup>7</sup> Instead, Council voted 8-0 for a “reduced impact” proposal without bus-only lanes, focusing on improving bus loading areas and signage and implementing priority signalization and a proof-of-payment system.<sup>8</sup> Because this proposal was not studied in AC Transit’s BRT Draft Environmental Impact Report, it could not be legally incorporated into the Bus Rapid Transit plan. As a result, BRT is currently only being implemented in the Cities of Oakland and San Leandro.

Since 2010, Berkeley’s political environment and the needs of its residents have changed. Public transit demand, population, and employment in the East Bay are all growing — by 2040 in AC Transit’s service area, population is projected to grow by 30 percent and employment by 40 percent. By 2025 along the Telegraph corridor, population is expected to grow by 16 percent and employment by 23 percent.<sup>9</sup> In the next three years, UC Berkeley’s student enrollment will reach 44,735, a 33.7 percent increase over original projections.<sup>10</sup>

---

<sup>4</sup> BRT for Berkeley: A Proposal for Consideration, pg. 1-3

<sup>5</sup> BRT for Berkeley: A Proposal for Consideration, pg. 1-19

<sup>6</sup> BRT for Berkeley: A Proposal for Consideration, pg. 1-13

<sup>7</sup> <https://www.eastbaytimes.com/2010/05/06/berkeley-opposes-bus-only-lanes-for-transit-project/>

<sup>8</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/2010/05May/2010-05-18\\_Item\\_02\\_Minutes\\_for\\_Approval.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2010/05May/2010-05-18_Item_02_Minutes_for_Approval.pdf)

<sup>9</sup> <http://www.actransit.org/wp-content/uploads/Draft-Final-MCS-Report.pdf>

<sup>10</sup> <https://www.berkeleyside.com/2019/02/21/uc-berkeleys-student-enrollment-projected-to-reach-44735-in-next-3-years>

Coupled with a burgeoning housing crisis that is pushing residents to live farther from their jobs, these numbers pose significant traffic and congestion challenges. Berkeley residents are commuting to Oakland and San Leandro, and vice versa. UC Berkeley students are living farther from campus or commuting from home. AC Transit's Draft EIR found that the number of Berkeley intersections that are severely congested during rush hour will increase from one to five by 2025 without BRT.<sup>11</sup>

A dedicated bus lane on Telegraph connecting Berkeley and Oakland would build much-needed public transit infrastructure into a densifying neighborhood that increasingly relies on multimodal transportation. BRT was projected to attract a total of 39,200 additional riders by 2035.<sup>12</sup> A significant fraction of these riders would be replacing their car trips with efficient, reliable public transit — when San Pablo Avenue adopted rapid bus routes, 19 percent of their riders were former drivers.<sup>13</sup> Providing an attractive public transit alternative to driving is crucial for reducing vehicle miles traveled, encouraging people to get out of their cars, and ensuring that roads are less congested for Berkeley residents who absolutely need to drive.

In October, the City of Berkeley released a draft of the Berkeley Electric Mobility Roadmap.<sup>14</sup> The draft roadmap proposes that “The City will support opportunities to explore and advance bus rapid transit routes, using electric buses, which can provide mobility and health benefits particularly for low-income communities of color.”

In October, the Council unanimously passed a referral to move forward with the Telegraph Public Realm Plan shared streets proposal, which will reconfigure the first four blocks of Telegraph Avenue to prioritize pedestrians, bicyclists, and buses over automobile thru traffic.<sup>15</sup> Over the next few years, the City will be identifying and applying for regional funding sources, going through multiple stages of design and planning, and engaging in community outreach and public input. This presents a unique opportunity for Telegraph Avenue to be reintegrated into the Bus Rapid Transit plan.

Staff should send the attached letter of support to AC Transit, the Alameda County Transportation Commission, Assemblymember Buffy Wicks, and State Senator Nancy Skinner.

#### FINANCIAL IMPLICATIONS

None.

#### ENVIRONMENTAL SUSTAINABILITY

The City of Berkeley's Climate Action Plan supports BRT as a key strategy to reducing carbon emissions, stating that the City should “continue timely assessment and

<sup>11</sup> BRT for Berkeley: A Proposal for Consideration, pg. 1-12

<sup>12</sup> BRT for Berkeley: A Proposal for Consideration, fig. 1-7

<sup>13</sup> BRT for Berkeley: A Proposal for Consideration, pg. 1-20

<sup>14</sup> <https://www.cityofberkeley.info/EVCharging/>

<sup>15</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-29\\_Item\\_30\\_Referral\\_Telegraph\\_Shared\\_Streets\\_-\\_Rev.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-29_Item_30_Referral_Telegraph_Shared_Streets_-_Rev.aspx)



development of proposed East Bay Bus Rapid Transit (BRT) system.” The Plan stresses the importance of BRT “given the expected significant increase in the Bay Area’s population (and associated traffic congestion) in that same time period.”<sup>16</sup> Implementation of Bus Rapid Transit will reduce vehicle miles traveled (VMT) by 6.2 million per year.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

1: Letter

2: BRT for Berkeley: A Proposal for Consideration

[https://www.cityofberkeley.info/uploadedFiles/Planning\\_\(new\\_site\\_map\\_walk-through\)/Level\\_3\\_-\\_General/LPA\\_REPORT\\_FINAL\\_090809\\_FULL\\_REPORT.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_(new_site_map_walk-through)/Level_3_-_General/LPA_REPORT_FINAL_090809_FULL_REPORT.pdf)

---

<sup>16</sup> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/Berkeley%20Climate%20Action%20Plan.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Berkeley%20Climate%20Action%20Plan.pdf)



To: AC Transit Board of Directors & Alameda County Transportation Commission

Date: January 28, 2020

Re: In Support of Reviving Berkeley Bus Rapid Transit

Dear AC Transit Board of Directors & Alameda County Transportation Commission:

AC Transit has long been a valuable partner for the City of Berkeley, helping us meet our climate goals through innovative, low-emission transportation solutions. The greater East Bay benefits from AC Transit's various initiatives to improve ridership, efficiency, and reliability of service. One such project, the Bus Rapid Transit plan, is currently being implemented in the Cities of Oakland and San Leandro. In its original design, the Bus Rapid Transit project would have extended from San Leandro to Oakland, and then onward along Telegraph Avenue to Berkeley.

In 2010, the Berkeley City Council rejected the Bus Rapid Transit project by a 4-2-2 vote, citing stakeholder concerns about traffic, parking, and loading. However, as the Bay Area faces increasing challenges around climate and housing, the dire need for efficient, reliable public transportation has never been clearer. The current City Council understands these needs and believes that dedicated bus lanes are the best way to move our city towards a sustainable future. Therefore, the City of Berkeley is formally requesting that AC Transit consider expanding Bus Rapid Transit into Berkeley on Telegraph Avenue at the first possible opportunity. Furthermore, the City of Berkeley encourages the installation of BRT elements in the near term where possible along Telegraph such as dedicated lanes, boarding islands, and signal synchronization, while maintaining consideration of local bus routes and bicycle access.

Since Council rejected the Bus Rapid Transit proposal 2010, Berkeley's political environment and the needs of its residents have changed. Demand for efficient public transportation is growing, and a burgeoning housing crisis is pushing residents to live farther from their jobs. Berkeley residents are commuting to Oakland and San Leandro, and vice versa. UC Berkeley students, the vast majority of whom do not use a car, are living farther from campus or commuting from home. A dedicated bus lane on Telegraph would build much-needed public transit infrastructure into a densifying neighborhood that increasingly relies on multimodal transportation, and more intimately connect Berkeley and Oakland.

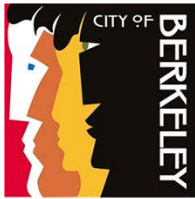
The City of Berkeley has renewed efforts to move forward with the Telegraph shared streets proposal, which will reconfigure the first four blocks of Telegraph to prioritize pedestrians, bicyclists, and buses over automobile thru traffic. Over the next few years, the City will be identifying and applying for regional funding sources, going through multiple stages of design and planning, and engaging in community outreach and public input. We believe that the planned overhaul of the streetscape presents a unique opportunity for Berkeley to be reintegrated into Bus Rapid Transit plans.

The current Council recognizes the importance of providing efficient and reliable public transportation for our residents. As the housing crisis and the effects of climate change sweep across the Bay Area, Berkeley is ready to take bold action to invest in sustainable modes of transportation. And as our city and region grow, we believe our public transit infrastructure should grow with us.

Sincerely,

The Berkeley City Council





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
DISTRICT 7

CONSENT CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmember Rigel Robinson, Mayor Jesse Arreguin,  
Councilmember Cheryl Davila, and Councilmember Ben Bartlett  
Subject: Affirming the City of Berkeley’s Support for the People of Tibet

RECOMMENDATION

Adopt a resolution affirming support to the people of Tibet.

BACKGROUND

The City of Berkeley has a diverse population including many Tibetan Americans. A large part of this population is concerned about human rights and freedom in the United States and around the world. Tibetan Americans, including those residing in the City of Berkeley, have expressed concern at the Chinese Government’s (1) travel restrictions against Tibetans and United States citizens; (2) restrictive regulations on religious affairs in Tibet; (3) censorship of Buddhist literature and information in Tibet; (4) demolition of Tibetan Buddhist sites; (5) imprisonment of Tibetan prisoners of conscience; and (6) declarations that “Decision-making power over the reincarnation of the Dalai Lama and over the end of survival of his lineage resides with the central government of China”

On March 10, 2020, Californians, including Tibetan Americans, residing in Berkeley and surrounding regions will gather to commemorate the 61st anniversary of the Tibetan National Uprising against the Chinese invasion and occupation of Tibet.

The United States has a long history of support to the Tibetan people, including the passage of the Tibetan Policy Act of 2002 (subtitle B of title VI of Public Law 107–228; 22 U.S.C. 6901 note), signed into law on September 30, 2002, which encapsulates policy and programmatic initiatives and supports the aspirations of the Tibetan people to safeguard their distinct identity.

The City of Berkeley was pleased to welcome His Holiness the Dalai Lama, a true champion of world peace and religious harmony, when he visited the Tibetan Community Center in February 2014.

This resolution would establish March 10th, 2020 as “Tibet Day” in Berkeley, acknowledging the struggles and hardships for Tibetan residents of the City of Berkeley. It would also recognize and support current and historic Congressional initiatives on Tibet.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

None

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

1: Resolution

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

AFFIRMING THE CITY OF BERKELEY'S SUPPORT FOR THE PEOPLE OF TIBET

WHEREAS, On March 10, 2020, Californians, including Tibetan Americans, residing in Berkeley and surrounding regions will gather to commemorate the 61st anniversary of the Tibetan National Uprising against Chinese invasion and occupation of Tibet; and

WHEREAS, the City of Berkeley has a diverse population, including many Tibetan Americans, who are concerned about human rights and freedom in the United States and throughout the world; and

WHEREAS, the United States has a long history of support to the Tibetan people, including the passage of the Tibetan Policy Act of 2002 (subtitle B of title VI of Public Law 107-228; 22 U.S.C. 6901 note), signed into law on September 30, 2002, which encapsulates policy and programmatic initiatives and supports the aspirations of the Tibetan people to safeguard their distinct identity; and

WHEREAS, on October 17, 2007, His Holiness the 14th Dalai Lama was awarded the Congressional Gold Medal in recognition of his many enduring and outstanding contributions to peace, nonviolence, human rights, and religious understanding; and

WHEREAS, the City of Berkeley was pleased to welcome His Holiness the Dalai Lama, a true champion of world peace and religious harmony, when he visited the Tibetan Community Center in February 2014; and

WHEREAS, The State Department's 2017 Country Reports on Human Rights Practices said of the situation in Tibet: "The most significant human rights issues included: disappearances; torture by government authorities; arbitrary detentions, including political prisoners; and government curtailment of the freedoms of speech, religion, association, assembly, and movement"; and

WHEREAS, Tibetan Americans, including those residing in Berkeley City, have been expressing concern at the Chinese Government's:

- (1) travel restrictions against Tibetans and United States citizens;
- (2) restrictive regulations on religious affairs in Tibet;
- (3) censorship of Buddhist literature and information in Tibet;
- (4) demolition of Tibetan Buddhist sites;
- (5) imprisonment of Tibetan prisoners of conscience; and
- (6) declarations that "Decision-making power over the reincarnation of the Dalai Lama and over the end of survival of his lineage resides with the central government of China"; and

WHEREAS, Tibetan Americans residing in California have been facing discriminations at the hands of Chinese consulates while applying for visas to visit Tibet; and

WHEREAS, the Reciprocal Access to Tibet Act signed into law on December 19, 2018 highlights China's attempts to isolate Tibet and seeks to promote access for United States diplomats and other officials, journalists, and other citizens, including Tibetan Americans, to Tibet; and

WHEREAS, since 2009, 166 Tibetans have self-immolated to protest against China's rule in Tibet and most Tibetans publicly call for the return of the Dalai Lama to Tibet;

WHEREAS, the city of Berkeley has a long history of support for Tibet and the Tibetan people; and

WHEREAS, The Berkeley City Council affirms the determination of the Tibetan people in Tibet and outside, including the Tibetan Americans, to retain their heritage and protect it from destruction against overwhelming odds through non-violent and peaceful means.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that March 10, 2020, the 61st anniversary of the Tibetan national uprising, shall be officially recognized as "Tibet Day" and the Tibetan flag shall be raised at the City Hall.

BE IT FURTHER RESOLVED that the Berkeley City Council supports the initiatives on Tibet in the United States Congress.

BE IT FURTHER RESOLVED, that the City of Berkeley stands in solidarity with His Holiness the Dalai Lama, the Tibetan people and their just, peaceful and non-violent movement to remind the world of the occupation and ongoing suppression of human rights and freedom in Tibet and the continuous degradation of culture, religion, land and identity of the Tibetan people by China.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the President of the United States, elected federal representatives, the Governor of California, and the United Nations High Commissioner for Human Rights in Geneva, Switzerland.



Office of the City Manager

PUBLIC HEARING

March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director, Department of Public Works  
 Subject: Electric Bike Share Program Franchise Amendment

RECOMMENDATION

Pursuant to Berkeley Municipal Code Chapter 9.60, conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance granting a Franchise Agreement Amendment to Bay Area Motivate, LLC, a subsidiary of Lyft Incorporated, to provide shared electric bicycles to the Berkeley public.

FISCAL IMPACTS OF RECOMMENDATION

The proposed Franchise Agreement Amendment requires Bay Area Motivate, LLC (Motivate) to pay a fee of \$75 per electric bicycle (E-Bike) to the City to spend on bicycle parking racks. The 850 E-Bikes to be provided in the City of Berkeley by the end of calendar year 2020 would result in a total revenue amount of \$63,750 for bicycle parking racks, paid in quarterly installments to be deposited in revenue account code 137-54-622-668-0000-000-000-425910-.

CURRENT SITUATION AND ITS EFFECTS

The shared E-Bike program (“E-Bike Share Program”) would provide 850 E-Bikes in total in the City of Berkeley by the end of calendar 2020. This is in addition to the existing fleet of 400 regular station based bikes. The service area would cover eight square miles mainly west of the Berkeley Hills, as shown on the map in Attachment 1, where the population density is high enough to support the service. Motivate would be required to make a minimum number of E-Bikes consistently available in historically underserved communities identified in the proposed Franchise Agreement Amendment. This number would be approximately proportional to the population of the areas in question. In addition, the proposed Franchise Agreement Amendment would extend the existing station-based Bike Share low-income pricing program to the E-Bike Share Program. This program provides \$5 first year membership and significant per ride discounts for people who qualify for CalFresh or PG&E Care.

The E-Bikes would not have to be parked in the City’s existing limited number of Bike Share stations, as the E-Bikes would be equipped with a kickstand and tether in order to attach them to bicycle racks or park them in an upright position in the furnishings zone



of the sidewalk. The furnishings zone is the area of the sidewalk between the walkway zone and the curb where signage, parking meters, and benches are typically located. Motivate will be held responsible for ensuring that the E-Bikes are parked properly and not attached to benches, parking meters, trees, bus-stop signs or shelters, or adjacent to or within disabled parking zones or any other accessible routes that would otherwise create a barrier to accessibility. Motivate will be required to address legitimate reports of improper or unsafe parking submitted through the City's 311 system within 3 hours during business hours (Monday-Friday, 9:00 AM – 6:00 PM) and within 12 hours during non-business hours and on weekends. Motivate may be charged a citation per Berkeley Municipal Code Section 14.64.010 for failure to do so. Motivate will also be required to notify the City via email when a complaint has been addressed and to attach a photograph as evidence that the complaint has been addressed.

### BACKGROUND

In January 2016, City Council adopted an Ordinance granting a franchise agreement with Motivate to operate a Bike Share program in the City of Berkeley under the terms set out in the Bay Area Bike Share Coordination Agreement (“Coordination Agreement”) adopted by Council in December 2015. The Coordination Agreement is between the Metropolitan Transportation Commission (“MTC”), Motivate, the City of Berkeley and the other Participating Cities (San Francisco, Oakland, Emeryville and San Jose). Section 32.3 of the Coordination Agreement stipulates that Motivate has Right of First Offer to operate a Bike Share program with E-Bikes. In accordance with that Right of First Offer, City of Berkeley staff has concluded negotiations with Motivate on the terms of the E-Bike Share Program, which are incorporated into the proposed Franchise Agreement Amendment, and would provide a consistent E-Bike service in Berkeley, Oakland, and Emeryville.

The Coordination Agreement and original Franchise Agreement laid out the terms for the existing Bike Share system consisting of 37 stations and 400 bikes within the City of Berkeley. The Coordination Agreement requires Motivate to engage in daily rebalancing of bikes, which involves moving bikes from stations that are full to stations that are empty. This is to ensure that all stations are available to users who are either wanting to start a ride or finish a ride. The Coordination Agreement also mandates that Motivate provide a minimum number of Bike Share stations in Communities of Concern as determined by MTC. The proposed Franchise Agreement Amendment extends this mandate to E-Bikes by requiring that minimum numbers of E-Bikes be made consistently available in historically underserved communities, as identified in the Franchise Agreement Amendment. The historically underserved neighborhoods designation is intended to better serve the needs of the Berkeley community than MTC's designated Communities of Concern.

### ENVIRONMENTAL SUSTAINABILITY

Increasing the number of Berkeley residents and visitors who are able to utilize shared mobility choices, as an alternative to single-occupant automobile travel, will decrease greenhouse gas emissions. This will help the City achieve the Berkeley Climate Action Plan greenhouse gas emission reduction targets of 33% below year 2000 levels by the year 2020, and 80% below year 2000 levels by 2050.

#### RATIONALE FOR RECOMMENDATION

The E-Bike Share Program would provide a mobility alternative for Berkeley residents. The station-less (free-floating) nature of the proposed program would allow these shared mobility devices to reach neighborhoods not currently serviced by the City's station-based Bike Share network. Not all Berkeley residents are physically able to ride a manually powered bicycle, so the electric assist motor of the E-Bikes could provide a viable transportation alternative for some residents.

#### ALTERNATIVE ACTIONS CONSIDERED

The City of Berkeley could opt not to expand the existing station-based Bike Share program, which would potentially position the City behind the region in terms of offering alternative modes of transportation to its residents and in terms of meeting the City's Climate Action Plan targets.

#### CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works, (510) 981-7061  
Beth Thomas, Principal Planner, Public Works, (510) 981-7068

#### Attachments:

1: Ordinance

Exhibit A: DRAFT Franchise Agreement between Bay Area Motivate, LLC, a subsidiary of Lyft, Inc., and the City of Berkeley

2: Service Area Map

3: Public Hearing Notice

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

AUTHORIZING THE CITY MANAGER TO EXECUTE A FRANCHISE AGREEMENT AMENDMENT BETWEEN BAY AREA MOTIVATE, LLC, A SUBSIDIARY OF LYFT INCORPORATED, AND THE CITY TO PROVIDE SHARED ELECTRIC BICYCLES TO THE BERKELEY PUBLIC

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

Section 1. The Council finds as follows:

- a. Pursuant to Chapter 9.60 of the Berkeley Municipal Code (BMC), the City of Berkeley and Bay Area Motivate, LLC (“Motivate”) have entered into a Franchise Agreement (“Franchise Agreement”) dated April 7, 2016, for operation of a bicycle sharing program (“Bike Share”) using manually operated bicycles parked in docks at stations, which Agreement was authorized by the Berkeley City Council by Resolution No. 67,326- N.S.
- b. The Franchise Agreement incorporates by reference the terms in the Bay Area Bike Share Program Coordination Agreement (“Coordination Agreement”), with Contract No. 10165, which Agreement was authorized by the Berkeley City Council by Resolution No. 67,326- N.S. and entered into as of December 31, 2015 by and between the Metropolitan Transportation Commission (“MTC”), Motivate, the City of Berkeley and the other Participating Cities (Oakland, Emeryville, San Francisco, and San Jose).
- c. Section 32.3 of the Coordination Agreement stipulates that Motivate has Right of First Offer to operate a Bike Share program with electric-assist or electric bikes (“E-Bike Share Program”) in Berkeley.
- d. Pursuant to Section 32.3 of the Coordination Agreement, City of Berkeley staff has negotiated with Motivate to develop proposed terms for an E-Bike Share Program;
- e. Council adopted a resolution on February 11, 2020, declaring the Council’s intention to consider at a public hearing, set for March 10, 2020 at 6:00 p.m., whether to grant a Franchise Agreement Amendment to Motivate to provide shared electric bicycles to the Berkeley public.
- f. The City’s Climate Action Plan has set a target of reducing transportation emissions 33% below 2000 levels by 2020, and 80% below 2000 levels by 2050. The Plan states that transportation modes, such as public transit, walking, and cycling, must become primary means of fulfilling the City’s mobility needs to achieve these targets.
- g. The E-Bike Share Program is to last four (4) years, with the opportunity, but no guarantee, to renew.

- h. Motivate will launch the E-Bike Share Program with a minimum of 200 electric bicycles, with the minimum number of electric bicycles rising to 850 by the end of calendar year 2020.
- i. Motivate will pay a fee of \$75 per electric bicycle (E-Bike) to the City to spend on bicycle parking racks. The fee would result in a total revenue amount of \$63,750 for bicycle parking racks, paid in quarterly installments.
- j. Motivate will be required to inform their Customers on how to properly park E-Bikes.
- k. Motivate will be required to address legitimate reports of improper or unsafe parking submitted through the City's 311 system within 3 hours during business hours (Monday-Friday, 9:00 AM – 6:00 PM) and within 12 hours during non-business hours and on weekends.
- l. Motivate will be required extend their existing Bike Share low-income pricing program to the E-Bike Share Program.

Section 2. The City Manager is hereby authorized to enter into a franchise agreement amendment with Bay Area Motivate, LLC to provide shared electric bicycles to the Berkeley public for a term of four (4) years, which may be extended upon mutual consent. The required fee of \$75 per E-Bike will be deposited in revenue account code 137-54-622-668-0000-000-000-425910-A. Contract terms are further described in the franchise agreement set forth in Exhibit A.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

#### Exhibits

A: DRAFT Franchise Agreement Amendment between Bay Area Motivate, LLC, a subsidiary of Lyft, Inc., and the City of Berkeley

## AMENDMENT TO BIKE SHARE FRANCHISE AGREEMENT

**THIS Agreement** Amendment is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_

**WHEREAS**, pursuant to Chapter 9.60 of the Berkeley Municipal Code (BMC), City previously granted a Bike Share Franchise (“Franchise”) to Grantee; and

**WHEREAS**, City and Grantee entered into a Franchise Agreement dated April 7, 2016, which Agreement was authorized by the Berkeley City Council by Resolution No. 67,326- N.S.; and

**WHEREAS**, Section 32.3 of the Coordination Agreement for the Bay Area Bike Share Program (“Coordination Agreement”), entered into as of December 31, 2015 by and between the Metropolitan Transportation Commission (“MTC”), Bay Area Motivate, LLC, the City of Berkeley and the other Participating Cities (as defined in the Coordination Agreement), stipulates that Grantee has Right of First Offer to operate a bike share program with electric-assist or electric bikes (“E-Bikes”); and

**WHEREAS**, on January 31, 2020, the City Council held a public hearing for the purpose of hearing persons in favor of or in opposition to the granting of an amendment to the Franchise (“Franchise Amendment”) to allow Grantee to operate a bike share program with E-Bikes; and

**WHEREAS**, the City Council has determined that the grant of such Franchise Amendment to Grantee is in the public interest; and

**WHEREAS**, City and Grantee desire to enter into a Bike Share Franchise Agreement Amendment (“Agreement Amendment”) in order that Grantee may provide bike share transportation services in the City of Berkeley;

**NOW, THEREFORE**, City and Grantee do hereby agree as follows:

### **A. Term**

The term of the Agreement Amendment shall begin on \_\_\_\_ and extend four years. At the end of four years, the term of the Agreement Amendment may be extended upon mutual agreement of the parties.

### **B. Scope**

The Agreement Amendment will apply to all E-Bikes that are deployed pursuant to Section J of the Agreement Amendment. It will not cover bicycles deployed pursuant to the Coordination Agreement or the Program Agreement (“Program Agreement”) entered into as of December 31, 2015 by and between Motivate and MTC, or any bicycles that are propelled only through manual pedaling without electric assistance.

### **C. Definitions**

- (1) “E-Bike”: a bicycle with pedals powered by electric-propulsion assistance.
- (2) “Hybrid Bike”: A bicycle capable of docking into a Station or locking to itself, a city rack or other permanent structure.
- (3) “Service Area”: The area in the City of Berkeley in which E-Bikes are to be made available to the public. The Service Area includes all of the area of Berkeley that is west of the University of California, Berkeley Memorial Stadium; the Rose Garden; and Indian Rock Park. To the north of Solano Avenue, the service area is west of Colusa Avenue. The Service Area is shown on the map in Attachment A and includes the streets along its border.
- (4) “Peak Hours”: 6:00 AM to 10:00 PM seven days per week.

All other terms are as defined in Section 1.0 of the Coordination Agreement.

### **D. Pricing**

Pricing will be as prescribed in Section 9 of the Program Agreement, which was entered into concurrently with the Coordination Agreement.

### **E. Advertising**

Outdoor advertising shall be subject to the terms in the Program Agreement and Coordination Agreement.

### **F. Indemnification**

The indemnification requirements in Section 6 of the City of Berkeley-Motivate Franchise Agreement shall apply to E-Bike operations.

### **G. Insurance**

The insurance requirements in Section 7 of the City of Berkeley-Motivate Franchise Agreement and Coordination Agreement shall be extended to cover E-Bikes except that Commercial General Liability Insurance for Bodily Injury and Property Damage liability,

covering the operations of Grantee and Grantee's officers, agents, and employees, shall have limits of liability of not less than \$2,000,000 combined single limit per occurrence and \$4,000,000 general aggregate liability. Such policy shall name the City of Berkeley and its commissioners, directors, officers, representatives, agents and employees as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from Grantee's operations.

## **H. E-Bike Equipment Safety, Maintenance, and Disposal**

- (1) E-Bikes must be equipped with a device for locking them to a bike rack or other allowable fixed object.
- (2) Customers using E-Bikes must be provided with an easily accessible, user-friendly method, within the Grantee's mobile application, to notify Grantee of any safety or maintenance issue with the E-Bike. In addition, a phone number for reporting safety or maintenance issues must be conspicuously printed on every E-Bike. Bikes reported as damaged or inoperable must be taken out of service immediately and remain out of service until repaired.
- (3) Before E-Bikes are deployed in Berkeley, Grantee shall report to the City on how damaged E-Bikes are repaired or recycled, and what efforts will be made to reduce landfill waste. All batteries and other potentially toxic materials must be disposed of or recycled in accordance with State law.

## **I. Parking and Illegal Dumping**

- (1) Grantee shall pay a fee to the City of \$75 per E-Bike deployed under this Agreement Amendment, which fees the City shall spend on the installation of new bicycle parking racks. Payment of this fee may be made in installments in accordance with the phasing plan described in Section J(2).
- (2) Grantee shall not deploy or rebalance their E-Bikes in a way that impedes the regular flow of travel in the public right of way, or in any way impedes the clearance on sidewalks needed for Americans with Disabilities Act (ADA) compliance. In Commercial Zones, as defined in Title 23, Chapter 23A.16, Grantee shall only deploy or rebalance their E-Bikes attached to a bicycle rack or Station. Outside Commercial Zones, Grantee shall only deploy or rebalance their E-Bikes attached to a Station or in the Furnishings Zone of the sidewalk, as defined in the City of Berkeley Pedestrian Master Plan, Appendix B (2010), preferably attached to a bicycle rack. Improperly parked E-Bikes are subject to fines.
- (3) Grantee shall inform Customers on how to properly park E-Bikes. Grantee shall report to the City, on a quarterly basis, the effectiveness of efforts to enforce proper

parking within their mobile application.

- (4) E-Bikes shall be upright when parked.
- (5) E-Bikes shall not be parked adjacent to or within:
  - (a) Disabled parking zones, or any other accessible routes that would otherwise create a barrier to accessibility;
  - (b) Curb ramps;
  - (c) The Through Passage Zone of the sidewalk, as defined in the City of Berkeley Pedestrian Master Plan, Appendix B (2010);
  - (d) Red curb zones;
  - (e) Loading zones;
  - (f) Transit zones, including within 30 feet of bus stops, shelters, passenger waiting areas and bus layover and staging zones, as measured from the bus stop sign in the direction counter to traffic flow, except at existing bicycle racks;
  - (g) Street furniture that requires pedestrian access (for example: benches, parking pay stations, bus shelters, transit information signs, etc.);
  - (h) Entryways; or Driveways.
- (6) Any E-Bike that is parked in one location for more than 7 consecutive days without moving may be removed and taken to a City facility for storage at the expense of the Grantee.
- (7) Grantee shall institute geo-fencing around designated bike parking areas and implement in-app technology to require their use in high-density areas.
- (8) Grantee shall be responsible for removing from the public right-of-way E-Bikes that have a dead battery or are damaged.
- (9) Grantee shall implement “No Parking” zones in all areas where the City has prohibited bike parking within 72 hours of being notified by the City of the parking restriction. “No Parking” zones should have a minimum radius of 50 feet to account for limitations in GPS accuracy.
- (10) E-Bikes shall include locking mechanisms that attach to fixed objects, subject to the following restrictions:
  - (a) E-Bikes may not be attached to prohibited objects, including but not limited to, bus stop signs, trees, fire hydrants, private property, or on other objects defined by the City upon written notice to Grantee



- (b) E-Bikes locked to bike racks shall be positioned parallel to inverted U or circle bike rack or perpendicular to a wave style rack.
- (c) E-Bikes locked in a way that violates this section are subject to fines and impoundment. For legitimate reports of improper or unsafe parking submitted through the City's 311 system or public call-center system, Grantee must:
  - (i) Address complaints within 3 hours during business hours (Monday-Friday, 9:00 AM – 6:00 PM) and within 12 hours during non-business hours and on weekends;
  - (ii) Notify the City via email when a complaint has been addressed and is considered closed, and attach a photograph of the subject location to the email message to the City as evidence that the complaint was addressed.
- (11) Grantee may be charged a citation per Berkeley Municipal Code Section 14.64.010 if any of Grantee's E-Bikes are found to be improperly parked and not removed within the time period specified in Section I(10)(c)(i).
- (12) Grantee shall provide a plan satisfactory to the City prior to deployment of Ebikes to prevent E-Bikes from being misplaced in bodies of water. In addition, Grantee shall provide for approval their Standard Operating Procedures (SOPs) for retrieval of Bicycles from bodies of water prior to deployment of Ebikes.

## **J. Service Area and Bicycle Availability**

- (1) All E-Bikes must be available for hire through the Bay Wheels (or equivalent) website or Lyft application ("app"), and shall not require use of the Lyft app to register for an account or access any system function.
- (2) Grantee shall provide 850 E-Bikes in the City of Berkeley, in accordance with the following phasing plan, provided, however, that if this Agreement Amendment is executed after February 29, 2020, then the deadlines in this Section J(2) and Section J(4) will be automatically extended by the number of days from February 29, 2020 to the date that such execution occurs. This planned expansion is in addition to any bicycles required to be deployed in Berkeley pursuant to the Coordination Agreement.
  - (a) End of 2020 Q1: 212 total E-Bikes
  - (b) End of 2020 Q2: 425 total E-Bikes
  - (c) End of 2020 Q3: 638 total E-Bikes
  - (d) End of 2020 Q4: 850 total E-Bikes.
- (3) Grantee is permitted to expand the Service Area in accordance with the following phasing plan:

City	Current Service Area (square miles) <sup>1</sup>	Service Area Expansion (square miles)	25% (end of Q2 2019)	50% (end of Q3 2019)	75% (end of 2019)	100% total (square miles)
Berkeley	4	8	5	6	7	8 <sup>2</sup>

- (1) The following table identifies minimum numbers of E- Bikes, as a subset of E-Bikes deployed under this Agreement Amendment, to be made available for use in specific Service Subareas that have been identified by the City as historically underserved neighborhoods. Service Subarea boundaries are shown on the map in Attachment A. The minimum number of E-Bikes to be made available in each Service Subarea is proportionate with the residential population in the respective Service Subarea. Grantee shall ensure that the minimum number of E-Bikes listed below is consistently available within each identified Service Subarea. The required minimum number of E-Bikes for each Service Subarea may be amended upon mutual agreement by the City and Grantee. The total area covered by a 400 meter radius around each available bike within each Service Subarea shall not drop below 75% of the total Service Subarea for 75% of the time during the Peak Hours.

Service Subarea	Required Minimum E-Bike Availability*			
	By 3/31/20	By 6/30/20	By 9/30/20	By 12/31/20
South Berkeley	43	87	130	173
Central Berkeley	19	37	56	75
West Berkeley	12	25	37	49
Oceanview	4	8	12	16

\* Minimum number of E-Bikes required to be consistently available for use by customers

- (2) Permission to provide service under this Agreement Amendment outside the public right of way shall require approval from the appropriate department,

<sup>1</sup> The current Service Area is the area within 1/4 mile of an existing station, rounded to the nearest square mile.

<sup>2</sup> The service area is an estimate.

agency, or property owner(s).

- (3) Grantee shall have a means of communicating with the User when an E-Bike has been parked in a non-permitted area. The communication to the User shall be sent electronically at the end of the ride.
- (4) The Key Performance Indicators (KPIs) for bike availability shall be according to the terms in Section M.

### **K. Data Reporting**

- (1) One month after beginning service, Grantee will provide data reporting on E-Bike trip origins and trip destinations to the City of Berkeley on a monthly basis.
- (2) One month after beginning service, Grantee will provide a monthly report on prior-month performance of Key Performance Indicators (KPIs), as described in the Program Agreement, and as further detailed in Section M.
- (3) Data reporting shall be in compliance with the Mobility Data Specification Standard developed by the Los Angeles Department of Transportation, subject to modifications in order to comply with applicable law, including the California Consumer Privacy Act.

### **L. Community Engagement**

- (1) Grantee must provide a plan for community engagement, including a list of planned presentations, activities, and events with community based organizations, Business Improvement Districts, and other key stakeholders in the Service Area.

### **M. Key Performance Indicators (KPIs)**

- (1) This Section provides new rebalancing KPIs with established Liquidated Damages and associated data reporting requirements to address operational specifics for E-Bikes. When calculating these new rebalancing KPIs, bikes deployed under the Program Agreement will also be counted as contributing to coverage.
  - a. Service Area Coverage: The total area covered by a 400 meter radius around each available bike in the Service Area shall not drop below 75% of the Total Service Area for 75% of the time during Peak Hours.
    - Liquidated Damages: \$294 for every 1% under 75% of the time when Service Area coverage minimums are not met, measured monthly. For example, if Service Area coverage is only met 50% over the course of a month, the Liquidated Damage amount will be \$7,350 for that month.
  - b. Customer Coverage: At least 85% of Trip Intents must have at least 2

available bikes within 400 meters during the Peak Hours from 6:00 AM to 10:00 PM.

- Liquidated Damages: \$147 for each 1% under 85% of Trip Intents for which Customer Coverage are not met, measured monthly. For example, if Customer Coverage is only met for 60% of Trip Intents, the Liquidated Damage amount will be \$3,675.
  - “Trip Intent” is defined as each time a customer:
    - indicates demand for a bike by opening either the Bay Wheels website or Lyft app,
    - is located within the Service Area, and
    - meets any the following requirements:
      - clicks on an individual station or bike,
      - spends 5 seconds or more in the “Bikes & Scooters” section of the Lyft app, or
      - takes a trip less than 15 seconds after opening either the Bay Wheels website or Lyft app. This definition is subject to modification based on changes to Bay Wheels or Lyft app experiences.
- (2) All of the KPIs listed in Appendix A to the Program Agreement, including the Dock Availability KPI in #12, and associated Liquidated Damages apply to the E-Bike fleet, but will not go into effect for E-Bikes until 90 days after the effective date of this Agreement Amendment. The new rebalancing KPIs and corresponding Liquidated Damages in this Section will not go into effect until 90 days after the effective date of this Agreement Amendment.
- (3) The City and Motivate agree to negotiate additional amendments to KPI targets and Liquidated Damage amounts up to 180 days after the effective date of this Agreement Amendment which shall go into effect upon mutual written agreement between the parties.

## **N. System Redundancy**

- (1) Redundancy Requirements: Motivate shall demonstrate sufficient redundancy in the system to withstand a technological or mechanical failure or safety issue without significant service disruption including:
- a. Within 6 months after execution of this Agreement Amendment, no more than 85% of the bikes in the fleet shall be of the same bike make and model. At least 15% of the bike program fleet provided by Motivate shall have an alternative bike design (e.g., make, model, specific components, etc.).

- b. Within one year after execution of the Agreement Amendment, no more than 70% of the bikes in the fleet shall be of the same bike make and model. At least 30% of the bike program fleet provided by Motivate shall have an alternative bike design.
  - c. Motivate shall provide the City with a plan within 15 days to address mechanical or technological problems that affect availability of E-Bikes on the street in the event that the current system or model is unable to perform as set forth under this Agreement Amendment, which shall include bi-weekly updates to the City on the status of resolving any mechanical or technological problems.
- (2) Service Reliability requirements: The E-Bike program fleet permitted under this Agreement Amendment shall not drop below 70% of the applicable minimum fleet size as set forth in the phasing plan in Section J for 15 out of any 30 consecutive days (calculated on a rolling basis). Fleet size (measured as the cumulative number of bikes in rental and bikes available for rental) will be measured at 4 AM Pacific Time each day. The service reliability requirements for each calendar-year quarter listed in Section J(2) will go into effect 30 days after the beginning of the respective quarter and shall continue for 29 days past the beginning of the following quarter.

## **O. Liquidated Damages/Default**

- (1) Cap on Liquidated Damages / Ability to Obtain Redress through a Second Operator

Liquidated damages for KPIs for Service Area Coverage and Customer Coverage are set forth in the KPI section above. Liquidated damages for E-Bikes that are subject to this Agreement Amendment have a limitation of [8%] of the City's portion of regional Ridership Revenues as defined below.

"Ridership Revenues", as defined in Section 8.1.2 of the Program Agreement and for purposes of this Agreement Amendment, are calculated to include all revenues collected for all types of bikes including E-Bikes, Hybrid E-Bikes and manually operated pedal bikes including those that dock in Stations as defined in the Program Agreement. The City's portion of Ridership Revenues will be defined by the percentage of total Bay Wheels trips taken in Berkeley during the 12 months immediately preceding such calculation.

For the purposes of assessing Liquidated Damages, the City's portion of Ridership Revenues for the calendar year 2020 will be calculated monthly by multiplying the Ridership Revenues collected beginning on January 1, 2020 by the ratio 366 bears to the number of days from January 1 to the measurement date. Starting on January 1, 2021, the City's portion of Ridership Revenues will be measured quarterly over the 12 months immediately preceding any given date of measurement.

Motivate shall provide all data necessary for calculating KPIs, Liquidated Damages, and the City's portion of Ridership Revenues to the City on a monthly basis no later than the 25th day of the subsequent month (for example, all data for the month of April 2020 must be provided by May 25, 2020); except that for all financial information, the data shall reflect all relevant facts as they existed with respect to the calendar month that immediately precedes the immediately preceding calendar month (e.g., the June report would reflect the financial data for April).

In the event that, beginning on April 1, 2020 and for the term of this Agreement Amendment, (1)(a) Motivate's total liquidated damages for KPIs for Service Area Coverage and Customer Coverage over the period of any two consecutive months exceed [8%] of the City's portion of Ridership Revenues (as defined above) and (1)(b) Motivate fails to cure such failure(s) within the two monthly reporting periods following written notice by the City of such failure(s), or (2)(a) Motivate fails to meet either the Redundancy Requirements or Service Reliability Requirements set forth above and (2)(b) Motivate fails to cure such failure(s) within 30 days following written notice by the City of such failure(s), then Motivate agrees that the City has the right to immediately solicit and enter into a franchise agreement with no more than one additional E-Bike operator to provide stationless E-Bike service for no longer than the duration of this Agreement Amendment.

The bike fleet for any such additional operator shall be a maximum of 200 E-Bikes. However, if the difference between the number of E-Bikes Motivate is required to provide pursuant to this Agreement Amendment and the number of E-Bikes actually in service exceeds 200 E-Bikes (calculated based on the average deployment during the applicable cure period), then the additional operator's E-Bike fleet may consist of 200 E-Bikes plus 50 percent of the difference between the number of E-Bikes Motivate is required to provide and the number of E-Bikes actually in service.

If, at the end of such second operator's franchise term, Motivate has achieved three consecutive two-month periods of KPI performance below the liquidated damages cap, then the City will consider such performance by Motivate in determining whether to extend the second operator's franchise and/or adjust the second operator's permitted fleet size (subject to the above limitations) subject to the City's absolute sole discretion. Motivate agrees to this as an alternative remedy, notwithstanding any contractual right by Motivate to exclusivity under either the Program or Coordination Agreements or the default provisions provided by this Agreement Amendment.

## (2) Default Provisions

Each of the following shall constitute an immediate event of default (Event of Default) under this Agreement Amendment:

(a) (1) Motivate fails to meet any of the service reliability requirements as set forth in the System Redundancy section, and fails to cure such failure within 180 days of written notice of such failure;

(2) Motivate's liquidated damages for KPIs for Service Area Coverage and Customer Coverage exceed [10%] of the City's portion of regional Ridership Revenues (as that term is used herein) for the quarter starting on April 1, 2020 or any quarter thereafter, and Motivate fails to cure such failure within 180 days of written notice of such failure; or

(3) Motivate fails or refuses to perform or observe any other material term, covenant or condition contained in this Agreement Amendment, including any material obligation imposed by ordinance or statute and incorporated by reference herein, and such default is not cured within 45 days after written notice thereof from the City to Motivate, or in the case of any term, covenant or condition which cannot reasonably be cured within such 45 day period, such longer period not to exceed 120 days after the City's written notice as is necessary to effect a cure of the failure to perform, so long as Motivate diligently attempts to effect a cure throughout such period.

(b) On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement Amendment, to seek specific performance of all or any part of this Agreement Amendment, and/or solicit, if necessary, and enter into a franchise agreement with another operator to provide stationless E-Bike service in Berkeley. City shall have the right to offset from any amounts due to Motivate under this Agreement Amendment or any other agreement between City and Motivate: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Motivate pursuant to the terms of this Agreement Amendment; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement Amendment by reference, or into any other agreement with the City.

(c) All remedies provided for in this Agreement Amendment may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy. Nothing in this Agreement Amendment shall constitute a waiver or limitation of any rights that City may have under applicable law.

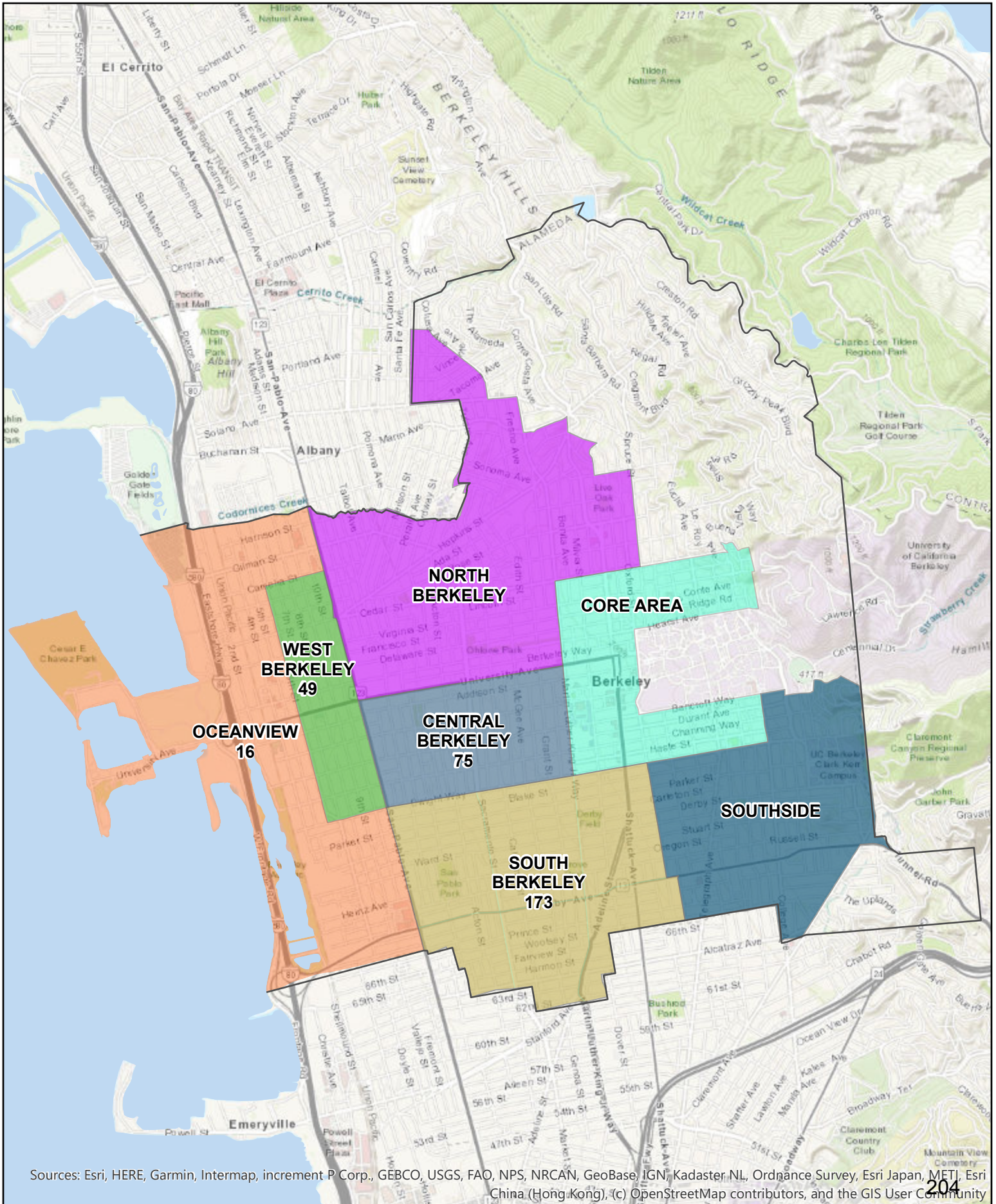
(d) Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

Notwithstanding anything to the contrary herein, this Agreement Amendment shall include the following sections from the Program Agreement: Motivate's right to reduce the fleet size for emergencies or upgrades, Section 18.3 regarding Motivate's right to contest any finding by the City of an Event of Default; and Events of Force Majeure.





# Attachment 2: Service Area and Service Subarea Map with Minimum E-Bike Availability Requirements by December 31, 2020 (Where Applicable)



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**SHARED ELECTRIC BICYCLE FRANCHISE AGREEMENT  
AMENDMENT HEARING**

The Department of Public Works is proposing to grant an amendment to the existing franchise agreement with Bay Area Motivate, LLC (“Motivate”), a subsidiary of Lyft Incorporated, in order to provide shared electric bicycles to the Berkeley public for a duration of no less than four years. Motivate would provide 850 shared electric bicycles within Berkeley by the end of calendar year 2020.

The hearing will be held on March 10, 2020 at 6:00 p.m. in the Berkeley Unified School District Board Room, 1231 Addison Street, Berkeley.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **February 27, 2020**.

For further information, please contact Beth Thomas, Principal Planner, Department of Public Works at 510-981-7068.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** February 21, 2020 – The Berkeley Voice  
Published pursuant to Berkeley Municipal Code Section 9.60.050

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on February 27, 2020.

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







Office of the Mayor

ACTION CALENDAR

March 10, 2020

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmembers Robinson and Harrison

Subject: Directing the City Manager to Lease Caltrans Property at University and West Frontage Road

RECOMMENDATION

Direct the City Manager to:

1. Negotiate a lease agreement with the California Department of Transportation (Caltrans) for the leasing of state property at University Avenue and West Frontage Road as indicated in Attachment 1. The property will be used for a temporary outdoor shelter with restrooms, hand washing stations and garbage service. The City Manager should also inquire about whether additional Caltrans parcels adjacent to those being offered are also available for lease. The City Manager should utilize funding previously allocated for an Outdoor Shelter program from Measure P tax receipts.
2. Concurrent with the lease negotiation, develop a plan and budget for the establishment and staffing of the Outdoor Emergency Shelter as further defined herein.
3. Immediately provide toilet and handwashing stations on the north and south side of University Avenue and under the overpass at University Avenue.
4. Immediately provide garbage receptacles and work with the residents to establish consistent weekly garbage collection on the north and south side of University Avenue and under the overpass at University Avenue.
5. Immediately schedule ongoing outreach from service providers including, but not limited to, mental health, health, and Coordinated Entry.

BACKGROUND

For the past year, a growing number of persons experiencing homelessness have camped on state and City property adjacent to the freeway on and off ramps at the intersection of University Avenue and Interstate 80. It is estimated that the number of persons camping there currently is close to 100. The location right at a freeway entrance is very dangerous for persons camping there illegally and for motorists. In addition, the lack of regular maintenance by Caltrans of their right of way has resulted in piles of trash and debris. One area for example has not been serviced since September 2019. Caltrans has a maintenance schedule that states that they will pick up trash at

this location every two weeks. This creates an imminent health and safety problem, as the growing amount of trash has created an environment where rodents and other vermin are harboring and sewage from trash is leeching into the ground. The lack of available restrooms and handwashing stations also poses a serious health risk to those individuals camping on Caltrans property. The status quo is dangerous not just for people camping but for the broader community and must be addressed immediately.

Caltrans has stated that the presence of people camping makes it difficult for them to clean and maintain their right of way. However, they do not want to enforce unless they have coordinated with the City and service providers on available social services and shelter options. Over the past 6 months the City has been engaged in direct conversations with Caltrans over how to help the growing number of people living on their property and manage the health and safety issues. Caltrans has offered to lease the city property for an outdoor shelter or navigation center. In response to my request to State Caltrans Director Toks Omishakin, Caltrans has provided the City of Berkeley several maps of locations along the Interstate 80 corridor available for lease. In addition, Governor Newsom's Executive Order N-23-20 directed state officials to develop a list of excess state land which can be used for emergency shelter and housing. In addition, Caltrans was directed to develop a model lease template that local governments can use to lease state land for homeless shelter or housing.

One of the parcels identified were two pieces of land on the entrance and exit of Interstate 80 at University Avenue and West Frontage Road in Berkeley. There are currently a large number of people camping on these parcels, however the lack of a structured, sanctioned encampment has made it difficult to manage the situation and has posed a growing health and safety risk to those living there. Until a more permanent location is identified that is not adjacent to a freeway, it is incumbent on the city to take advantage of this offer from Caltrans and work in partnership with them to develop a safer, more structured environment for people to shelter on the Caltrans right of way.

#### ESTABLISH AN OUTDOOR SHELTER

The City Manager shall provide Council with a plan and budget for the establishment and staffing of the Outdoor Emergency Shelter. Some elements of the shelter program should include partial fencing of the property to protect shelter clients and motorists, portable restrooms, hand washing stations, potable water, scheduled shower services and consistent, scheduled garbage collection to be paid for by the City.

The City Manager should explore the use of tents or other temporary structures to provide shelter. Structures should include one for community gathering for use for service provider meetings, meal service provide by volunteers and group meeting needs. Funding for the shelter should come from the \$615,000 allocated by Council in January. Also, state, county, private and philanthropic donations and grant funding should be explored by the City Manager. As part of the implementation of this Outdoor Shelter program, Caltrans will likely notice and request that people living on other parcels along the freeway move and make physical improvements to prevent re-camping. Those individuals will be invited to move into the Outdoor Shelter.

The City Manager shall provide regular progress reports to City Council during “City Manager Comments” until the lease has been executed and the outdoor shelter establishment, as defined herein, has been completed.

### FINANCIAL IMPLICATIONS

Governor Newsom’s Executive Order N-23-20 allows local governments to lease excess state land for emergency shelter and housing. Caltrans has previously leased land to cities for short-term shelter at a rate of \$1. It is anticipated that the lease costs will be \$1 or a nominal amount.

In addition, the Council allocated \$307,000 in Fiscal Year 2020 and \$615,000 in Fiscal Year 2021 for an Outdoor Emergency Shelter. Funds from this budget allocation will be used to establish and operate a temporary shelter at this location, including portable restrooms, hand washing stations, potable water, shower services and ongoing garbage collection.

Providing immediate garbage receptacle and scheduled garbage collection, prior to the establishment of the outdoor shelter, shall come from currently allocated funds for encampment cleanup as authorized in the FY2019/2020 Budget.

Providing immediate portable toilets and handwashing stations, as described herein, shall come from funds currently allocated in the FY2019/2020 Budget and from carryover funding from the FY2018/2019 Budget.

Providing immediate service provider outreach should come from existing outreach contracts by simply adding this location to the current schedule.

Establishing and managing an outdoor shelter will offset the current City cost of garbage collection at the University Avenue/Interstate 80 on and off ramps and reduce health impacts and related costs.

### ENVIRONMENTAL SUSTAINABILITY

Leasing and establishment of an Outdoor Shelter will help the City and Caltrans better manage the growing health and safety problems at the University Avenue/Interstate 80 intersection, including managing trash and sanitation.

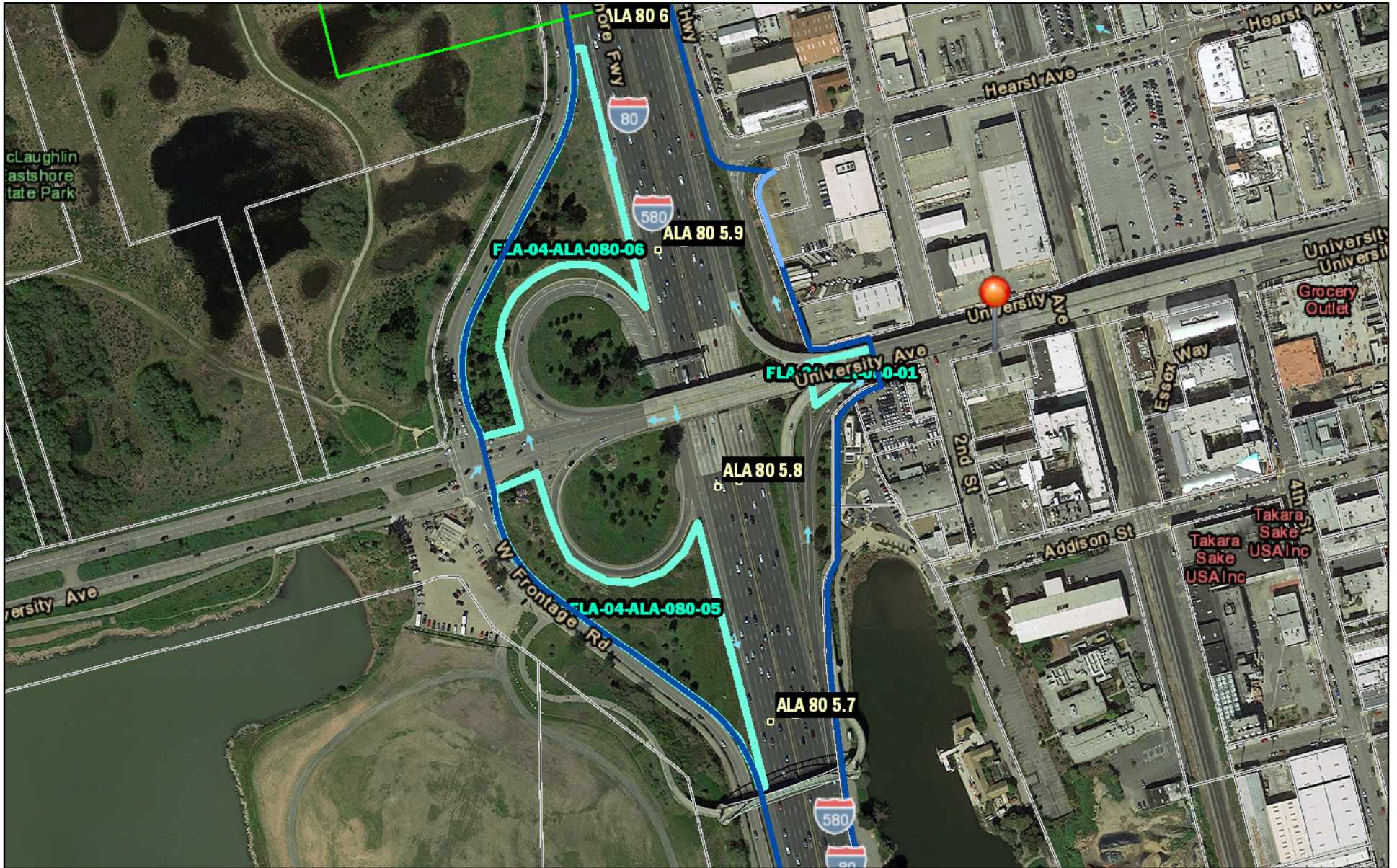
### CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

### Attachments:

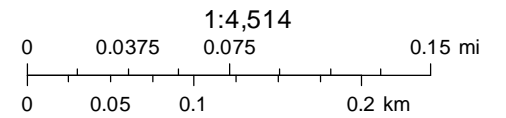
- 1: Map of Caltrans Leasable Property at University and West Frontage Road
- 2: Governor Newsom’s Executive Order on Homelessness, N-23-2





January 27, 2020

- Postmiles
- Traced
- Freeway Lease Areas
- Wireless Lease Sites
- Park and Ride
- Fee - Not Recorded
- Fee
- Right of Way Boundary
- CAD
- Maintenance Facilities
- Easement
- Easements - Not Recorded



Assessor\_Parcel  
Esri, HERE, Garmin, (c) OpenStreetMap contributors



EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA

EXECUTIVE ORDER N-23-20

**WHEREAS** California faces a severe housing crisis that has made housing unaffordable for too many Californians and, in turn, exacerbated the problem of homelessness; and

**WHEREAS** homelessness in California is not confined to urban corridors but is present in urban, suburban, and tribal and rural communities throughout the state; and

**WHEREAS** data released recently by the U.S. Department of Housing and Urban Development based on the 2019 Point-in-Time Count indicated that there were 151,278 individuals who were homeless in California, over 108,000 of whom were unsheltered, and that the homeless population has been steadily increasing; and

**WHEREAS** Californians driven into homelessness often develop significant health issues over time and, often experience significant morbidity and die sooner; and

**WHEREAS** it is estimated that a substantial proportion of individuals who are homeless experience chronic physical and mental health disorders, yet are not receiving regular and consistent medical or psychiatric care; and

**WHEREAS** California's homelessness crisis has put considerable stress on many public services including transportation, libraries, schools, health services and public safety, as well as created public health challenges; and

**WHEREAS** California's homelessness crisis has impacted certain business sectors throughout the state and is a top concern to many residents, businesses, communities, tribal governments, cities, and counties across the state; and

**WHEREAS** unauthorized encampments of people who are homeless are increasing in many areas of the state within the public right of way and near or on private or tribal property, resulting in traffic and fire hazards, crime, risk of injury and death, and other conditions detrimental to public health and safety, both for people who are homeless and people who are not; and

**WHEREAS** since 2018, almost 200 counties and cities have declared a shelter crisis, pursuant to Government Code section 8698 et seq.; and

**WHEREAS** over the past two years, the state has substantially increased its efforts to address street homelessness by providing more than \$2.7 billion in new funding, significantly increasing its support for safety net services, eliminating barriers to getting navigation centers and temporary housing built to allow homeless adults to receive services and stability in



order to find longer-term housing, enacting the most aggressive rent-gouging protections, launching a 100-Day Challenge Initiative to bring counties and cities together to more urgently address homelessness in their communities, and expediting funding allocations to local governments, including allocations to counties to reduce the number of families in the child welfare services system experiencing homelessness; and

**WHEREAS** solutions to homelessness require additional innovation, cooperation and urgency within the public sector, and among the public and private and tribal sectors; and

**WHEREAS** because reducing the population of homeless individuals in California is a matter of critical statewide importance, the state can and needs to do more to help local communities act with urgency to address street homelessness and the society-wide problems associated with the homelessness crisis.

**NOW, THEREFORE, I, GAVIN NEWSOM**, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this Order to reduce street homelessness, break down barriers to homeless individuals accessing health care and other critical services, and to increase housing options for those experiencing homelessness. This Order shall become effective immediately.

**IT IS HEREBY ORDERED THAT:**

1. All state agencies specifically referenced in this Order shall develop by no later than February 28, 2020 accountability metrics for state agencies and for local partners to assess the use of the state resources referenced in the following paragraphs and their impact on reducing street homelessness, breaking down barriers to homeless individuals accessing health care and other critical services, and increasing housing options for those experiencing homelessness. The metrics shall be published online and regularly updated. In carrying out this Order, state agencies shall consider the extent to which local partners regularly and publicly report data based on the local metrics.
2. The Department of Finance, pursuant to its authority under Government Code sections 11005, 11005.1, and 13306, shall immediately establish the California Access to Housing and Services Fund within the Department of Social Services, to receive future state appropriations, as well as donations from philanthropy and the private sector, and to provide much needed dollars for additional affordable housing units, providing rental and operating subsidies, and stabilizing board and care homes;
3. To rapidly increase housing options for those experiencing homelessness, the following actions shall occur by no later than January 31, 2020:

- a. The Department of General Services shall identify all properties from the digitized inventory of excess state land created by EO N-06-19 that can be used by local partners, including tribal governments, counties, cities, or non-profit agencies, on a short-term emergency basis to provide shelter for individuals who are homeless, so long as such usage will not delay affordable housing development on those properties.
  - b. The Department of General Services shall conduct an initial assessment of all state facilities to identify facilities that can be used by local partners on a short-term emergency basis to provide shelter for individuals who are homeless and in need of health and social services.
  - c. The Department of Transportation (Caltrans) shall develop and share a model lease template to allow counties and cities to use Caltrans property adjacent to highways or state roads in those jurisdictions on a short-term emergency basis to provide shelter for individuals who are homeless, building on recent partnerships with the cities of Los Angeles, San Jose, and San Francisco, and consistent with Streets & Highways Code section 104.30. Priority for future partnerships to make state land available to counties and cities for short-term emergency housing shall be given to jurisdictions where a shelter crisis declared pursuant to Government Code section 8698 et seq. is in effect.
  - d. The Office of Statewide Health Planning and Development shall work with local jurisdictions, tribal communities, and private entities to conduct an initial assessment of the appropriateness and availability of vacant and decommissioned hospitals and health care facilities for use by local partners on a short-term emergency basis to provide shelter for individuals who are homeless.
  - e. The Department of Food and Agriculture, in consultation with the Department of General Services, the Department of Housing and Community Development, the Department of Social Services, and the Office of Emergency Services, shall conduct an initial assessment of fairgrounds in or near jurisdictions where a shelter crisis is currently in effect, and, for those fairgrounds, determine the population capacity and space that would currently be available to local partners on a short-term emergency basis to provide shelter for individuals who are homeless.
4. The Department of General Services shall supply 100 travel trailers from the state fleet, and the Emergency Medical Services Authority shall supply complementary modular tent structures, to provide temporary emergency housing and the delivery of health and social services in communities across the state. The Department of General Services and the Emergency Medical Services Authority shall supply trailers and tents immediately and

end by September 30, 2020, unless the secretaries of the Government Operations Agency and the Health and Human Services Agency both concur on a case-by-case basis that the specific circumstances warrant the continued use of the trailers or tent structures. These trailers and tent structures shall only be used where the following criteria have been satisfied:

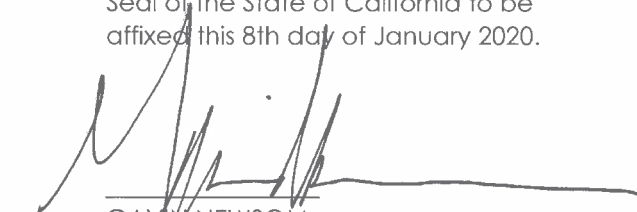
- a. A shelter crisis declared pursuant to Government Code section 8698 et seq. or its equivalent under the applicable laws governing the jurisdiction of a federally recognized tribe in California is in effect.
  - b. Local partners, including counties, cities, and non-profit agencies, have the capacity and resources to deploy, operate, secure, and maintain the trailers or tent structures.
  - c. Local partners make appropriate health, social, housing, and other appropriate services available to support the needs of individuals temporarily housed in the trailers or tent structures and transition them into permanent, safe and stable housing.
  - d. Local partners agree to regularly and publicly report data based on the accountability metrics referenced in paragraph 1.
5. To further assist local jurisdictions in addressing street homelessness, there shall be a multi-agency state strike team comprised of the Business, Consumer Services, and Housing Agency; the Government Operations Agency; the Health and Human Services Agency; the Labor and Workforce Development Agency; and the Transportation Agency. The strike team shall be coordinated by the Homeless Coordinating and Financing Council and provide technical assistance and targeted direct support to counties, cities, and public transit agencies seeking to bring individuals experiencing homelessness indoors and connect them with appropriate health, human, and social services and benefits.

**FURTHERMORE**, all counties, cities, public transit agencies, special districts, school districts, tribal governments, and non-governmental actors, including businesses, faith-based organizations, and other non-profit agencies, are requested to examine their own ability to provide shelter and house homeless individuals on a short-term emergency basis and coordinate with local authorities to provide shelter and house individuals.

**IT IS FURTHER ORDERED** that as soon as hereafter possible, this Order shall be filed with the Office of the Secretary of State and that widespread publicity and notice shall be given to this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its departments, agencies, or other entities, its officers or employees, or any other person.

**IN WITNESS WHEREOF** I have hereunto  
set my hand and caused the Great  
Seal of the State of California to be  
affixed this 8th day of January 2020.



\_\_\_\_\_  
GAVIN NEWSOM  
Governor of California

**ATTEST:**

\_\_\_\_\_  
ALEX PADILLA  
Secretary of State





Office of the Mayor

## ACTION CALENDAR

March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Mayor Jesse Arreguín, Councilmembers Cheryl Davila, Kate Harrison, Ben Bartlett

Subject: Ronald V. Dellums Fair Chance Access to Housing Ordinance; Adding BMC Chapter 13.106

### RECOMMENDATION

1. Adopt a first reading of the Ronald V. Dellums Fair Chance Access to Housing Ordinance, adding Berkeley Municipal Code Chapter 13.106 and;
2. Direct the City Manager to take all necessary steps to implement this chapter including but not limited to developing administrative regulations in consultation with all relevant City Departments including the Rent Stabilization Board, preparing an annual implementation budget, designating hearing officers and other necessary staffing for administrative complaint, exploring the development of a compliance testing program similar to that used by the Seattle Office of Civil Rights, developing timelines and procedures for complaints, conducting outreach and education in partnership with the Alameda County Fair Chance Housing Coalition, and referring program costs to the June budget process.

### POLICY COMMITTEE RECOMMENDATION

On November 7, 2019, the Land Use, Housing, and Economic Development Committee adopted the following action: M/S/C (Droste/Hahn) to move the item with amendments and subject to additional technical revisions with a positive recommendation. Vote: All Ayes.

### BACKGROUND

The City of Berkeley, along with other California urban areas, has seen an unprecedented increase in homelessness, with dire public health and safety consequences. This proposed Fair Chance Housing Ordinance serves as critical strategy to house currently unhoused people and also prevent more people from becoming homeless.

Structural barriers faced by formerly incarcerated people continue to exist, with the persistent use of criminal records blocking housing opportunities for many. A lack of access to stable housing increases the risk of recidivism, furthering the cycle caused by an inequitable criminal justice system. A 2019 survey by UC Berkeley's Goldman

School for Public Policy found that a third of formerly incarcerated Alameda County residents had experienced homelessness or housing insecurity, and 54% had been denied either housing or the opportunity to live with a family member because of their criminal record.

Multiple jurisdictions across the country, including regional neighbors such as Oakland, San Francisco and Richmond, have passed a Fair Chance Housing Ordinance, which prohibits landlords from prohibiting tenancy based on an individual's criminal history. The Berkeley Housing Element calls for the creation and enforcement of fair housing laws.

In October 2018, the City Council unanimously approved a referral to the City Manager and the 4x4 Committee to establish a Fair Chance Housing Ordinance. The 4x4 Committee discussed this during their meetings in May and June 2019, in consultation with the Alameda County Fair Chance Housing Coalition led by the Just Cities/ Dellums Institute for Social Justice, and various stakeholders.

The Fair Chance Ordinance was moved to the Land Use, Housing and Economic Committee where it was first discussed on July 18, 2019. The ordinance was discussed in depth over the course of five committee meetings. Several key amendments were accepted by the author and advocates based on input from property owners. These noted "exemptions" in the summary section on page four were the result of concerns raised about: (1) small Housing Providers not having access to information and/or the capacity to implement many changes into their existing systems; and (2) owner occupied Housing Providers having special considerations.

On November 7, 2019 the committee took the following action:

*M/S/C (Droste/Hahn) to move the item with amendments and subject to additional technical revisions with a positive recommendation. Vote: All Ayes.*

The final Committee amendments:

- Clarified definitions of "Adverse Action", "Aggrieved Person", "Close Family Member" and "Housing".
- Refined the terms of the exemptions for use of Background Check Reports
- Requested that the City Attorney make technical revisions to ensure appropriate formatting and define the locations where Housing Providers must post notices required under the Ordinance.

Subsequent to the Committee's action, the Mayor reviewed the ordinance to ensure that the language was clear and also compared our ordinance to the recently adopted Oakland Fair Chance Ordinance and has proposed new clarifying changes.

**SUMMARY**

As research and lived experience demonstrate, formerly incarcerated people experience significant barriers beyond the high cost of rent that prevent them from securing housing. They are screened out when applying to rent housing due to criminal background checks in private rental, nonprofit affordable housing, and public housing units. Even living with family members is not always a viable solution as it may put their family's housing at risk-- rental agreements may prohibit or limit people with criminal histories from residing in the units. Fair Chance Housing is legislation that prohibits the use of criminal histories for most offenses in determining access to housing. It also bans the use of advertising language that excludes people with arrest records, conviction records, or criminal history. In short, Fair Chance Housing legislation removes structural barriers to housing and enables landlords to consider the merits of individual housing applications—providing people with a fair chance.

Led by Just Cities/the Dellums Institute for Social Justice, The Alameda County Fair Chance Housing Coalition has been working to remove such structural exclusionary barriers for people coming home from prison. The purposes of the Fair Chance Housing Ordinance are to: (1) increase access to housing for formerly incarcerated individuals and their family members; (2) reduce the homelessness and family separation that result from blanket exclusion of housing applicants based solely on criminal background checks; (3) reduce recidivism by removing structural barriers to stable housing; (4) provide formerly incarcerated people with a fair opportunity to reclaim their lives and effectively reintegrate into the Berkeley community; and (5) maintain existing safeguards for owners.

*The table below summarizes the main policy terms organized by the type of housing provider.*

| <b>Housing Provider</b>                   | <b>Criminal Background Check</b>                                       | <b>Due Process</b>             | <b>Reporting to City</b>           | <b>Potential Remedies for Violations</b>                              |
|-------------------------------------------|------------------------------------------------------------------------|--------------------------------|------------------------------------|-----------------------------------------------------------------------|
| Private (Non-Affordable Housing Provider) | No                                                                     | City Complaint or Sue in Court | None                               | City complaint w/ fine. Court action w/ damages or injunctive relief. |
| Publicly Subsidized & Not HUD Funded      | No                                                                     | City Complaint or Sue in Court | Annual certification of compliance | City complaint w/ fine. Court action w/ damages or injunctive relief. |
| HUD Funded                                | Following due process protections, can check on 2 crimes per HUD rules | City Complaint or Sue in Court | Annual certification of compliance | City complaint w/ fine. Court action w/ damages or injunctive relief. |



*ORDINANCE PROHIBITIONS:*

The proposed ordinance prohibits ALL landlords from:

- (a) Advertising or using a policy that automatically excludes people with criminal histories from rental housing,
- (b) Asking about or requiring disclosure of someone's criminal history, or
- (c) Taking adverse action against an applicant or tenant based on his or her criminal history.

*EXEMPTIONS:*

- The following properties where the owner occupies the property are exempt from the ordinance: permitted ADUs, single family homes, duplexes, and triplexes.
- Property owners renting their primary dwelling when they are on sabbatical.
- Tenants renting out available bedrooms in the unit in which they reside.
- Pursuant to State law, landlords can review and consider whether an applicant is on the State operated registry of lifetime sex offenders in order to protect the safety of at risk people. This review should happen after a conditional offer has been made and upon receipt of written consent of the applicant. If a housing denial is based upon the registry information, the landlord must provide that information to the applicant and provide the applicant with the opportunity to rebut or provide mitigating information.
- Landlords of HUD funded housing have a partial exemption from the ordinance if they are complying with federal regulations that require them to automatically exclude tenants based on certain types of criminal history (lifetime sex offender registration requirement or making meth on a federally assisted housing property). However, the landlord should follow due process protections including obtaining written consent from the applicant. The landlord must also provide the background check information to the applicant and provide the applicant with the opportunity to rebut or provide mitigating information.

## CURRENT SITUATION AND ITS EFFECTS

Information below is based upon research conducted by the Just Cities Team, former senior government officials and academic researchers. The Just Cities Policy Justice Memo is included in Attachment 2.

### **SUMMARY OF FLAWS WITH CRIMINAL BACKGROUND DATABASE SYSTEMS**

Research shows that government repositories of criminal records are routinely incomplete, thus making commercial criminal background reports inaccurate and/or misleading. In 2006, the U.S. Department of Justice (DOJ) found that an estimated 50% of FBI arrest records, which are used by many background check companies, were missing information on the final disposition of the cases in question.<sup>1</sup> In 2016, the DOJ found that an estimated 32% of records in state criminal history repositories were missing final disposition data.<sup>2</sup> Incomplete data at the state and federal levels undermine the fairness and accuracy of commercial criminal background reports, which rely upon governmental data. In particular, out-of-date information about the final disposition of a case means that data about arrests are routinely listed in background reports even when the charges were eventually dropped, reduced, or disproven in court.

The consequences of these database gaps are significant. According to the National Employment Law Project (NELP), “one third of felony arrests do not result in conviction and many others are reduced to misdemeanors.”<sup>3</sup> While industry-wide data on the inaccuracies of commercial criminal background reports are unavailable, the NELP estimates that 1.8 million workers are subject to FBI checks that include faulty or incomplete information each year. Further, many on-line databases accessible through search engines are also inaccurate, even representing persons without criminal records as having been arrested or convicted.

The lack of accurate disposition data is one of many issues that undermine the accuracy of private criminal background reports. According to a review by the National Consumer Law Center, such reports suffer from a range of problems, including: the publication of sealed or expunged records; the misclassification of crimes (e.g. reporting a misdemeanor as a felony); the assignment of crimes to an individual who did not commit them, otherwise known as a “false positive”; and the display of data in a misleading manner (e.g. reporting a single arrest multiple times because it appears in

---

<sup>1</sup> U.S. Department of Justice. (2006). *The Attorney General’s Report on Criminal History Background Checks*, p. 3.

<sup>2</sup> National Consortium of Justice Statistics. (2018). *Survey of State Criminal History Information Systems, 2016: A Criminal Justice Information Policy Report*, p. 2.

<sup>3</sup> National Employment Law Project. (2013). *Wanted: Accurate FBI Background Checks for Employment*, pp. 1-2.

multiple databases).<sup>4</sup> Unlike government screens, such commercial background checks are conducted using basic personal information, like names. In the late 1990s, a task force consisting of state and federal agencies found that, compared with fingerprint-based checks, name-based checks resulted in a false-positive rate of 5.5%.<sup>5</sup> This means that around 1 in 20 apparent identifications of a crime was ascribed to a person who did not in fact commit that crime.

### **SUMMARY OF HOUSING ACCESS BARRIERS FOR PEOPLE WITH CRIMINAL RECORDS**

Alameda County service providers and national researchers have documented barriers to access to both private rental and publicly subsidized affordable housing faced by formerly incarcerated residents.<sup>6</sup> Results of a 2019 Goldman School survey and interviews of formerly incarcerated persons in Alameda County found that many formerly incarcerated persons could not stay in public housing with a relative or family member due to public housing rules or were denied private or public rental housing due to their incarceration record.<sup>7</sup> In addition, a recent survey by the Berkeley Property Owners Association found that the majority of landlord survey respondents conducted criminal background checks. We note that persons paroled from incarceration are generally required to be returned to the county of their residence (CA Penal Code 3003); therefore, parolees from this area will be returning home.

### **SUMMARY OF PUBLIC HEALTH & SAFETY IMPACTS FROM HOUSING BARRIERS:**

As the state with the second highest population of people currently in prison or jail in the country,<sup>8</sup> California will need to house formerly incarcerated people as they reenter society in a highly impacted housing market. Alameda County has a total of 7,900 people on probation or parole.<sup>9</sup> Incarceration and lack of housing can lead to severely

---

<sup>4</sup> National Consumer Law Center. (2012). [\*Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses\*](#), p. 15.

<sup>5</sup> National Association of Professional Background Screeners. (2005). [\*The National Crime Information Center: A Review and Evaluation\*](#), pp. 11-2.

<sup>6</sup> See Corinne Carey, No Second Chance: People with Criminal Records Denied Access to Public Housing, 36 University of Toledo Law Review 545; Caterina Gouvis Roman and Jeremy Travis, Urban Institute, Taking Stock: Housing, Homelessness and Prisoner Re-Entry (2004); and Every Door Closed: Barriers Facing Parents With Criminal Records, CLASP and CLS Report, Chapter 3, “Criminal Records and Subsidized Housing: Families Losing the Opportunity for Decent Shelter”.

<sup>7</sup> Rodriguez, Anthony (2019) “A Just Return Home: Identifying and Removing Barriers to Housing for Formerly Incarcerated Residents Through Suggested Policies for County of Alameda” Report for Just Cities and Goldman School of Public Policy. p.23

<sup>8</sup> California 2017 raw numbers. “State-by-State Data.” The Sentencing Project. Accessed October 4, 2019. <https://www.sentencingproject.org/the-facts/#detail?state1Option=U.S.Total&state2Option=0>

<sup>9</sup> Total population in probation, Q4 2018 “Alameda County Probation Department Data Dashboard”. Alameda County. Accessed October 4, 2019. <https://www.acgov.org/probation/dashboard.htm>.

limited economic opportunity, thereby increasing the chances of recidivism and public safety impacts.

Research has shown that access to stable and affordable housing enables people to successfully re-integrate into society. For example, a study in Maryland<sup>10</sup> found that providing supportive housing to recently released incarcerated persons reduced the chances that they would be rearrested in the first year. A government study conducted in the United Kingdom found that stable housing was associated with a 20% reduction in the chance of being reconvicted.<sup>11</sup>

Extensive research also shows the direct link between incarceration history, homelessness, and health.<sup>12</sup> For example, a recent participatory action research project between Just Cities, The Village, and the UC Berkeley Goldman School for Public Policy's Center for Civility & Democratic Engagement found that 73% of unhoused residents interviewed in Oakland's encampments were formerly incarcerated.<sup>13</sup> Based upon anecdotal and other data, we believe that unhoused people in Berkeley are also disproportionately formerly incarcerated. For example, in the 2017 Point in Time count for Berkeley homeless residents, one of the top six reasons listed for the primary cause of homelessness was incarceration (6% of respondents). In addition, there are an estimated 10 million children nationwide that are impacted by a parent or close relative who are in the criminal justice system.<sup>14</sup> These children suffer from an increased rate of depression, antisocial behavior, drug use, and suicide.<sup>15</sup>

---

<sup>10</sup> Kirk, David S., Geoffrey C. Barnes, Jordan M. Hyatt, and Brook W. Kearley. "The Impact of Residential Change and Housing Stability on Recidivism: Pilot Results from the Maryland Opportunities through Vouchers Experiment (MOVE)." *Journal of Experimental Criminology* 14, no. 2 (2017): 213–26. <https://doi.org/10.1007/s11292-017-9317-z>.

<sup>11</sup> Kirk, David S., Geoffrey C. Barnes, Jordan M. Hyatt, and Brook W. Kearley. "The Impact of Residential Change and Housing Stability on Recidivism: Pilot Results from the Maryland Opportunities through Vouchers Experiment (MOVE)." *Journal of Experimental Criminology* 14, no. 2 (2017): 213–26. <https://doi.org/10.1007/s11292-017-9317-z>.

<sup>12</sup> Roman, Caterina Gouvis, and Jeremy Travis. "Taking Stock: Housing, Homelessness, and Prisoner Reentry." *PsycEXTRA Dataset*, 2004. [http://webarchive.urban.org/UploadedPDF/411096\\_taking\\_stock.pdf](http://webarchive.urban.org/UploadedPDF/411096_taking_stock.pdf) p.7-8

<sup>13</sup> Tsai, Tim. "Standing Together: A Prevention-Oriented Approach to Ending Homelessness in Oakland." <http://bit.ly/HomelessPrevention2019> p.12

<sup>14</sup> Hirsch, Amy E, Sharon M Dietrich, Rue Landau, Peter D Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. *Every Door Closed: Barriers Facing Parents with Criminal Records*. Philadelphia, PA: Community Legal Services, Inc, 2002. p.1  
[https://www.clasp.org/sites/default/files/publications/2018/01/every\\_door\\_closed.pdf](https://www.clasp.org/sites/default/files/publications/2018/01/every_door_closed.pdf)

<sup>15</sup> Davis, Laurel, and Rebecca J. Shlafer. "Mental Health of Adolescents with Currently and Formerly Incarcerated Parents." *Journal of Adolescence* 54 (2017): 120–34. <https://doi.org/10.1016/j.adolescence.2016.10.006>.

Shlafer, Rebecca J, Erica Gerrity, Ebony Ruhland, and Marc Wheeler. "Children with Incarcerated Parents – Considering Children's Outcomes in the Context of Complex Family Experiences." *Children, Youth, and Family Consortium*, 2013. <https://www.prisonpolicy.org/scans/umn/June2013ereview.pdf> p.3

**SUMMARY OF RACIAL DISPARITY:**

There is an extreme racial disparity in criminal conviction and incarceration rates, which translates to a racial disparity in access to housing.

There are statistical racial disparities at every stage of the criminal justice system. Research has demonstrated that African Americans are more likely to be stopped by police,<sup>16</sup> prosecuted disproportionately, and punished more harshly than other ethnic groups.<sup>17</sup> As a result, Black men—one third of whom are likely to serve time in prison or jail at some point in their lives—are incarcerated at a rate that is five times that of White men. Racial bias in plea-bargaining, which accounts for the vast majority of new criminal convictions, is a significant source of the disparity in incarceration. In a recent study of more than 48,000 cases in Wisconsin, legal scholar Carlos Berdejó found that White defendants were 25% more likely than Black ones to have their most serious charge either dropped or reduced to a less serious charge.<sup>18</sup> As a result, Whites who were initially charged with a felony were an estimated 15% more likely to end up convicted of a misdemeanor instead. In addition, Whites who were initially charged with a misdemeanor were an estimated 75% more likely to be convicted of a crime carrying no possible incarceration, or not convicted at all.<sup>19</sup>

These disparities are even more acute in California. According to the Public Policy Institute of California, in 2017, African Americans made up 5.6% of the state's adult men but 28.5% of its male prisoners.<sup>20</sup> As a result, Black men were ten times more likely than White men to be incarcerated. Latino men were more than twice as likely as White men to be incarcerated. There were significant disparities among Black women, too, who were five times more likely than White women to be incarcerated.<sup>21</sup> Inequalities in incarceration were driven in part by inequalities in policing. Again, according to the Public Policy Institute of California, Black male residents were three times more likely than White ones to be arrested in 2016.<sup>22</sup>

---

<sup>16</sup> "Findings" Stanford Open Policing Project. Accessed October 4, 2019. <https://openpolicing.stanford.edu/findings/>.

<sup>17</sup> Porter, Nicole D., Nazgol Ghandnoosh, Josh Rovner, and Jean Chung. "Racial Disparity." The Sentencing Project, September 30, 2019. <https://www.sentencingproject.org/issues/racial-disparity/>.

<sup>18</sup> Berdejó, Carlos. (2018). [Criminalizing Race: Racial Disparities in Plea-Bargaining](#). *Boston College Law Review*, 59(4), pp. 1189-91.

<sup>19</sup> Berdejó, Carlos. (2018). [Criminalizing Race: Racial Disparities in Plea-Bargaining](#). *Boston College Law Review*, 59(4), pp. 1189-91.

<sup>20</sup> Public Policy Institute of California. (2019). [California's Prison Population](#), p. 1.

<sup>21</sup> Public Policy Institute of California. (2019). [California's Prison Population](#), p. 1.

<sup>22</sup> Public Policy Institute of California. (2019). [Racial Disparities in California Arrests](#), p. 1.

Here in Alameda County, 48% of probationers are African American<sup>23</sup> even though African Americans make up only 11% of the population.<sup>24</sup>

This means that both nationally and locally, a disproportionate number of African Americans are impacted by criminal background checks in housing applications.

### ALTERNATIVE ACTIONS CONSIDERED

Berkeley's Fair Chance Ordinance builds upon the work of other coalitions and communities to advance fair chance housing policies, namely in the cities of Oakland, Richmond, Seattle, and Portland. Seattle and Portland have first in time housing policies which limit landlord discretion in the selection of their tenants. Alameda County cities do not have such a policy.

Comparison between the Berkeley proposal and policies enacted by the cities of Oakland, Richmond, Seattle, and Portland:

- Similar to Oakland, Seattle and Portland, the Berkeley proposal would apply to all housing units, private and publicly subsidized.
- Similar to Oakland, Richmond and Seattle, the Berkeley proposal would enable Housing Providers who are funded by HUD to conduct limited criminal records checks and subject to due process protections for the applicant.
- Similar to Richmond, the Berkeley proposal would provide for a private right of action in addition to City enforcement. The City of Seattle, instead, utilizes its robust Department of Civil Rights which enforces civil rights violations.
- Unlike Portland and Seattle, the Berkeley proposal DOES NOT have a first in time tenant acceptance requirement. In addition, the Berkeley proposal maintains landlord discretion in the review of relevant information including landlord references, employment and income status, and credit report checks.

Less comprehensive versions of fair chance policies have passed in other cities including San Francisco; Urbana, Illinois; Madison, Wisconsin; New York, New York; and Newark, New Jersey.

---

<sup>23</sup> Total population in probation, Q4 2018 "Alameda County Probation Department Data Dashboard". Alameda County. Accessed October 4, 2019. <https://www.acgov.org/probation/dashboard.htm>.

<sup>24</sup> "U.S. Census Bureau QuickFacts: Alameda County, California." United States Census Bureau. Accessed October 4, 2019. <https://www.census.gov/quickfacts/alamedacountycalifornia>.

## CONSULTATION/OUTREACH OVERVIEW AND RESULTS

### *Transformative Policymaking Process:*

The development of the Fair Chance Housing policy and ordinance was a partnership effort between the City sponsors and the Alameda County Fair Chance Housing Coalition leaders that followed the principles of democratic participatory policymaking. In the process led by the Just Cities team, people most impacted by the policy problems—formerly incarcerated residents and their family members—identified both the policy problems and also the policy solutions. A team of researchers from UC Berkeley Goldman School of Public Policy, policy experts, lawyers, and former City of Oakland senior officials from the City Administrator and City Attorney’s offices provided research, policy, and legal support. The Coalition leaders also selected government officials to sponsor their proposed policy based upon their partnership criteria. More information about this transformative policymaking process and the policy research rationale behind the ordinance is included in the Just Cities’ Policy Justice Memo, Attachment 2.

We are grateful for the dedicated leadership and hard work of the Coalition’s leaders: John Jones III with Just Cities, Ms. Towanda Sherry with Faith in Action East Bay, Ms. Anita Wills with Essie Justice Group, and Katie Dixon, Taqwaa Bonner, and Succati Shaw with All of Us or None. The technical assistance and research partners included Margaretta Lin, Richard Illgen, and Alex Werth from Just Cities; Dan Lindheim, Larry Rosenthal, Tim Tsai, and Anthony Rodriguez from the Goldman School’s Center for Civility and Democratic Engagement; Lisa Sitkin from the National Housing Law Project; and Tamisha Walker from the Safe Return Project.

The Coalition partners and supporters include: All of Us or None, Berkeley NAACP, Berkeley Oakland Support Services (BOSS), Community Works, Church by the Side of the Road, East Bay Community Law Center, East Bay for Everyone, East Bay Young Democrats, Essie Justice Group, Friends of Adeline, Just Cities, Justice Reinvestment Coalition, Laney College Restoring Our Communities Center, League of Women Voters for Oakland, Make Oakland Better Now, McGee Baptist Church, National Housing Law Project, Our Beloved Community Action Network, PolicyLink, Root & Rebound, Safe Return Project, Sierra Club, Tech Equity Collaborative, Underground Scholars of UC Berkeley, and The Way Church.

### *External Stakeholders Consulted*

This ordinance was crafted after more than seven public hearings before the City of Berkeley’s 4x4 and Land-Use, Housing & Economic Development Committees, multiple meetings with the leaders of the Berkeley Property Owners association, the Berkeley

Housing Authority, Seattle Office of Civil Rights and a community forum with Berkeley residents and community organizations.

### *Internal Stakeholders Consulted*

This ordinance was developed in close consultation with the City Attorney's office, as well as feedback and support from the Berkeley Rent Stabilization Board.

### *Results*

As a result of this consultation, outreach and committee processes the ordinance has been amended and improved. For example, Close Family Members were included in the definition of aggrieved person based on the lived experience of one of the POLs. Through the Policy Committee process, exemptions were included for owner-occupants, property owners renting their unit while on sabbatical, as well as ADUs, single-family homes, duplexes and triplexes. This principle of choice with whom you live was extended to tenants as a result of this process.

## RATIONALE FOR RECOMMENDATION

### *POLICY GOALS:*

1. Remove current structural barriers faced by formerly incarcerated people when they apply for private or publicly subsidized housing to enable them to be considered on the merits of their present situation, rather than the albatross of their past.
2. Create a due process system that a) enables formerly incarcerated people the ability to complain to the City and also sue to enforce their rights under the Ordinance; and b) builds on the City's current administrative systems and capacity.
3. Design policy terms based upon an understanding of the different application and review processes by private and multiple kinds of Affordable Housing providers.
4. Create reporting requirements that are streamlined and also help Affordable Housing providers transform their current application and review systems.
5. Avoid unintended consequences by not having burdensome or complex requirements for landlords.
6. Address the realities and special considerations of landlords who reside on their rental property that are smaller buildings, e.g. triplexes and smaller.



## IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

The effective date of the Ordinance is thirty days after final adoption of the ordinance. However, like in Oakland, a Housing Provider will not be liable for a violation within 180 days after the final adoption of the Ordinance unless the Provider has received a warning letter from the City regarding a violation of the Ordinance.

The Fair Chance Housing Ordinance applies to all Berkeley Housing Providers, with exemptions noted above. All applicants subject to an adverse action have a right to file a complaint with the City Manager within a year of the date of their application to be evaluated through an administrative hearing process. In the case of a hearing the public and complainant would be informed of available City or community resources to assist in the filing of the complaint or preparing for the hearing, including the gathering of evidence. The City can enforce any violation of the ordinance, with or without a complaint, under B.M.C. 1.28.

Similar to existing local tenant law, private right of action and attorney's fees for the prevailing applicant are awarded. The applicants and the City may avail themselves of any or all of these enforcement mechanisms to ensure compliance and an appropriate remedy for any violation.

In the case an applicant is denied access to private housing they are entitled to any notices required by state and federal law, and may also request a reason for the denial. Landlords are required to maintain documentation of any conviction history that they obtain on applicants for at least three years. Landlord retaliation is explicitly prohibited under this ordinance.

Under the ordinance Affordable Housing is defined as any housing provider receiving direct local, county, state, or federal subsidy. Section 8 landlords are excluded from the definition of Affordable Housing provider since the Housing Authority conducts the background checks for Section 8 voucher holders and because of Berkeley's source of income anti-discrimination law<sup>25</sup>.

HUD funded housing providers may conduct a limited background check if required by federal requirements. The housing provider must seek written consent from the applicant, provide the applicant with a copy of the criminal background report, and provide the applicant with the opportunity to provide rebutting or mitigating information.

---

<sup>25</sup> City of Berkeley Municipal Code 13.31.020 Discrimination based on source of income prohibited.

Only publicly subsidized housing providers would submit an annual certification of compliance to the City utilizing a City template as provided by Administrative Regulations. The Coalition would like to work with the City on designing the compliance template.

The City Manager or their designee would provide an annual status report to the City Council and public including: a) which Affordable Housing providers submitted an annual certification of compliance; b) number of complaints filed with the City and the resolution; c) information from local service providers and community organizations on the number of court cases filed and the resolution or other compliance information. It is especially critical in the early years of new legislation for the City Council and the public to know about the implementation status of the legislation and whether any aspects need to be refined.

Additionally, the City Manager should explore alternatives to a complaint based enforcement process that might prove more effective. For example, staff from Seattle's Office of Civil Rights shared that their most effective measure of enforcement is their compliance testing program. In addition to accepting complaints, Seattle staff submits housing applications across the city to discern compliance with anti-discrimination laws. Good faith actors found to be in violation are offered technical assistance in the form of education and training prior to any penalties being assessed. Just as in Seattle, a testing program might contribute to broader Berkeley enforcement efforts.

#### *Addressing Common Concerns and Misconceptions*

Under this ordinance, landlords maintain their discretion to use accurate information that is critical to assessing whether an applicant will be a good tenant. This ordinance does not prevent the use of credit checks, income verification, or references from informing a landlord's decision-making process. Unlike jurisdictions that have passed similar ordinances, Berkeley does not have first-in-time laws that require a landlord to accept the first qualified applicant as their tenant.

Contrary to misconceptions, the Fair Chance Housing Ordinance does not impact landlords' ability to remove troublesome tenants. Existing state and local laws remain intact that address the rights of landlords and tenants to manage problematic behaviors. B.M.C. 13.76.130 outlines reasons for a "just-cause" eviction including refusal to pay rent, substantial violation of the terms of a lease, or substantial damages to the property.

One of the “just-cause” terms for an eviction allowed in B.M.C. 13.76.130 (A.5.) expressly allows eviction for illegal activities pursuant to subdivision 4 of the Code of Civil Procedure Section 1161. Thus, if a tenant commits certain serious violations, under Cal. Code of Civ. Proc. § 1161(4), a landlord can issue a three-day unconditional quit notice to vacate. The tenant must move out of the unit within three days of receiving the notice or they may face eviction.

Landlords must always use their best judgement when selecting tenants. The Fair Chance Housing Ordinance prohibits the use of problematic, error-prone databases as a tool in these evaluations. Existing remedies and laws remain to support landlords’ with troublesome or criminal tenants.

### *City Funding for Additional Community Outreach and Education*

As City experience has informed us, effective implementation of new legislation requires informing both the regulated groups and members of the protected groups of the new laws. In sharing their lessons learned about their Fair Chance Housing policy, the City of Seattle’s Civil Rights Office strongly recommended City investment in community outreach and education efforts. The City of Oakland Community and Economic Development committee unanimously passed a motion to include City funds for Fair Chance Housing community outreach and enforcement as part of their mid-cycle budget process. The Alameda County Fair Chance Housing Coalition have been in conversation with private funders and Alameda County about their potential investment in countywide community outreach and education to ensure effective implementation of the Fair Chance Housing policies being passed in Alameda County.

The City of Berkeley should participate in a countywide coordinated community outreach and education program and allocate appropriate funding as determined by the City Manager during the next budget cycle towards these critical efforts.

### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES AND LAWS

In 2014 the City Council unanimously passed a Fair Chance Ordinance to extend its existing policy, passed in 2008, to eliminate disclosure of conviction history information from the City’s job application, or “Ban the Box” policy, to private employers within the City of Berkeley<sup>26</sup>. Fair Chance Housing legislation is proposed in this same spirit of acknowledging and reconciling some of the harm and injustice caused by our criminal “justice” system of mass incarceration.

---

<sup>26</sup> [http://www.cityofberkeley.info/Clerk/City\\_Council/2014/10\\_Oct/Documents/2014-10-21\\_Item\\_25\\_Fair\\_Chance\\_Ordinance.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2014/10_Oct/Documents/2014-10-21_Item_25_Fair_Chance_Ordinance.aspx)

### FINANCIAL IMPLICATIONS

Costs associated with the adoption of this Ordinance include development and mailing of required notices, public education, annual reporting, and administrative enforcement (investigation and processing of complaints).

The coalition has indicated that they have partners interested in supporting the city with community education and a participatory action impact study.

Given the direct connection between housing barriers for formerly incarcerated people and homelessness, we believe that removing these barriers may reduce the number of homeless persons and result in potential City cost savings overtime.

### ENVIRONMENTAL SUSTAINABILITY

Not applicable

### CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

#### Attachments:

- 1: Ordinance
- 2: Berkeley Fair Chance Housing Policy Brief-Just Cities, December



ORDINANCE NO. -N.S.

**PROHIBITING ~~CONSIDERATION OF CRIMINAL HISTORIES IN SCREENING APPLICATIONS FOR RENTAL HOUSING THE USE OF CRIMINAL HISTORY IN HOUSING DECISIONS~~**

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

Section 1. That Berkeley Municipal Code Chapter 13.106 is hereby added to read as follows:

**Chapter 13.106**

**Prohibiting the Use of Criminal History in Housing Decisions**

**Sections:**

- 13.106.010 Title**
- 13.106.020 Findings**
- 13.106.030 Definitions**
- 13.106.040 Use of Criminal History in Housing Decisions**
- 13.106.050 Requirements for Housing Providers**
- 13.106.060 Retaliation Prohibited**
- 13.106.070 Recordkeeping and Confidentiality**
- 13.106.080 Implementation**
- 13.106.090 Administrative Complaints**
- 13.106.100 Enforcement**
- 13.106.110 ~~Severability~~No Conflict with State or Federal Law**
- 13.106.120 ~~Effective Date~~Severability**

**13.106.010 Title**

This Chapter shall be known as the “Ronald V. Dellums Fair Chance Access to Housing ~~and Public Health and Safety~~ Ordinance.” and may be shortened to the “Fair Chance Housing Ordinance”.

**13.106.020 Findings**

- A. Mass incarceration is a national and local crisis and restoring the rights of people affected by mass incarceration is a national priority.
- B. The U.S. Department of Justice has estimated one in every three adults in the United States has either an arrest or conviction record.
- C. Studies have found that private criminal databases pull source information from inadequate records and lack accountability procedures to ensure that the database records provided to Housing Providers are accurate. Housing Providers in conducting criminal background checks are relying on such inaccurate information in evaluating housing applications.
- D. Formerly incarcerated persons face barriers to access to both private rental and publicly subsidized affordable housing.

- E. Homelessness is a critical issue in Berkeley and formerly incarcerated people are disproportionately affected by homelessness, which can prevent a formerly incarcerated person from getting a job, from visiting with their children, and from fulfilling other needs that are fundamental to reintegrating with the community after incarceration.
- F. The unmet housing needs of formerly incarcerated people in Berkeley are an acute challenge to the dignity, public health and safety, and equal opportunity for this population and the broader community.
- G. Research has found that access to housing reduces recidivism, and the lack of housing can be a significant barrier to successful reintegration after incarceration.
- H. Reliance on criminal history to select tenants impedes formerly incarcerated persons from gaining access to housing in the City of Berkeley, to the detriment of health, welfare, and public safety of the City's residents.

### 13.106.30 Definitions

- A. "Adverse Action" means to take one of the following actions based on ~~based on~~ a person's Criminal or Conviction History:
  1. Failing or refusing to rent or lease Housing to a person;
  2. Failing or refusing to continue to rent or lease Housing to a person;
  3. Reducing the amount or term of any person's subsidy for Housing;
  4. Treating an Applicant or tenant differently from other applicants or tenants, including but not limited to, taking such actions as requiring higher security deposit or rent;
  5. Treating a person as ineligible for a tenant-based rental assistance program, including but not limited to, the Section 8 ~~tenant-based voucher~~ Housing Choice Voucher ~~p~~Program (42 U.S.C. Section 1437f); or
  6. Failing to permit a tenant's Close Family Member to occupy a rental unit while the occupying tenant remains in occupancy.
- B. "Affordable Housing" shall mean any Housing that (1) has received or is receiving City, County, State, or Federal funding, tax credits, or other subsidies connected in whole or in part to developing, rehabilitating, restricting rents, subsidizing ownership, or otherwise providing rental housing for extremely low income, very low income, low income, and moderate income households (collectively, "Public Funding"), with the exception of Housing where the only Public Funding received is in the form of a Local, State or Federal tenant-based voucher, such as through the Section 8 ~~tenant-based~~ Housing Choice voucher ~~p~~Program (42 U.S.C. Section 1437f); or (2) is subject to affordability and related requirements pursuant to the City's Below Market-Rate Rental Housing Program, including but not limited to the Affordable Housing Mitigation Fee Ordinance (Chapter Section 22.20.065), the State Density Bonus law (California Government Code Sections 65915-65918 and Chapter 23C.14), and the Low Income Inclusionary Live/Work Units Ordinance (Section 23E.20.080).

- C. "Affordable Housing Provider" shall mean any Housing Provider that owns, master leases, manages, or develops Affordable Housing in the City. Any agent, such as a property management company, that makes tenancy decisions on behalf of the above-described Housing Providers, and any government agency, including but not limited to the Berkeley Housing Authority, that makes eligibility decisions for tenant-based rental assistance programs, including but not limited to the Section 8 ~~Housing Choice Voucher p~~Program (42 U.S.C. Section 1437f), shall also be considered an "Affordable Housing Provider."
- D. "Aggrieved Person" means an Applicant who believes they were subject to an Adverse Action; a tenant who believes they or their Close Family Member was subject to an Adverse Action based on the application of an Applicant to reside in such family member's rental unit; or a tenant who believes they were subject to an Adverse Action based on the failure or refusal to permit a person to reside in such tenant's rental unit to replace an existing tenant, add a new tenant, or to sublet to a subtenant.
- E. "Applicant" means a person who seeks information about, visits, or applies to rent or lease Housing; who applies for a tenant-based rental assistance program, including but not limited to the Section 8 ~~Housing Choice Voucher p~~Program (42 U.S.C. ~~section1437f~~Section 1437f); who seeks to be added as a household member to an existing lease for Housing; or, with respect to any Criminal History that occurred prior to the beginning of the person's tenancy, who currently rents or has a lease for Housing.
- F. "Arrest" means a record from any jurisdiction that ~~does not result in a Conviction and~~ includes information indicating that a person has been questioned, apprehended, taken into custody or detained, or held for investigation by a law enforcement, police, or prosecutorial agency and/or charged with, indicted, ~~and/or tried, and/or convicted or and~~ acquitted for any felony, misdemeanor, or other criminal offense.
- G. "Background Check Report" means any report regarding an Applicant's Criminal History, including but not limited to those produced by the California Department of Justice, the Federal Bureau of Investigation, other law enforcement agencies, courts, or any consumer reporting or tenant screening agency.
- H. "Close Family Member" means a spouse, ~~registered~~ domestic partner, child, sibling, parent, grandparent, or grandchild.
- I. "Conviction" means a record from any jurisdiction that includes information indicating that a person has been convicted ~~of a felony or misdemeanor or other of a criminal offense and for which the person was placed on probation, fined, imprisoned and/or paroled.~~
- J. "Criminal History" means information transmitted orally or in writing or by any other means, and obtained from any source, including but not limited to the person to whom the information pertains, a government agency, or a Background Check Report, regarding one or more Convictions or Arrests; a Conviction that has been sealed, dismissed, vacated, expunged, ~~sealed~~, voided, invalidated, or otherwise rendered inoperative by judicial action or by statute (for example, under California Penal Code Sections 1203.1 or 1203.4); a determination or adjudication in the juvenile justice system; a matter considered in or processed through the juvenile justice system; or participation in or completion of a diversion or a deferral of judgment program.
- K. "Housing" means any residential rental housing, building, or unit in the City of Berkeley, with the exception of the following:

Commented [TT1]: Jay suggested this change to clarify who would actually qualify to make this complaint. He felt it was important to be able to discern who can trigger the hearing process.



1. Single Family Dwellings where one or more owners occupies the dwelling as their principal residence;
  2. Single Family Dwellings with ~~an~~ Accessory Dwelling Units, as defined in Section 23F.04.010, where either the main or an Accessory Dwelling Unit is occupied by one or more owners as their principal residence;
  3. Duplexes or triplexes where one of the units is occupied by one or more owners as their principal residence;
  4. Units rented pursuant to Section 13.76.130 A.10; and
  5. Tenant-occupied units where an occupying tenant seeks to replace an existing co-tenant, add an additional co-tenant, or sublet the unit, provided that the occupying tenant remains in occupancy.
- L. "Housing Provider" shall mean any Person that owns, master leases, manages, or develops Housing in the City. For the purpose of this definition, "Person" includes one or more individuals, partnerships, organizations, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and any political or civil subdivision or agency or instrumentality of the City. In addition, Any agent, such as a property management company, that makes tenancy decisions on behalf of the above-described Persons, and any government agency, including but not limited to the Berkeley Housing Authority, that makes eligibility decisions for tenant-based rental assistance programs, including but not limited to the Section 8 Housing Choice Voucher Program program (42 U.S.C. Section 1437f), shall also be considered a "Housing Provider".
- ~~M. "Person" shall mean one or more individuals, partnerships, organizations, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any political or civil subdivision or agency or instrumentality of the City.~~

#### **13.106.040 Use of Criminal History in Housing Decisions**

- A. Except as provided in Paragraphs B and C of this Section, a Housing Provider shall not, at any time or by any means, whether direct or indirect, inquire about an Applicant's Criminal History, require an Applicant to disclose their Criminal History, require an Applicant to authorize the release of their Criminal History or, if such information is received, base an Adverse Action in whole or in part on an Applicant's Criminal History.
- B. It shall not be a violation of this Chapter for a Housing Provider to comply with Federal or State laws that require the Housing Provider to automatically exclude tenants based on certain types of criminal history (e.g. Ineligibility of Dangerous Sex Offenders for Admission to Public Housing (42 U.S.C. Section 13663(a); Ineligibility of Individuals Convicted for Manufacturing Methamphetamine on Premises of Federally Assisted Housing for Admission to Public Housing and Housing Choice Voucher Programs (24 C.F.R. Section 982.553));<sup>1</sup> However, if such a requirement applies, the Housing Provider shall not inquire about, require disclosure of, or, if such information is received, review an Applicant's Criminal History until the Housing Provider first does the following: (1) informs the Applicant in advance that the Housing Provider will check for certain types of criminal history; (2) requests and obtains written consent, or if the Applicant objects, provides the applicant the

~~opportunity to withdraw their application; (3) complies with the requirements in subsections D and E of this Section. provided that if such a requirement applies, Applicant's Criminal History until the Housing Provider has first obtained written consent and followed Paragraphs D and E of this Section:~~

~~B.—Any Adverse Action based on Criminal History obtained pursuant to this Paragraph shall be limited to actions required to comply with State or Federal law.~~

- ~~1. Determined that the Applicant is qualified to rent the Housing under all of the Housing Provider's criteria for assessing Applicants except for any criteria related to Criminal History;~~
- ~~2. Provided to the Applicant a conditional lease agreement that commits the Housing to the Applicant as long as the Applicant meets the Housing Provider's Criminal History criteria; and~~
- ~~3. Informed the Applicant in advance that the Housing Provider will be obtaining information about the Applicant's Criminal History and obtained the written consent of the Applicant to obtain such information.~~

~~The Applicant may elect to withhold such consent and withdraw their application. Any Adverse Action based on Criminal History obtained pursuant to this Paragraph shall be limited to actions required to comply with State or Federal law.~~

C. In compliance with state law, in order to protect persons at risk pursuant to Penal Code Section 290.46(j)(1), the A Housing Provider may review the State registry of lifetime sex offenders operated by the State of California Department of Justice; provided, however, that (1) the Housing Provider has stated the lifetime sex offender screening requirement in writing in the rental application; and (2) the Housing Provider may shall not inquire about, require disclosure of, or, if such information is received, review an Applicant's Criminal History until the Housing Provider has first:

1. Determined that the Applicant is qualified to rent the Housing under all of the Housing Provider's criteria for assessing Applicants except for any criteria related to Criminal History;
2. Provided to the Applicant a conditional lease-rental agreement that commits the Housing to the Applicant as long as the Applicant meets the Housing Provider's Criminal History and other qualifying criteria; and
3. Informed the Applicant in advance that the Housing Provider will checking the sex offender registry and~~obtaining information about the Applicant's Criminal History and~~ obtained the written consent of the Applicant to obtain such information.

The Applicant may elect to withhold such consent and withdraw their application. Any use of information obtained by a Housing Provider pursuant to this Paragraph shall comply with California Penal Code Section 290.46(l).

D. A Housing Provider's request to obtain written consent from the Applicant to obtain information about the Applicant's Criminal History under Paragraphs B or C of this Section shall inform the Applicant that the Housing Provider may be required to share information about the Applicant's Criminal History with the City of Berkeley for purposes of enforcing the requirements of this Chapter.

- E. If any Adverse Action is based in whole or in part on the Applicant's Criminal History, the Housing Provider shall provide a written notice to the Applicant regarding the Adverse Action that includes, at a minimum, the reason(s) for the Adverse Action, instructions on how to file a complaint about the Adverse Action with the City, a list of local legal service providers including contact information, and the Applicant with a copy of any Background Check Report or other information related to the Applicant's Criminal History that served as a basis for the Adverse Action. The Housing Provider shall provide the Applicant an opportunity to respond with rebutting or mitigating information prior to the denial of the Applicant's housing application. present evidence that information about the Applicant's Criminal History is inaccurate or of mitigating circumstances related to the Applicant's Criminal History. The Housing Provider shall not require reimbursement or payment from the Applicant for the cost of providing any information required under this Paragraph.

### **13.106.050 Requirements for Housing Providers**

- A. It shall be unlawful for any Housing Provider subject to the requirements of this Chapter to produce or disseminate any advertisement related to Housing that expresses stating, directly or indirectly, that any person with Criminal History will not be considered for the rental or lease of real property or may not apply for the rental or lease of real property, Criminal History will be considered in connection with the rental or lease of real property, except as required by State or Federal law.
- B. The City shall publish and make available to Housing Providers, in English, Spanish, and all languages spoken by more than five percent (5%) of the City's population, a notice that informs Applicants for Housing of their rights under this Chapter. The notice shall contain the following information:
1. A description of the restrictions and requirements of this Chapter;
  2. Instructions for submitting a complaint to the City regarding a violation of this Chapter; and
  3. Information about community resources available to assist an Applicant in connection with a violation of this Chapter.
- C. Housing Providers subject to the requirements of this Chapter shall prominently display the notice made available pursuant to Section 13.106.50.B. in their application materials, on their websites, and at any rental or leasing offices.
- D. In addition to the requirements in Paragraphs A-C of this Section, Affordable Housing Providers shall:
1. Provide any Applicant subject to an Adverse Action a written notice regarding the Adverse Action that includes, at a minimum, the reason(s) for the Adverse Action; instructions regarding how to file a complaint about the Adverse Action with the City, including the deadlines set forth in Section 13.106.090.A; a list of local legal services providers, including contact information; and a copy of any Background Check Report or other Criminal History obtained by the Affordable Housing Provider; and
  2. Submit to the City an annual certificate of compliance with the requirements of this Chapter in the form provided by the City.

**13.106.060 Retaliation Prohibited**

It shall be a violation of this Chapter to interfere with, ~~or-restrain,~~ or deny the exercise of, or the attempt to exercise, any right protected under this Chapter, or to take any Adverse Action against any Person because the Person exercised or attempted in good faith to exercise any right protected under this Chapter.

**13.106.070 Recordkeeping and Confidentiality**

- A. Housing Providers shall maintain a record of any Criminal History obtained for any Applicant for Housing for a period of at least three years. To the maximum extent permitted by law, any information obtained regarding an Applicant's Criminal History shall remain confidential.
- B. Nothing in this section shall prohibit a Housing Provider from complying with a request by the City to provide records for purposes of enforcing the requirements of this Chapter.

**13.106.080 Implementation**

- A. The City Manager or their designee shall take all necessary steps to implement this Chapter, including but not limited to the following:
  - 1. Developing any notice required for purposes of implementing the requirements of this Chapter, the annual compliance certification form, and other implementation documents, including written materials for Housing Providers and potential Applicants; and
  - 2. Conducting outreach to and preparing a plan to provide ongoing training about the requirements Chapter for Housing Providers.

The City Manager is authorized to adopt ~~administrative~~ Administrative regulations Regulations necessary to implement the requirements of this Chapter.

- B. The City Manager or their designee shall provide an annual public report to the City Council on the implementation and enforcement of this Chapter. The annual report shall include, at a minimum: (1) a summary of the annual compliance certifications submitted by Affordable Housing Providers; (2) the number of complaints filed with the City regarding violations of this Chapter and the outcomes of such complaints; (3) and the number of notices filed with the City regarding actions brought under Section 13.106.100.C and the outcomes of any such actions.

**13.106.90 Administrative Complaints**

- A. Any Applicant subject to an Adverse Action or their Close Family Member who believes the Adverse Action was based on a violation of this Chapter shall have the right to submit a complaint to the City within one year of the date the Applicant submitted an application to the Housing Provider or the date of the violation, whichever is earlier. The City will schedule an administrative hearing before a hearing officer designated by the City Manager within 90 days of the date of submission of the complaint. The deadlines set forth in this Paragraph may be extended with the consent of all parties.
- B. The parties shall have the following rights at an administrative hearing conducted pursuant to this Section:

1. To have an advocate of their choosing to represent them at the hearing;
  2. To present any relevant witnesses and evidence, which will be considered without regard to the admissibility under the Rules of Evidence applicable to a judicial proceeding;
  3. To examine the other party's evidence and to rebut and cross-examine any witnesses;
  4. To have a translator present at the hearing, when translation is reasonably necessary and reasonably available;
  5. To request any reasonable accommodation needed to participate in the hearing process; and
  6. To record the hearing.
- C. Where the City determines that a violation of the Chapter has occurred, the City shall issue a determination and order any appropriate relief under this Chapter.

#### **13.106.100 Enforcement**

- A. The City may issue an ~~administrative~~ Administrative citation ~~Citation~~ under Chapter 1.28 to any Person who violates any provision of this Chapter.
- B. The City Attorney may bring an action on behalf of the City seeking injunctive relief to restrain or enjoin any violation of this Chapter.
- C. Any Aggrieved Person who believes that the provisions of this Chapter have been violated shall have a private right of action for injunctive relief, and actual damages or statutory damages up to three times the amount of one month's rent that the Housing Provider charged for the unit in question at the time of the violation. In addition to actual or statutory damages, a court may award punitive damages where it is proven by clear and convincing evidence that a violation of this Chapter has been committed with oppression, fraud, or malice. In any action brought under this Chapter, the court may award reasonable attorneys' fees and cost of action pursuant to Code of Civil Procedure section 1021.5. The right to file an action under this Paragraph is independent of the right to file an administrative complaint under Section 13.106.90 and does not require an Applicant to have filed a prior complaint with the City of Berkeley.
- D. When permitted by law, an award of actual damages under this Chapter may include an award for mental and/or emotional distress and/or suffering. The amount of actual damages awarded to a prevailing plaintiff shall be trebled by the court if a defendant is found to have acted in knowing violation of, or in reckless disregard of, the provisions of this Chapter.
- E. In an action brought by the City Attorney pursuant to this Section, a court of competent jurisdiction may order that a civil penalty be assessed against the Housing Provider to vindicate the public interest, which penalty shall be payable to the City of Berkeley. The civil penalty assessed against a Housing Provider shall be at least one thousand dollars (\$1,000) and shall not exceed ten thousand dollars (\$10,000) for each violation of this



Chapter. A defendant shall be liable for an additional civil penalty of up to five thousand dollars (\$5,000) for each violation of this Chapter committed against a person who is disabled within the meaning of California Government Code section 12926 *et seq.*, or is aged sixty-five (65) or over.

- F. An attorney who represents an Applicant in litigation against a Housing Provider brought under this Chapter shall provide notice to the City within ten (10) days of filing court action against the Housing Provider, and inform the City of the outcome of the court action within ten (10) days of any final judgment.

### **13.106.110 No Conflict with State or Federal Law**

This Chapter is not intended to conflict with state or federal law. If there is a conflict between the provisions of federal or state law and this Article, federal or state law shall control.

### **13.106.1210 Severability**

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

### **13.106.120**

#### **Section 2. —Effective Date**

The provisions of this Chapter shall take effect upon thirty days after final adoption of this ordinance. A Housing Provider shall not be liable for a violation within 180 days after final adoption of this Chapter, unless the Housing Provider has first received a warning letter from the City regarding a violation of the Ordinance.

The provisions of this Chapter shall take effect on July 1September 1, 2020.

#### **Section 3. Notice to Housing Providers**

The City Manager is directed to cause notice of this Ordinance to be mailed to all residential rental property owners subject to this Chapter within 90 days of final adoption of this Ordinance.

#### **Section 4. Posting**

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



**A Policy Justice Brief for  
Berkeley Mayor Jesse Arreguin**

**DATE:** October 28, 2019, updated January 23, 2020

**TO:** City of Berkeley Mayor Jesse Arreguin and Land Use Committee

**FROM:** Just Cities: Margaretta Lin, JD, MA, Executive Director; John Jones III, Director of Community & Political Engagement; Richard Illgen, Senior Advisor; Tim Tsai, MPP, Policy Justice Research Associate; Alex Werth, PhD, Research Consultant

**SUBJECT:** Fair Chance Housing Ordinance that removes structural barriers for people with criminal histories in applications for rental housing

## **SUMMARY**

As research and lived experience demonstrate, formerly incarcerated people experience significant barriers beyond the high cost of rent that prevent them from securing housing. They are screened out when applying to rent housing due to criminal background checks in private rental, nonprofit affordable housing, and public housing units. Even living with family members is not always a viable solution as it may put their family's housing at risk-- rental agreements may prohibit or limit people with criminal histories from residing in the units. Fair Chance Housing is legislation that prohibits the use of criminal histories for most offenses in determining access to housing. It also bans the use of advertising language that excludes people with arrest records, conviction records, or criminal history. In short, Fair Chance Housing legislation removes structural barriers to housing and enables landlords to consider the merits of individual housing applications—providing people with a fair chance.

Led by Just Cities/the Dellums Institute for Social Justice, The **Alameda County Fair Chance Housing Coalition** has been working to remove such structural exclusionary barriers for people coming home from prison. The Coalition partners and supporters include: All of Us or None, Berkeley NAACP, Berkeley Oakland Support Services (BOSS), Community Works, Church by the Side of the Road, East Bay Community Law Center, East Bay for Everyone, East Bay Young Democrats, Essie Justice Group, Friends of Adeline, Just Cities, Justice Reinvestment Coalition, Laney College Restoring Our Communities Center, League of Women Voters for Oakland, Make Oakland Better Now, McGee Baptist Church, National Housing Law Project, Our Beloved Community Action Network, PolicyLink, Root & Rebound, Safe Return Project, Tech Equity Collaborative, Underground Scholars of UC Berkeley, and The Way Church.

The Fair Chance Housing Ordinance would result in:

- 1) Clear rules and standards for all landlords regarding the use of criminal background checks in the housing application process and the elimination of the current arbitrary system that relies on inaccurate criminal background databases.



- 2) Landlords assessing the merits of individual housing applications rather than the current status of blanket exclusion of applications solely on the basis of criminal records.
- 3) Formerly incarcerated people and their family members having access to safe, stable, and affordable housing that they need in order to reclaim their lives and effectively re-integrate into the community.
- 4) Decrease in recidivism rates by removing structural barriers to stable housing, including with family members, for formerly incarcerated people.

## **BACKGROUND**

### **SUMMARY OF FLAWS WITH CRIMINAL BACKGROUND DATABASE SYSTEMS**

Research shows that government repositories of criminal records are routinely incomplete, thus making commercial criminal background reports inaccurate and/or misleading. In 2006, the U.S. Department of Justice (DOJ) found that an estimated 50% of FBI arrest records, which are used by many background check companies, were missing information on the final disposition of the cases in question.<sup>1</sup> In 2016, the DOJ found that an estimated 32% of records in state criminal history repositories were missing final disposition data.<sup>2</sup> Incomplete data at the state and federal levels undermine the fairness and accuracy of commercial criminal background reports, which rely upon governmental data. In particular, out-of-date information about the final disposition of a case means that data about arrests are routinely listed in background reports even when the charges were eventually dropped, reduced, or disproven in court.

The consequences of these database gaps are significant. According to the National Employment Law Project (NELP), “one third of felony arrests do not result in conviction and many others are reduced to misdemeanors.”<sup>3</sup> While industry-wide data on the inaccuracies of commercial criminal background reports are unavailable, the NELP estimates that 1.8 million workers are subject to FBI checks that include faulty or incomplete information each year. Further, many on-line databases accessible through search engines are also inaccurate, even representing persons without criminal records as having been arrested or convicted.

The lack of accurate disposition data is one of many issues that undermine the accuracy of private criminal background reports. According to a review by the National Consumer Law Center, such reports suffer from a range of problems, including: the publication of sealed or expunged records; the

<sup>1</sup> U.S. Department of Justice. (2006). *The Attorney General’s Report on Criminal History Background Checks*, p. 3.

<sup>2</sup> National Consortium of Justice Statistics. (2018). *Survey of State Criminal History Information Systems, 2016: A Criminal Justice Information Policy Report*, p. 2.

<sup>3</sup> National Employment Law Project. (2013). *Wanted: Accurate FBI Background Checks for Employment*, pp. 1-2.



misclassification of crimes (e.g. reporting a misdemeanor as a felony); the assignment of crimes to an individual who did not commit them, otherwise known as a “false positive”; and the display of data in a misleading manner (e.g. reporting a single arrest multiple times because it appears in multiple databases).<sup>4</sup> Unlike government screens, such commercial background checks are conducted using basic personal information, like names. In the late 1990s, a task force consisting of state and federal agencies found that, compared with fingerprint-based checks, name-based checks resulted in a false-positive rate of 5.5%.<sup>5</sup> This means that around 1 in 20 apparent identifications of a crime was ascribed to a person who did not in fact commit that crime.

### **SUMMARY OF HOUSING ACCESS BARRIERS FOR PEOPLE WITH CRIMINAL RECORDS**

Alameda County service providers and national researchers have documented barriers to access to both private rental and publicly subsidized affordable housing faced by formerly incarcerated residents.<sup>6</sup> Results of a 2019 Goldman School survey and interviews of formerly incarcerated persons in Alameda County found that many formerly incarcerated persons could not stay in public housing with a relative or family member due to public housing rules or were denied private or public rental housing due to their incarceration record.<sup>7</sup> In addition, a recent survey by the Berkeley Property Owners Association found that the majority of landlord survey respondents conducted criminal background checks. We note that persons paroled from incarceration are generally to be returned to the county of their residence (CA Penal Code 3003); therefore, parolees from this area will be returning home.

### **SUMMARY OF PUBLIC HEALTH & SAFETY IMPACTS FROM HOUSING BARRIERS:**

As the state with the second highest population of people currently in prison or jail in the country,<sup>8</sup> California will need to house formerly incarcerated people as they reenter society in a highly impacted housing market. Alameda County has a total of 7,900 people on probation or parole.<sup>9</sup> Incarceration and lack of housing can lead to severely limited economic opportunity, thereby increasing the chances of recidivism and public safety impacts.

<sup>4</sup> National Consumer Law Center. (2012). *Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses*, p. 15.

<sup>5</sup> National Association of Professional Background Screeners. (2005). *The National Crime Information Center: A Review and Evaluation*, pp. 11-2.

<sup>6</sup> See Corinne Carey, No Second Chance: People with Criminal Records Denied Access to Public Housing, 36 University of Toledo Law Review 545; Caterina Gouvis Roman and Jeremy Travis, Urban Institute, Taking Stock: Housing, Homelessness and Prisoner Re-Entry (2004); and Every Door Closed: Barriers Facing Parents With Criminal Records, CLASP and CLS Report, Chapter 3, “Criminal Records and Subsidized Housing: Families Losing the Opportunity for Decent Shelter”.

<sup>7</sup> Rodriguez, Anthony (2019) “A Just Return Home: Identifying and Removing Barriers to Housing for Formerly Incarcerated Residents Through Suggested Policies for County of Alameda” Report for Just Cities and Goldman School of Public Policy. p.23

<sup>8</sup> California 2017 raw numbers. “State-by-State Data.” The Sentencing Project. Accessed October 4, 2019. <https://www.sentencingproject.org/the-facts/#detail?state1Option=U.S.Total&state2Option=0>

<sup>9</sup> Total population in probation, Q4 2018 “Alameda County Probation Department Data Dashboard”. Alameda County. Accessed October 4, 2019. <https://www.acgov.org/probation/dashboard.htm>.



Research has shown that access to stable and affordable housing enables people to successfully re-integrate into society. For example, two studies in Ohio<sup>10</sup> and Maryland<sup>11</sup> found that providing housing subsidies or public housing to recently released incarcerated persons reduced the chances that they would be rearrested in the first year. A government study conducted in the United Kingdom found that stable housing was associated with a 20% reduction in the chance of being reconvicted.<sup>12</sup>

Extensive research also shows the direct link between incarceration history, homelessness, and health.<sup>13</sup> For example, a recent participatory action research project between Just Cities, The Village, and the UC Berkeley Goldman School for Public Policy’s Center for Civility & Democratic Engagement found that 73% of unhoused residents interviewed in Oakland’s encampments were formerly incarcerated!<sup>14</sup> Based upon anecdotal and other data, we believe that unhoused people in Berkeley are also disproportionately formerly incarcerated. For example, in the 2017 Point in Time count for Berkeley homeless residents, one of the top six reasons listed for the primary cause of homelessness was incarceration (6% of respondents).

In addition, there are an estimated 10 million children nationwide that are impacted by a parent or close relative who are in the criminal justice system.<sup>15</sup> These children suffer from an increased rate of depression, antisocial behavior, drug use, and suicide.<sup>16</sup>

### **SUMMARY OF RACIAL DISPARITY:**

There is an extreme racial disparity in criminal conviction and incarceration rates, which translates to a racial disparity in access to housing.

<sup>10</sup> Fontaine, Jocelyn, Douglas Gilchrist-Scott, John Roman, Samuel Taxy, and Caterina Roman. “Supportive Housing for Returning Prisoners: Outcomes and Impacts of the Returning Home-Ohio Pilot Project.” PsycEXTRA Dataset, August 2012. <https://doi.org/10.1037/e527702013-001>.

<sup>11</sup> Kirk, David S., Geoffrey C. Barnes, Jordan M. Hyatt, and Brook W. Kearley. “The Impact of Residential Change and Housing Stability on Recidivism: Pilot Results from the Maryland Opportunities through Vouchers Experiment (MOVE).” *Journal of Experimental Criminology* 14, no. 2 (2017): 213–26. <https://doi.org/10.1007/s11292-017-9317-z>.

<sup>12</sup> Kirk, David S., Geoffrey C. Barnes, Jordan M. Hyatt, and Brook W. Kearley. “The Impact of Residential Change and Housing Stability on Recidivism: Pilot Results from the Maryland Opportunities through Vouchers Experiment (MOVE).” *Journal of Experimental Criminology* 14, no. 2 (2017): 213–26. <https://doi.org/10.1007/s11292-017-9317-z>.

<sup>13</sup> Roman, Caterina Gouvis, and Jeremy Travis. “Taking Stock: Housing, Homelessness, and Prisoner Reentry.” PsycEXTRA Dataset, 2004. [http://webarchive.urban.org/UploadedPDF/411096\\_taking\\_stock.pdf](http://webarchive.urban.org/UploadedPDF/411096_taking_stock.pdf) p.7-8

<sup>14</sup> Tsai, Tim. “Standing Together: A Prevention-Oriented Approach to Ending Homelessness in Oakland.” <http://bit.ly/HomelessPrevention2019> p.12

<sup>15</sup> Hirsch, Amy E, Sharon M Dietrich, Rue Landau, Peter D Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. *Every Door Closed: Barriers Facing Parents with Criminal Records*. Philadelphia, PA: Community Legal Services, Inc, 2002. p.1 [https://www.clasp.org/sites/default/files/publications/2018/01/every\\_door\\_closed.pdf](https://www.clasp.org/sites/default/files/publications/2018/01/every_door_closed.pdf)

<sup>16</sup> Davis, Laurel, and Rebecca J. Shlafer. “Mental Health of Adolescents with Currently and Formerly Incarcerated Parents.” *Journal of Adolescence* 54 (2017): 120–34. <https://doi.org/10.1016/j.adolescence.2016.10.006>. Shlafer, Rebecca J, Erica Gerrity, Ebony Ruhland, and Marc Wheeler. “Children with Incarcerated Parents – Considering Children’s Outcomes in the Context of Complex Family Experiences.” *Children, Youth, and Family Consortium*, 2013. <https://www.prisonpolicy.org/scans/umn/June2013ereview.pdf>. p.3

There are statistical racial disparities at every stage of the criminal justice system. Research has demonstrated that African Americans are more likely to be stopped by police,<sup>17</sup> prosecuted disproportionately, and punished more harshly than other ethnic groups.<sup>18</sup> As a result, Black men—one third of whom are likely to serve time in prison or jail at some point in their lives—are incarcerated at a rate that is five times that of White men. Racial bias in plea-bargaining, which accounts for the vast majority of new criminal convictions, is a significant source of the disparity in incarceration. In a recent study of more than 48,000 cases in Wisconsin, legal scholar Carlos Berdejó found that White defendants were 25% more likely than Black ones to have their most serious charge either dropped or reduced to a less serious charge.<sup>19</sup> As a result, Whites who were initially charged with a felony were an estimated 15% more likely to end up convicted of a misdemeanor instead. In addition, Whites who were initially charged with a misdemeanor were an estimated 75% more likely to be convicted of a crime carrying no possible incarceration, or not convicted at all.<sup>20</sup>

These disparities are even more acute in California. According to the Public Policy Institute of California, in 2017, African Americans made up 5.6% of the state’s adult men but 28.5% of its male prisoners.<sup>21</sup> As a result, Black men were ten times more likely than White men to be incarcerated. Latino men were more than twice as likely as White men to be incarcerated. There were significant disparities among Black women, too, who were five times more likely than White women to be incarcerated.<sup>22</sup> Inequalities in incarceration were driven in part by inequalities in policing. Again, according to the Public Policy Institute of California, Black male residents were three times more likely than White ones to be arrested in 2016.<sup>23</sup>

Here in Alameda County, 48% of probationers are African American<sup>24</sup> even though African Americans make up only 11% of the population.<sup>25</sup>

**This means that both nationally and locally, a disproportionate number of African Americans are impacted by criminal background checks in housing applications.**

<sup>17</sup> “Findings” Stanford Open Policing Project. Accessed October 4, 2019. <https://openpolicing.stanford.edu/findings/>.

<sup>18</sup> Porter, Nicole D., Nazgol Ghandnoosh, Josh Rovner, and Jean Chung. “Racial Disparity.” The Sentencing Project, September 30, 2019. <https://www.sentencingproject.org/issues/racial-disparity/>.

<sup>19</sup> Berdejó, Carlos. (2018). *Criminalizing Race: Racial Disparities in Plea-Bargaining*. *Boston College Law Review*, 59(4), pp. 1189-91.

<sup>20</sup> Berdejó, Carlos. (2018). *Criminalizing Race: Racial Disparities in Plea-Bargaining*. *Boston College Law Review*, 59(4), pp. 1189-91.

<sup>21</sup> Public Policy Institute of California. (2019). *California’s Prison Population*, p. 1.

<sup>22</sup> Public Policy Institute of California. (2019). *California’s Prison Population*, p. 1.

<sup>23</sup> Public Policy Institute of California. (2019). *Racial Disparities in California Arrests*, p. 1.

<sup>24</sup> Total population in probation, Q4 2018 “Alameda County Probation Department Data Dashboard”. Alameda County. Accessed October 4, 2019. <https://www.acgov.org/probation/dashboard.htm>.

<sup>25</sup> “U.S. Census Bureau QuickFacts: Alameda County, California.” United States Census Bureau. Accessed October 4, 2019. <https://www.census.gov/quickfacts/alamedacountycalifornia>.



**SUMMARY OF HUD GUIDANCE:**

On or about April 4, 2016, the United States Department of Housing and Urban Development issued the “Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions” in which it states that “Policies that exclude persons based on criminal history must be tailored to serve the housing provider’s substantial, legitimate, nondiscriminatory interest and take into consideration such factors as the type of the crime and the length of the time since conviction.”

**SUMMARY OF OTHER FAIR CHANCE HOUSING POLICIES:**

The Coalition’s efforts build upon the remarkable work of other coalitions and communities to advance fair chance housing policies, namely in the cities of Richmond, Seattle, and Portland. In 2016, the Safe Return Project and its coalition partners including the Dellums Institute worked with the City of Richmond to pass legislation to remove housing barriers for formerly incarcerated residents to access any publicly subsidized housing. In 2017, Seattle community leaders in the Mayor’s Fair Housing Task Force worked with the City of Seattle to enact legislation that removed housing barriers for formerly incarcerated residents to access private or publicly subsidized rental housing. In 2019, the City of Portland enacted a Fair Chance Housing policy similar to Seattle’s policy.

We note that the cities of Seattle and Portland have first in time housing policies which limit landlord discretion in the selection of their tenants. Alameda County cities do not have such a policy.

Here’s a summary of the main comparison between the Berkeley proposal and policies enacted by the cities of Richmond, Seattle, and Portland:

- Similar to Seattle and Portland, the Berkeley proposal would apply to all housing units, private and publicly subsidized.
- Similar to Richmond and Seattle, the Berkeley proposal would enable Housing Providers who are funded by HUD to conduct criminal records checks after a Conditional Offer of Housing has been granted and subject to certain procedures.
- Similar to Richmond, the Berkeley proposal would provide for a private right of action in addition to City enforcement. The City of Seattle, instead, utilizes its robust Department of Civil Rights which enforces civil rights violations.
- Similar to Seattle, the Berkeley proposal would prohibit the use of criminal records checks in the housing application process, with the exception that allows for the review of sex offender registry.
- Unlike Portland and Seattle, the Berkeley proposal DOES NOT have a first in time tenant acceptance requirement. In addition, the Berkeley proposal maintains landlord discretion in the review of relevant information including landlord references, employment and income status, and credit report checks.



Less comprehensive versions of fair chance policies have passed in other cities including San Francisco; Urbana, Illinois; Madison, Wisconsin; New York, New York; and Newark, New Jersey.

**POLICY DEVELOPMENT PROCESS--CENTERING PEOPLE MOST IMPACTED BY THE POLICY PROBLEM:**

Building on their successful anti-displacement funding efforts with Alameda County and the cities of Berkeley and Oakland in 2017, the Our Beloved Community Action Network<sup>26</sup> (BCAN) leaders led by Just Cities/the Dellums Institute resolved to work together to address the removal of housing barriers for formerly incarcerated people. Through the advocacy of BCAN partner, the TechEquity Collaborative, the Chan Zuckerberg Initiative has provided resources for the development of the Alameda County Fair Chance Housing Coalition, including a leadership development program for formerly incarcerated people or their family members—the Policy and Outreach Leaders (POLs). The following community leaders have served as the POLs: Ms. Towanda Sherry, Ms. Anita Wills, Katie Dixon, and Taqwaa Bonner.

With support from Just Cities staff, the POLs have convened community forums and listening sessions with formerly incarcerated people and their family members, as well as participated in multiple research and policy design workshops. They have also worked with the UC Berkeley Goldman School of Public Policy's Center on Civility and Democratic Engagement to design and implement a survey to assess the individual, family, and community impacts of today's housing barriers for people with criminal records. In addition, Richard Illgen, former Oakland Deputy City Attorney, the Safe Return Project, and the National Housing Law Project have provided technical assistance to Just Cities and the POLs in developing the draft ordinance.

**SUMMARY OF FAIR CHANCE HOUSING POLICY TERMS**

The following is a summary of the proposed Fair Chance Housing policy. These policies were crafted after more than seven public hearings before the City of Berkeley's 4x4 and Land Use Committees; multiple meetings with the leaders of the Berkeley Property Owners Association; community forums with Berkeley residents and community organizations; and separate meetings with the Mayor and Council offices.

**NAMED AFTER CONGRESSMAN RON DELLUMS:**

The Coalition is proposing to name the Fair Chance Housing policy after former Berkeley City Councilmember, Congressman, Oakland Mayor, and world humanitarian Ronald V. Dellums in honor of his legacy and to inspire policymakers across the nation to champion human rights. Congressman Dellums passed away in July 2018. For over fifty years, Ron Dellums practiced courageous and principled leadership to advance the human rights and needs of all peoples, especially those who have

<sup>26</sup> For more information about the **Our Beloved Community Action Network**: <http://dellumsinstitute.org/bcan>





## A Policy Justice Brief for Berkeley Mayor Jesse Arreguin

been discriminated against and marginalized. He was born in 1935 and grew up in a segregated West Oakland. He had a troubled youth and almost did not graduate from high school. After serving in the Marines, Ron Dellums became a UC Berkeley trained psychiatric social worker and a community organizer. At the age of 31, Ron Dellums was on his way to a PhD program at Brandeis when he was recruited by activists to serve on the Berkeley City Council.

As Berkeley City Councilmember from 1967 to 1970, Ron Dellums championed progressive values of anti-war, peace, and justice including opposition to the death penalty, development of the People's Park and opposition to the declaration of martial law by then Governor Ronald Reagan, and successfully forcing BART to put train tracks in Berkeley underground.

As Congressperson representing Berkeley and Oakland from 1970 to 1997, Ron Dellums was the first African American to represent the district and one of the first Democratic Socialists in Congress. He was elected to Congress as an anti-Vietnam War activist and a prominent member of President Nixon's infamous "enemies list." Yet, he rose to become Chair of the powerful House Armed Services Committee, while maintaining his integrity, activism, and principles. Decades ahead of the "mainstream," his initially lonely efforts against Apartheid in South Africa, and against the major nuclear war-fighting systems, all eventually became the official positions of the nation. He was a staunch critic of discrimination in the military, a key supporter of gay rights in the military, and consistently challenged the militarization of U.S. foreign policy, while advocating for improving the living conditions of military personnel. Ron Dellums also chaired the House DC Committee where he pushed for meaningful Home Rule and Statehood for the District of Columbia, and also focused on the problems in America's cities. He was equally well known for presenting comprehensive policy proposals including the Dellums Alternative Military Budget and the Congressional Black Caucus Alternative Budget. He authored comprehensive bills to provide free healthcare to all Americans, a national comprehensive housing program, and climate change legislation.

After leaving Congress, Dellums led the development of his envisioned Marshall Plan for HIV/AIDS resulting in the federal PEPFAR programs which has saved 17 million lives in Sub-Saharan Africa, and the Dellums Commission on Boys and Men of Color, the precursor to President Obama's My Brother's Keeper initiative.

Already in his 70s, Ron Dellums was drafted to serve as Mayor of Oakland from 2007 to 2010, where he opened up City Hall for Oakland's people to develop Oakland as a model city for the world. To institutionalize civic engagement, Ron Dellums created 41 Citizen Task Forces that involved over 800 residents and resulted in policy changes such as the adoption of an industrial lands policy to facilitate economic development and jobs for Oakland residents and strategies to improve air quality from Port operations. He created a Re-Entry Services program out of the Mayor's office that welcomed formerly incarcerated residents home and helped them find jobs, housing, and support. Ron Dellums developed a comprehensive public safety plan which resulted in a 38% decline in homicides and a 25% decline in



all Part I (major) crimes. He reformed the Oakland Police Department and advanced community and constitutional policing. He led unprecedented City efforts involving business, labor, education, and community leaders to develop a comprehensive vision for a sustainable and equitable local economy, which resulted in \$550 million of new funding for projects and the generation of over 14,000 jobs during the Great Recession.

In 2016, at the tender age of 80, Ron Dellums co-founded the Dellums Institute for Social Justice to create a platform for the collective advancement of racial and social justice.

By naming the Fair Chance Housing Ordinance after Ronald V. Dellums, we seek to inspire community youth to believe in their potential for greatness and government officials to lead with courage, integrity, compassion for the most marginalized, and big vision for justice.

**POLICY GOALS:**

1. Remove current structural barriers faced by formerly incarcerated people when they apply for private or publicly subsidized housing to enable them to be considered on the merits of their present situation, rather than the albatross of their past.
2. Create a due process system that a) enables formerly incarcerated people the ability to complain to the City and also sue to enforce their rights under the Ordinance; and b) builds on the City's current administrative systems and capacity.
3. Design policy terms based upon an understanding of the different application and review processes by private and multiple kinds of Affordable Housing providers.
4. Create reporting requirements that are streamlined and also helps Affordable Housing providers transform their current application and review systems.
5. Avoid unintended consequences by not having burdensome or complex requirements for landlords.
6. Address the realities and special considerations of landlords who reside on their rental property that are smaller buildings, e.g. triplexes and smaller.



**MAIN PROPOSED POLICY TERMS:**

The following is a summary of the proposed fair chance housing policy.

| Housing Provider                          | Criminal Background Check                                              | Due Process                    | Reporting to City                  | Potential Remedies for Violations                                     |
|-------------------------------------------|------------------------------------------------------------------------|--------------------------------|------------------------------------|-----------------------------------------------------------------------|
| Private (Non-Affordable Housing Provider) | No                                                                     | City Complaint or Sue in Court | None                               | City complaint w/ fine. Court action w/ damages or injunctive relief. |
| Publicly Subsidized & Not HUD Funded      | No                                                                     | City Complaint or Sue in Court | Annual certification of compliance | City complaint w/ fine. Court action w/ damages or injunctive relief. |
| HUD Funded                                | Following due process protections, can check on 2 crimes per HUD rules | City Complaint or Sue in Court | Annual certification of compliance | City complaint w/ fine. Court action w/ damages or injunctive relief. |

**CRIMINAL BACKGROUND CHECKS:**

The proposed ordinance prohibits ALL landlords from:

- (a) Advertising or using a policy that automatically excludes people with criminal histories from rental housing,
- (b) Asking about or requiring disclosure of someone’s criminal history, or
- (c) Taking adverse action against an applicant or tenant based on his or her criminal history.

Exemptions to the ordinance:

- o The following properties where the owner occupies the property are exempt from the ordinance: ADUs, single family homes, duplexes, and triplexes.
- o Property owners renting their primary dwelling when they are on sabbatical.
- o Tenants renting out available bedrooms in the unit in which they reside.
- o Pursuant to State law, landlords can review and consider whether an applicant is on the State operated registry of lifetime sex offenders after a conditional offer has been made and upon written consent from the applicant. If a housing denial is based upon the registry information, the landlord must provide that information to the applicant and provide the applicant with the opportunity to rebut or provide mitigating information.
- o Landlords of HUD funded housing have a partial exemption from the ordinance if they are complying with federal regulations that require them to automatically exclude tenants based on certain types of criminal history (lifetime sex offender registration requirement or manufacturing meth on a federally assisted housing property). However, the landlord can only conduct the background check upon written consent from the applicant. If a housing denial is based upon one of the two HUD prescribed crimes, the landlord must provide the background check information to the applicant and provide the applicant with the opportunity to rebut or provide mitigating information.





## **IMPLEMENTATION & ENFORCEMENT:**

### 1. Private Rental Housing Application & Complaint Process

- Denial: If an applicant has been denied housing, they are entitled to any notices required by state and federal law and can also request that the landlord provide a reason for the denial.
- Due Process, Remedies & Enforcement—See below

### 2. Affordable Housing Rental Housing Application and Appeal/Complaint Process

- Definition: any housing provider receiving direct local, county, state, or federal subsidy. We have removed Section 8 landlords from the definition of Affordable Housing provider since the Housing Authority conducts the background checks for Section 8 voucher holders and because of Berkeley's source of income anti-discrimination law.
- Background Check, Denial, and Due Process Protections: For HUD funded housing providers, the housing provider may conduct a criminal background check if required by federal requirements. The housing provider must ensure that the applicant provided prior written consent to the criminal background check, receive a copy of any criminal background check, and has the opportunity to respond with rebutting or mitigating information before the applicant is denied housing.
- Annual Reports: only publicly subsidized housing providers would submit an annual certification of compliance to the City utilizing a City template. The Coalition would like to work with the City on designing the compliance template.

### 3. Due Process, Remedies and Enforcement for Both Private & Publicly Subsidized Rental Housing

- Complaint Process:
  - The applicant would have the right to file a complaint with the City Manager's designated hearing officer within one year from the date of application for housing.
  - The public and complainant would be informed of available City or community resources to assist in the filing of the complaint or preparing for the hearing, including the gathering of evidence.
- Similar to current local tenant law, private right of action and attorney's fees for the prevailing applicant are provided.
- Berkeley's current administrative penalty system is also integrated into the proposal.



- Landlord retaliation is explicitly prohibited.
- Landlords are required to maintain documentation of any conviction history that they obtain on applicants for at least three years.
- Effective date of the ordinance is 6 months after its adoption.
- The City Manager or their designee would provide an annual status report to the City Council and public including: a) which Affordable Housing providers submitted an annual certification of compliance; b) number of complaints filed with the City and the resolution; c) information from local service providers and community organizations on the number of court cases filed and the resolution or other compliance information.

## **CONCLUSION**

In the words of Just Cities' Director of Community & Political Engagement, John Arthur Jones III,

*The only place in America where one is guaranteed a roof over their head is in prison/jail. This Ordinance will take steps towards addressing the major intersection of Mass Incarceration and Housing barriers- BOTH resulting from policies and programs that were created and/or sanctioned by government- locally, statewide and nationally. In addition to constituting a human right, housing is also a Public Health and Public Safety issue. The impact of having a criminal record severely harms and impacts those who have never been arrested, including the children, parents, partners, and loved ones of those who are formerly incarcerated. Just as criminal records cannot and does not strip one of the legal duty of paying taxes, neither legally should having a criminal record strip anyone of one of the most quintessential elements of human rights- and that is housing.*





Cheryl Davila  
Councilmember  
District 2

ACTION CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Placing a Measure on the November 3, 2020 Ballot to Increase the Berkeley City Council Salary

RECOMMENDATION

Adopt a Resolution to submit a Ballot Measure for the November 3, 2020 Election, Amending the Berkeley Municipal Code Charter Article V. Section 19, to Increase Salaries for Members of the Berkeley City Council and the Mayor, Ensuring Elected Officials are Paid a Living Wage and Compensated Fairly for the Actual Time Spent Working for the City.

FISCAL IMPACTS OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

Being an elected official to the City of Berkeley is a great honor. The job of governing our City is a huge task, requiring an immense amount of time, attention, and fortitude. The compensation for City Councilmembers does not reflect a living wage suitable for residing in Berkeley or the Bay Area at large. Participation on the Council is financially challenging for people without other streams of income. In order for the City of Berkeley to adequately represent the needs of its residents, their elected representatives must be a reflection of the community. Currently, due to the salaries paid to City Councilmembers, the Council struggles to accurately represent the economic diversity of Berkeley residents, particularly low-income citizens. The salaries may deter some candidates, especially low-income citizens, from entering into the political arena and running for office.

Currently, the salaries paid to City Councilmembers are based on a calculation of 20 hours of work per month or 240 hours annually. Full attendance at City Council meetings including special and closed sessions are reflected in the chart below. The chart clearly shows the number of hours worked exceeds the number of hours that are compensated for.

| <b>Year</b>            | <b># of City Council Meetings</b> | <b># of Hours of City Council Meetings</b> | <b># of City Council Packet Pages to read</b> | <b># of Pages to Hours (1page per minute)</b> |
|------------------------|-----------------------------------|--------------------------------------------|-----------------------------------------------|-----------------------------------------------|
| <b>2017</b>            | 71                                | 203:51                                     | 17155                                         | 285.92                                        |
| <b>2018</b>            | 71                                | 221:20                                     | 24037                                         | 400.62                                        |
| <b>2019</b>            | 68                                | 192:13                                     | 22360                                         | 372.67                                        |
| <b>2020</b>            | 12                                | 32:11:00                                   | 3356                                          | 55.93                                         |
| <b>Total 2017-2020</b> | <b>222</b>                        | <b>649:35:00</b>                           | <b>66908</b>                                  | <b>1,115.13</b>                               |

Attendance to additional Policy Committees (of which each Councilmember must serve on at least 2) can result in up to another 7 hours plus per month. These calculations do not account for the amount of time it takes to adequately prepare for City Council or Policy Committee meetings, including reading thousands of pages of Agenda Packets, speaking with constituents, researching and writing legislations, chairing meetings, or attending and hosting community events, speaking engagements, or transportation time spent to and from meetings and events.

Calculation of the total hours spent in City Council meetings, Policy Committees, reading in preparation for meetings, and engaging with constituents in 2019, one Councilmember dedicated 688 total hours (averaging 57.3 hours per month) in 138 meetings in 2019. Thus, payment of 20 hours per month does not accurately reflect the amount of hours Councilmembers actually work. (Other councilmembers are welcome to provide data.)

#### **Council Policy Committees Year 2019**

| <b>Policy Committee Name</b>                                                         | <b># of Meetings</b> | <b># of Hours</b> | <b># of Pages</b> | <b># of Pages to Hours/ 60 (1page per minute)</b> |
|--------------------------------------------------------------------------------------|----------------------|-------------------|-------------------|---------------------------------------------------|
| <b>Budget/ Finance</b>                                                               | <b>8</b>             | <b>22:56:00</b>   | <b>54</b>         | <b>0.9</b>                                        |
| <b>Facilities, Infrastructure, Transportation, Environment, &amp; Sustainability</b> | <b>11</b>            | <b>14:43:00</b>   | <b>1203</b>       | <b>20.05</b>                                      |
| <b>Health, Life Enrichment, Equity &amp; Community Committee</b>                     | <b>2</b>             | <b>4:46:00</b>    | <b>119</b>        | <b>1.983</b>                                      |
| <b>Total</b>                                                                         | <b>21</b>            | <b>42:25:00</b>   | <b>1376</b>       | <b>22.93</b>                                      |

**Additional Committees Year 2019**

| <b>Committee Name</b>              | <b># of Meetings</b> | <b># of Hours</b> | <b># of Pages</b> | <b># of Pages to Hours/ 60 (1page per minute)</b> |
|------------------------------------|----------------------|-------------------|-------------------|---------------------------------------------------|
| <b>Mental Health Commission</b>    | <b>10</b>            | <b>19:24:00</b>   | <b>673</b>        | <b>11.216</b>                                     |
| <b>Oakland Airport Noise Forum</b> | <b>4</b>             | <b>5:46:00</b>    | <b>95</b>         | <b>1.583</b>                                      |
| <b>4x4</b>                         | <b>5</b>             | <b>10:25:00</b>   | <b>127</b>        | <b>2.116</b>                                      |
| <b>3x3</b>                         | <b>3</b>             | <b>3:00:00</b>    | <b>3</b>          | <b>0.05</b>                                       |
| <b>Total</b>                       | <b>22</b>            | <b>38:35:00</b>   | <b>898</b>        | <b>14.967</b>                                     |

Currently the median household income in Berkeley is \$86,497, while the annual gross income for Berkeley City Councilmembers is \$38,694.97. The median household income in Berkeley increased 47% over the last decade, but the compensation for serving on the City Council has not followed this trend. Meanwhile, the average cost of rent in the City of Berkeley has risen to \$3,183 per month. The compensation provided for City Council salaries therefore does not even allow Councilmembers to afford a year's worth of rent in the City they represent. This suggests that City Council positions are reserved for homeowners, those who are independently wealthy, or are supported by their partners. Beyond this, the circumstances surrounding low salaries may cultivate opportunities to supplement income by other unethical means. As the City of Berkeley strives to be a beacon for diversity in terms of identity and ideology, the compensation for Councilmembers does not demonstrate such values, particularly for young adults and People of Color (who still make significantly less than their Caucasian counterparts in Berkeley).

**Summary of 2019 Meetings, Events, and Time Spent Preparing for Council Meetings**

| <b>2019</b>                                    | <b>Total Hours</b> | <b># Meetings</b> |
|------------------------------------------------|--------------------|-------------------|
| City Council Meetings                          | 192:13:00          | 68                |
| Policy Committees                              | 42:25:00           | 21                |
| Other Committees                               | 38:35:00           | 22                |
| Preparing for meetings /Reading agenda packets | 373:00:00          | -                 |
| Community Events                               | 42:00:00           | 27                |
| <b>Total</b>                                   | <b>688:13:00</b>   | <b>138</b>        |

The issue of equity, diversity, and transparency in city government has been raised by the voters in Berkeley previously. Ballot Measure X1. Public Financing Program Act, was adopted in 2016. This provided alternative campaign funding streams for candidates who

capped their donations to \$50 per person. This Measure passed with 64.85% approval, was to “reduce the impact of wealth as a determinant of whether a person becomes a candidate” and reform the campaign financing system, which “violates the rights of all citizens to equal and meaningful participation in the democratic process.” Not only should people of limited means be able to campaign, they should also be able to afford serving as a representative, if elected. Low salaries for Councilmembers could continue to deter many candidates from running for a seat.

Base salaries for the Mayor and members of the City Council are set by the City Charter, Article V, Section 19. The City Charter should be amended by a Ballot Measure on the November 3, 2020 Election to create greater opportunities for economically-diverse representatives to serve on the Berkeley City Council.

#### ENVIRONMENTAL SUSTAINABILITY

Creates a sustainable income for City Councilmembers, thereby creating less opportunity for unethical temptations or corruption.

#### CONTACT PERSON

Cheryl Davila  
Councilmember District 2  
510.981.7120

#### ATTACHMENTS

1. Resolution
2. Number of hours District 2 Councilmember spent in City Council Meetings and Policy Committee Meetings with almost perfect attendance. Calculated from Roll Call to Adjournment.

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

ADOPT A RESOLUTION TO SUBMIT A BALLOT MEASURE FOR THE NOVEMBER 3, 2020 ELECTION, AMENDING THE BERKELEY MUNICIPAL CODE CHARTER ARTICLE V. SECTION 19 TO INCREASE SALARIES FOR MEMBERS OF THE BERKELEY CITY COUNCIL AND THE MAYOR, ENSURING ELECTED OFFICIALS ARE PAID A LIVING WAGE AND COMPENSATED FAIRLY FOR THE ACTUAL TIME SPENT WORKING FOR THE CITY.

WHEREAS, The median household income in the City of Berkeley is now \$86,497; and

WHEREAS, The average monthly rent in the City of Berkeley is \$3,183; and

WHEREAS, The current annual compensation for Berkeley City Councilmembers is \$38,694.97, constituting a monthly rate of \$3,224.58, which is not a living wage in the San Francisco Bay Area; and

WHEREAS, Berkeley City Councilmembers are paid for working 20 hours per month or 240 hours per year; and

WHEREAS, Attendance at City Council meetings alone averages 17 hours per month; and

WHEREAS, In addition to attending City Council meetings, Councilmembers are also expected to participate in at least two Policy Committees, which can more than double the time spent conducting official city business; and

WHEREAS, Upon calculation of all time spent in Council meetings, Policy Committees, and additional City Commissions, preparing for meetings by reading the agenda packets, and engaging with constituents, 688 total hours were spent in 138 meetings in 2019, averaging 57.3 hours of work per month.

WHEREAS, Beyond being physically present at meetings, Councilmembers must prepare by reading thousands of pages of written material in agenda packets, researching and drafting legislation, speaking with constituents, hosting and attending community events; and

WHEREAS, Under the current pay structure, none of the additional hours of labor are compensated for Councilmembers; and

WHEREAS, The Berkeley City Council ought to reflect the Economic diversity of the City's residents; and

WHEREAS, Without paying City Councilmembers a living wage, serving on the Council may be financial prohibitive for low-income community members, particularly renters, younger candidates, and People of Color; and

WHEREAS, Residents of the City of Berkeley have demonstrated their legislative priorities to increase access to diverse candidates in representative government by passing the 2016 Ballot Measure X1, generating the Fair Elections Fund; and

WHEREAS, Base salaries for the Mayor and members of the City Council are set by the City Charter, Article V, Section 19, and amending the Charter would require a Ballot Measure;



THEREFORE BE IT RESOLVED that the City Council adopt a resolution to submit a Ballot Measure for the November 3, 2020 Election to amend the Berkeley Municipal Code Charter Article 5. Section 19 Salaries to increase for the members of the Berkeley City Council and the Mayor, ensuring elected officials are paid a living wage and compensated fairly for the actual time spent working for the City.



Cheryl Davila  
Councilmember  
District 2

| Council Meetings Summary                                     |               |                  |              |                                            | City Council Policy Committee YR 2019                                                            |                    |                   |              |                                            | Other Committees YR 2019    |                      |                   |                   |                                            |                 |
|--------------------------------------------------------------|---------------|------------------|--------------|--------------------------------------------|--------------------------------------------------------------------------------------------------|--------------------|-------------------|--------------|--------------------------------------------|-----------------------------|----------------------|-------------------|-------------------|--------------------------------------------|-----------------|
| Year                                                         | # of Meetings | # of Hours       | # of Pages   | # of Pages to Hours/ 60 (1page per minute) | Policy Committee Name                                                                            | # of Meetings      | # of Hours        | # of Pages   | # of Pages to Hours/ 60 (1page per minute) |                             | # of Meetings        | # of Hours        | # of Pages        | # of Pages to Hours/ 60 (1page per minute) |                 |
| 2017                                                         | 71            | 203:51:00        | 17155        | 285.92                                     | Budget/ Finance                                                                                  | 8                  | 22:56:00          | 54           | 0.90                                       | Mental Health Commission    | 10                   | 19:24:00          | 673               | 11.22                                      |                 |
| 2018                                                         | 71            | 221:20:00        | 24037        | 400.62                                     | Facilities, Infrastructure, Transportation, Environment, & Sustainability                        | 11                 | 14:43:00          | 1203         | 20.05                                      | Oakland Airport Noise Forum | 4                    | 5:46:00           | 95                | 1.58                                       |                 |
| 2019                                                         | 68            | 192:13:00        | 22360        | 372.67                                     | Health, Life Enrichment, Equity & Community Committee                                            | 2                  | 4:46:00           | 119          | 1.98                                       | 4x4                         | 5                    | 10:25:00          | 127               | 2.12                                       |                 |
| 2020                                                         | 12            | 32:11:00         | 3356         | 55.93                                      | <b>Total</b>                                                                                     | <b>21</b>          | <b>42:25:00</b>   | <b>1376</b>  | <b>22.93</b>                               | 3x3                         | 3                    | 3:00:00           | 3                 | 0.05                                       |                 |
| <b>Total</b>                                                 | <b>210</b>    | <b>649:35:00</b> | <b>66908</b> | <b>1,115.13</b>                            | <b>YR 2019 Totals</b><br><small>(Council Meeting + Policy Committees + Other Committees)</small> | <b>111</b>         | <b>273:13:00</b>  | <b>24634</b> | <b>410.57</b>                              | <b>Total</b>                | <b>22</b>            | <b>38:35:00</b>   | <b>898</b>        | <b>14.97</b>                               |                 |
| <b>Annual Average</b><br><small>(Year 2020 excluded)</small> |               | <b>205:48:00</b> |              | <b>353.07</b>                              |                                                                                                  |                    |                   |              |                                            |                             | <b># of Meetings</b> | <b># of Hours</b> | <b># of Pages</b> |                                            |                 |
| <b>Monthly Average</b>                                       |               | <b>17:09:00</b>  |              | <b>29.42</b>                               |                                                                                                  |                    |                   |              |                                            |                             | <b>2019</b>          | <b>111</b>        | <b>273:13:00</b>  | <b>24634</b>                               | <b>410.57</b>   |
|                                                              |               |                  |              |                                            |                                                                                                  |                    |                   |              |                                            |                             | <b>2017- 2020</b>    | <b>222</b>        | <b>730:35:00</b>  | <b>72538</b>                               | <b>1,208.97</b> |
| Monthly Rate - \$3,224.56                                    |               |                  |              |                                            | <b>2019</b>                                                                                      | <b>Total Hours</b> | <b># Meetings</b> |              |                                            |                             |                      |                   |                   |                                            |                 |
| Annual Rate - \$38,694.97                                    |               |                  |              |                                            | City Council Meetings                                                                            | 192:13:00          | 68                |              |                                            |                             |                      |                   |                   |                                            |                 |
|                                                              |               |                  |              |                                            | Policy Committee                                                                                 | 42:25:00           | 21                |              |                                            |                             |                      |                   |                   |                                            |                 |
|                                                              |               |                  |              |                                            | Other Committees                                                                                 | 38:35:00           | 22                |              |                                            |                             |                      |                   |                   |                                            |                 |
|                                                              |               |                  |              |                                            | Time Preparing/Reading                                                                           | 373:00:00          | -                 |              |                                            |                             |                      |                   |                   |                                            |                 |
|                                                              |               |                  |              |                                            | Events                                                                                           | 42:00:00           | 27                |              |                                            |                             |                      |                   |                   |                                            |                 |
|                                                              |               |                  |              |                                            |                                                                                                  | 688:13:00          | 138               |              |                                            |                             |                      |                   |                   |                                            |                 |





Office of the City Manager

ACTION CALENDAR

March 10, 2020

*(Continued from February 11, 2020)*

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services  
 Subject: Disposition of City-Owned, Former Redevelopment Agency Property at 1631 Fifth Street

RECOMMENDATION

Adopt a resolution authorizing the sale of the City-owned, former Redevelopment Agency property at 1631 Fifth Street at market rate and authorizing the City Manager to contract with a real estate broker to manage the sale.

POLICY COMMITTEE RECOMMENDATION

On November 21, 2019, the Land Use, Housing & Economic Development Committee adopted the following action: M/S/C (Hahn/Droste) to move the item with a positive recommendation authorizing the sale of 1631 Fifth Street. Vote: All Ayes.

SUMMARY

The City received 1631 Fifth Street from the Berkeley Redevelopment Agency (BRA) at its dissolution. BRA planned to sell prior to the statewide dissolution of redevelopment. The City Council previously approved the market rate sale of these properties as part of the state-mandated Long Range Development Management Plan adoption in 2014.

The site at 1631 Fifth Street is not large enough or zoned densely enough to support the cost-effective construction and operation of affordable housing. Developing this vacant lot would require investment of additional City funds before it could be used as housing. Selling the properties will yield a return on the City's Community Development Block Grant (CDBG) investment that will be applied to the City's priorities for permanent affordable housing via the Housing Trust Fund (HTF).

To maximize the number of interested buyers, staff are requesting Council authorization to select a real estate broker to manage the sale as staff do not typically manage market sales of single family home sites. City land disposition procedures require that the resulting contract for sale be approved by Council via ordinance.

FISCAL IMPACTS OF RECOMMENDATION

Staff estimate the sale may yield \$300,000 to \$500,000, and that a broker's fee for selling them may be 3% of the sale price, or \$9,000 to \$15,000. The properties have not yet been appraised but will be during the sale process.

The property was acquired with CDBG funds, which restricts revenue from their sales to CDBG-eligible uses. Staff recommend depositing the proceeds in the HTF so they can be used for CDBG-eligible housing activities including acquisition and rehabilitation. Staff will provide an information report following the sales to confirm the total contribution to the HTF.

CURRENT SITUATION AND ITS EFFECTS

The City owns two properties it received as the Successor Agency to Redevelopment: a 5,000 square foot vacant lot at 1631 Fifth Street and a vacant single family home at 1654 Fifth Street. The former Redevelopment Agency intended to sell both properties, but the process was halted due to redevelopment's dissolution statewide. Neither property has sufficient size or appropriate zoning to develop affordable housing efficiently, and any proposed affordable housing would be small scale and require additional City subsidies. The City also is incurring ongoing maintenance costs and liabilities while it holds the properties.

City staff consulted with legal counsel at Goldfarb & Lipman, LLP and the City Attorney's Office to review the applicability of the Surplus Lands Act to these former redevelopment agency properties. They concluded that process was not required and the properties could be sold at market rate. Staff confirmed the recent revisions to the Surplus Lands Act (AB 1486) do not apply.

Staff are recommending the City contract with a local real estate broker with experience selling small parcels. A private broker will have the expertise to manage sales (including marketing) and reach the broadest pool of Bay Area buyers.

At its July 11, 2018 meeting, the Housing Advisory Commission voted to support the staff recommendation:

Action: M/S/C (Owens/Amezcuca) to recommend to Council to approve the sale of two Successor Agency to Redevelopment properties at 1631 Fifth Street and 1654 Fifth Street at market value and deposit the proceeds in the Housing Trust Fund.

Vote: Ayes: Amezcua, Holman, Johnson, Kesarwani, Lewis, Owens, and Winters.  
Noes: Lord. Abstain: None. Absent: Tregub (excused), Wolfe (excused), and Wright (excused).

The possibility of using either of these properties in the Small Sites program was discussed at the July HAC meeting. An NCLT representative provided input on NCLT's past attempt to develop 1631 Fifth Street and the inability to identify a feasible project, and, considering the additional investment of City funds that would be required for

rehabilitation and development, it was determined that neither site is appropriate for this program.

Staff issued a Request for Proposals to sell the single family home at 1654 Fifth Street to operate as homeless housing, per Council direction on June 11, 2019. Staff is currently working with the Housing Advisory Commission to make a recommendation to Council regarding the proposals received.

1631 Fifth Street was not considered for an RFP as new construction of affordable housing would require significant investments and may not be feasible due to the size of the lot.

On November 21, 2019, the Land Use, Housing & Economic Development Committee recommended the City Council authorize the sale of 1631 Fifth Street.

**BACKGROUND**

Following the dissolution of all California redevelopment agencies, the Berkeley Redevelopment Agency prepared a state-mandated Long Range Development Management Plan (LRDMP) which the City Council, acting as the Successor Agency, adopted in 2014. The LRDMP included the recommendation to sell both sites at market rate. In 2015, for reasons related to redevelopment law and the dissolution process, and acting at the direction of the State Department of Finance, the Redevelopment Agency’s Oversight Board removed these two properties from the LRDMP and listed them as housing assets to facilitate their disposition on the market.

**1631 Fifth Street**

The former Redevelopment Agency acquired this site with other acquisitions in this neighborhood between 1969 and 1971 as part of a larger "Neighborhood Development Program". The characteristics of the property are provided in *Figure 1*.

**Figure 1. Property Characteristics**

|                 | <b>1631 Fifth Street</b> |
|-----------------|--------------------------|
| <b>Land Use</b> | Vacant Lot               |
| <b>Lot Area</b> | 5,525 sq ft              |
| <b>Acres</b>    | 0.13                     |
| <b>Zoning</b>   | MU-R                     |

In 1983, the Redevelopment Agency demolished a residential building at 1631 Fifth Street to build new affordable housing, but abandoned the plans after discovering high levels of lead contamination. The lot has remained vacant since this time. In 1997, the Redevelopment Agency approved the remediation and development of the site, but the

selected developer was unable to execute an agreement and the sale was never completed.

The Redevelopment Agency conducted an RFP for housing at the site in 2008, but the only response was Northern California Land Trust's (NCLT) proposal to move the Kenney Cottage (now at 1281 University Avenue) to the site. This proposal did not come to fruition due to NCLT's bankruptcy, but NCLT did manage a small community garden at the site from 2009 to 2011. Staff confirmed the use of 1631 as a community garden does not make it subject to the limitations of Measure L related to parks and open space.

### ***1654 Fifth Street***

In late 2019, staff issued a Request for Proposals to sell the single family home at 1654 Fifth Street to operate as homeless housing, per Council direction on June 11, 2019. Staff is currently working with the Housing Advisory Commission to make a recommendation to Council regarding the proposals received.

### ***Administration***

When the Redevelopment Agency dissolved, the Department of Health, Housing and Community Services took over managing its housing assets and other remaining responsibilities on behalf of the Successor Agency, although no staffing was added to handle these responsibilities. Former Redevelopment Agency assets assumed include 13 homebuyer loans, two properties under long-term leases and the two sites designated for sale. HHCS pays the Public Works Department to provide periodic landscaping services for this property. The City will retain these ongoing costs and liabilities as long as it owns the site.

### **ENVIRONMENTAL SUSTAINABILITY**

There are no sustainability effects associated with the recommendation of this report.

### **RATIONALE FOR RECOMMENDATION**

This site has been intended for sale since it was first acquired by the Redevelopment Agency in the late 1960s and early 1970s as part of a neighborhood development initiative. The City Council previously approved the market rate sale of 1631 Fifth Street as part of the LRDMP adoption in 2015.

This site is not large enough or zoned densely enough to support the cost-effective development and operation of affordable housing. Developing the site would require an investment of additional City funds. Selling the property will yield a return on the City's CDBG investment that will be applied to the City's affordable housing priorities via the Housing Trust Fund. In addition to the Berkeley Way development commitment, the HTF recently provided two other proposed developments predevelopment loans — Satellite Affordable Housing Associates' Oxford Apartments and Bay Area Community Land Trust's Stuart Street rehabilitation. The HTF program is also supporting three additional sites via Measure O bond funding: Staff also received HTF inquiries related to other development activities.

A small vacant lot is not a typical government real estate asset, and is better suited for sale by a real estate broker familiar with these types of properties and the local market. Private brokers have the resources and knowledge needed (including marketing) and are likely to reach the broadest pool of Bay Area buyers. The City opted to select a local real estate broker, Korman & Ng, for its most recent small asset sale of 2931 Shasta Road (a former Fire Department house) in 2012.

#### ALTERNATIVE ACTIONS CONSIDERED

The City could consider:

- Retaining the property for a future determination on its usefulness. Staff are not recommending this option due to the small size and location of 1631 Fifth Street as well as the costs and liabilities associated with holding vacant properties.
- Selling or leasing 1631 Fifth Street to a housing organization for development and operation as affordable housing. Staff are not recommending this option because it would require additional investment of City funds which are needed for developments currently in the pipeline. New construction and operating housing at this scale is not efficient and cannot leverage much (if any) non-City funds. The Redevelopment Agency did not receive viable proposals for previous attempts to develop affordable housing. HHCS received inquiries related to leasing the vacant site for the placement of tiny homes for the homeless or other populations but is recommending the market rate sale with proceeds going in to the Housing Trust Fund in order to expand permanent affordable housing opportunities.

#### CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5406

Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5114

Attachments:

1: Resolution



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

DISPOSITION OF CITY-OWNED, FORMER REDEVELOPMENT AGENCY  
PROPERTY AT 1631 FIFTH STREET

WHEREAS, the City acquired the property at 1631 Fifth Street via its role as the Successor Agency to the Redevelopment Agency of the City of Berkeley; and

WHEREAS, the Redevelopment Agency planned to sell the site prior to the redevelopment dissolution legislation; and

WHEREAS, The Successor Agency Oversight Board, acting at the direction of the State Department of Finance, designated 1631 Fifth Street as a housing asset to facilitate their market rate sale; and

WHEREAS, the site's status as a former Redevelopment property enables the City to follow redevelopment law's disposition requirements for market rate returns and exempts the City from the Surplus Land Act (AB 2135 & AB 1486); and

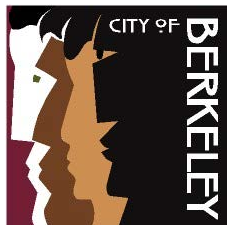
WHEREAS, the property was acquired with Community Development Block Grant (CDBG) funds, which restricts revenue from its sale to CDBG-eligible uses, including the Housing Trust Fund; and

WHEREAS, the General Plan's Housing Element Policy H-2 states the City should aggressively search out, advocate for, and develop additional sources of funds for permanently affordable housing, including housing for people with extremely low incomes and special needs; and

WHEREAS, selling the property at market rate will maximize Housing Trust Fund contributions and provide leverage for permanent affordable housing projects.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the property at 1631 Fifth Street be sold for a purchase price that shall be equal to or greater than the appraised market value of the property.

BE IT FURTHER RESOLVED that the City Manager contract with appropriate real estate professionals to market and sell the property.



Kate Harrison  
Councilmember District 4

## **REVISED AGENDA MATERIAL for Supplemental Packet 1**

**Meeting Date:** February 25, 2020

**Item Number:** 23

**Item Description:** **Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers, GPS Trackers, and Body Worn Cameras**

**Submitted by:** Councilmember Harrison

### **Revisions**

Revised the following Berkeley Police Department (BPD) proposed Policies 422, Policy 1302 and 1302(a) as follows:

1. Clarified that the intended purpose of ALPR technology is to capture and store digital license plate data and images for parking and scofflaw enforcement, while also recognizing data retained by BPD (limited to positive ALPR hits) may only be used to support specific criminal investigations.
2. Removed blanket provision that reasonable suspicion or probable cause is not required before ALPR use.
3. Removed ALPR crime scene canvass provision and blanket policy of entering plates into the ALPR system in an attempt to identify suspect vehicles.
4. Clarified that it shall be a violation of City policy to share a login with anyone outside of the City of Berkeley, except in cases of disaster or emergency that do not allow time for proper procedures to be followed.
5. Clarified that unauthorized access or data breaches shall be reported immediately to the City Manager.

6. Consistent with the Surveillance Ordinance BMC 2.99.020 (2) (a), clarified that third-party data-sharing shall be subject to non-privileged and non-confidential City Council notification.

## **Rationale**

Proposed Policies 1302 and 422 inappropriately expand the scope of permitted deployments of Automated License Plate Readers (ALPR) to “support criminal investigations” and “canvass license plates around any crime scene.” Both policies instruct officers that “[p]artial license plates reported during major crimes should be entered into the ALPR system in any attempt to identify suspect vehicles.”<sup>1</sup>

Council has neither given policy nor budgetary approval for such proposed ALPR uses and therefore the Resolution as proposed by staff should not be accepted without revision.

The proposed BPD Policies 1302 and 422 are inconsistent with the scope of the following effective Council and BPD policies regarding ALPR:

1. *Resolution No. 68,085-N.S.*

- Resolution No. 68,085-N.S. authorizes the collection of ALPR data for a single use: anonymized parking data supporting the goBerkeley parking program.

2. July 11, 2017 City Council Annotated Agenda

- The Annotated Agenda notes Council direction to the City Manager to amend Section 7.f of General Administrative Order #0001-2016 to defer any release of data until the surveillance policy and ordinance are adopted. To date, the City Manager has not amended Order #0001-2016.

3. *BPD General Administrative Order #001-2016*

- Section 1 of the effective BPD General Administrative Order #001-2016 specifies that only the BPD Parking Enforcement and Traffic Units may use ALPRs.
- Section 9 specifies further that “parking and scofflaw enforcement” are the only permitted use and deployment for ALPR technology in the City of Berkeley.

4. *Contract No. 9977*

- The scope of Contract No. 9977 is limited to the purchase of ALPR units in service of parking enforcement activities.

## **Attachments**

---

<sup>1</sup> Sections 1302.2 (b) - (c); Sections 422.4 (b) - (c).

1. Revised Policies 422, Policy 1302 and 1302(a)
2. July 11, 2017 City Council Annotated Agenda
3. BPD General Administrative Order #001-2016
4. Contract No. 9977

**PROPOSED D4 AMENDMENTS****BPD Policy Manual 422****Automated License Plate Readers (ALPRs)****422.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

**422.2 POLICY**

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images for parking and scofflaw enforcement while recognizing the established privacy rights of the public. All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

**422.3 ADMINISTRATION**

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

**422.3.1 ALPR ADMINISTRATOR**

The Investigations Division Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Ensuring this policy and related procedures are conspicuously posted on the City's website.

**422.4 USE OF THE ALPR**

The intended purpose of an ALPR shall only be used is for official law enforcement business parking and scofflaw enforcement.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

## PROPOSED D4 AMENDMENTS

(a) An ALPR may be used by Berkeley Police Department Parking Enforcement for parking and scofflaw enforcement.

(b) ~~An ALPR data obtained from parking and scofflaw enforcement may be used to support a specific criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.~~

~~(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped vehicles to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.~~

No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

No ALPR operator may access California Law Enforcement Telecommunications System

(CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

### 422.5 DATA COLLECTION AND RETENTION

All data and images gathered by an ALPR are for the official use of the Berkeley Police Department. Such data may contain confidential CLETS information and is not open to public review.

The Investigations Division Captain, or his/her designee, is responsible for ensuring proper collection and retention of ALPR data.

Technical support and assistance shall be provided by the City of Berkeley's Information

Technology (IT Department and associated ALPR system providers/vendors as identified below.

IT staff will not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT's role will be limited to providing initial infrastructure set-up, unless particular IT staff members have been cleared by DOJ background checks and authorized by the Chief of Police to receive ALPR records.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

(a) Collected images and metadata of reads showing violations will not be stored for more than 365 days.

(b) Metadata of reads showing violations will be stored for up to 30 days. Images of reads not showing violations will not be transferred to the server.

### 422.6 ACCOUNTABILITY

## PROPOSED D4 AMENDMENTS

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code§ 1798.90.51; Civil Code§ 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.
- (c) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code§ 1798.90.52). It shall be a violation of this policy to share a login with anyone outside of the City of Berkeley, except in cases of disaster or emergency that do not allow time for proper procedures to be followed.
- (d) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action or parking enforcement.
- (e) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
- (f) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (g) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually. For security or data breaches, see the Records Release and Maintenance Policy. Any unauthorized access or data breach shall be reported immediately to the City Manager.

### 422.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  1. The name of the agency.
  2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
  4. The related case number.

**PROPOSED D4 AMENDMENTS**

(b) The request is reviewed by the Investigations Division Captain, or his/her designee, and approved before the request is fulfilled.

(c) The approved request is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

Third-party data-sharing shall be subject to non-privileged and non-confidential City Council notification pursuant to BMC 2.99.020 (2) (a).

**422.8 SCOFFLAW ENFORCEMENT**

The Berkeley Police Department uses ALPR technology in the Parking Enforcement Unit for parking and scofflaw enforcement.

The Parking Enforcement Unit will utilize vehicles equipped with ALPR units to conduct enforcement of posted time limits in commercial areas and Residential Preferential Parking (RPP) permit areas. These ALPR's will also access information in the DMV's Stolen Vehicle System (SVS) database for wanted and stolen vehicles.

The Scofflaw Enforcement program (often referred to as the "booting" program) utilizes an ALPR to scan license plates and check the scanned "reads" against a list of vehicles which have five or more outstanding parking citations exceeding 30 days old. Typically, upon a confirmed "hit," the vehicle is immobilized with a "boot", or towed, and the owner has to pay the outstanding citations and fees in order to release the boot and/or recover their car from storage. This allows the City to recover outstanding citation fees.

The contracted vendor for the City's Scofflaw Enforcement program is currently Paylock. Paylock stores data on a secure server, and provides access to authorized personnel via Paylock's "Bootview" secure website.

When a car is booted and/or towed, the read, hit and photographic data relating to the booting and/or towing of scofflaw vehicles is uploaded to Paylock's secure server. No other data is uploaded to Paylock's secure server.

The City's Parking Enforcement ALPR vendor (currently Genetec) will periodically provide reports to the City of Berkeley Transportation Division's "goBerkeley" parking management program so that it can analyze data about parking demand. These reports will not contain any information about a vehicle's license plate number, the name of the registered owner, address of registered owner, or any other information gleaned from the license plate number associated with a particular vehicle. Rather, the reports will consist of 100 percent anonymized information using identification numbers that are not associated with a particular license plate or registered owner.

The reports will provide only the date, time, location, approximate address, "go Berkeley" blockface ID, and RPP area in which a vehicle was observed. If a citation was not issued for an RPP or other time limit



**PROPOSED D4 AMENDMENTS**

violation, the report may also provide the reason a parking enforcement officer concluded there was no parking violation, e.g., RPP visitor pass, disabled placard or license plate, etc.

**PROPOSED D4 AMENDMENTS****Surveillance Use Policy - ALPR****1302.1 PURPOSE**

This Surveillance Use Policy is issued in compliance with BMC 2.99, and incorporates by reference language from the Berkeley Police Department ALPR Policy #422 and adds elements as required by BMC 2.99.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images for parking and scofflaw enforcement while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review. (Ref. policy 422.2)

**1302.2 AUTHORIZED AND PROHIBITED USES USE**

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53). (Ref. policy 422.4)

(a) ~~The intended purpose of An ALPR shall only be used is~~ for parking and scofflaw enforcement. ~~official law enforcement business.~~

(b) ~~An ALPR data obtained from parking and scofflaw enforcement~~ may be used to support a ~~patrol operation or specific~~ criminal investigation. ~~Reasonable suspicion or probable cause is not required before using an ALPR.~~

~~(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.~~

**1302.3 DATA COLLECTION**

All data and images gathered by an ALPR are for the official use of the Berkeley Police Department. Such data may contain confidential CLETS information and is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or other law enforcement agencies only as permitted by law. (Ref. policy 422.5)

**1302.4 DATA ACCESS**

(a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

(b) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.

**PROPOSED D4 AMENDMENTS**

(c) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

**1302.5 DATA PROTECTION**

All saved data will be safeguarded and protected by both procedural and technological means.

The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code§ 1798.90.51; Civil Code§ 1798.90.53) (Ref. policy 422.6):

(a) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52). It shall be a violation of this policy to share a login with anyone outside of the City of Berkeley, except in cases of disaster or emergency that do not allow time for proper procedures to be followed.

(b) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action and parking enforcement.

(c) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.

(d) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question. Any unauthorized access or data breach shall be reported immediately to the City Manager.

**1302.6 CIVIL LIBERTIES AND RIGHTS PROTECTION:**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third Party Data Sharing) protect against the unauthorized use of ALPR data. These policies ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

**1302.7 DATA RETENTION**

The Investigations Division Captain, or his/her designee, is responsible for ensuring proper collection and retention of ALPR data. Technical support and assistance shall be provided by the

City of Berkeley's Information Technology (IT) department and associated ALPR system providers/vendors as identified below. IT staff will not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT's role

## PROPOSED D4 AMENDMENTS

will be limited to providing initial infrastructure set-up, unless particular IT staff members have been cleared by DOJ background checks and authorized by the Chief of Police to receive ALPR records.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence. (Ref. policy 422.5)

(a) Collected images and metadata of hits will not be stored for more than 365 days. Metadata of reads will not be stored for more than 30 days. Images of reads will not be transferred to the server.

### 1302.8 PUBLIC ACCESS

(a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law. (Ref. policy 422.6 (a))

(b) Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requester in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question. (Ref. policy 422.6 (b))

### 1302.9 THIRD-PARTY DATA-SHARING

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law. ALPR data is subject to the provisions of BPD Policy 415, and hence may not be shared with federal immigration enforcement officials.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.

[Third-party data-sharing shall be subject to non-privileged and non-confidential City Council notification pursuant to BMC 2.99.020 \(2\) \(a\).](#)

(Ref. policy 422.6 (e))

### 1302.10 TRAINING

Training for the operation of ALPR Technology shall be provided by BPD personnel. All BPD employees who utilize ALPR Technology shall be provided a copy of this Surveillance Use Policy.

### 1302.11 AUDITING AND OVERSIGHT

ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually. (Ref. policy 422.6 (g))

### 1302.12 MAINTENANCE

**PROPOSED D4 AMENDMENTS**

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division

Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data. (Ref. policy 422.3)

**1302.12.1 ALPR ADMINISTRATOR**

The Investigations Division Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq.

This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53) (Ref. policy 422.3.1):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Ensuring this policy and related procedures are conspicuously posted on the City's website.

**PROPOSED D4 AMENDMENTS****1302 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT-AUTOMATED LICENSE PLATE READER DEVICES****AUTOMATED LICENSE PLATE READER (ALPR) DEVICES**

Automated License Plate Readers (ALPRs) are high-speed, computer controlled camera systems that are typically mounted on Berkeley Police Department Parking Enforcement

**Vehicles.**

ALPRs capture license plate numbers which come into view, along with the location, date and time. The data, which includes a photo of the front or the back of the car displaying the license plate, is then uploaded to a central server.

**B. PURPOSE**

The Berkeley Police Department's Parking Enforcement Unit utilizes vehicles equipped with ALPRs to conduct enforcement of posted time limits in commercial areas and Residential Preferential Parking (RPP) permit areas. These ALPR's also access information in the California Law Enforcement Telecommunications System's (CLETS) Stolen Vehicle System (SVS) database, which provides information on matches for stolen and wanted vehicles.

The Berkeley Police Department's Scofflaw Enforcement program (often referred to as the "booting" program) utilizes an ALPR to scan license plates, and check the scanned "reads" against a list of vehicles which have five or more outstanding parking citations exceeding 30 days old. Typically, upon a confirmed "hit," the vehicle is immobilized with a "boot", or towed, and the owner has to pay the outstanding citations and fees in order to release the boot and/or recover their car from storage. This allows the City to recover outstanding parking citation fees.

**C. LOCATION**

Parking Enforcement vehicles travel throughout the city; using the ALPRs as described above.

**D. IMPACT**

The Berkeley Police Department is dedicated to promoting public safety with the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures utilized with ALPR Units will help to ensure unauthorized use of its data. The procedures will ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

**E. MITIGATION**

All saved data will be safeguarded and protected by both procedural and technological means which are implemented to safeguard the public from any impacts identified in subsection (D).

**PROPOSED D4 AMENDMENTS**

See subsection (G) for further.

**F. DATA TYPES AND SOURCES**

Photographs of license plates and location data may be obtained through the use of ALPR Units.

**G. DATA SECURITY**

The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code§ 1798.90.51; Civil Code§ 1798.90.53):

1. All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code§ 1798.90.52). It shall be a violation of this policy to share a login with anyone outside of the Berkeley Police Department, except in case of disaster or emergency that does not allow time for proper procedures to be followed.
2. Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department related civil or administrative action and parking enforcement.
3. Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
4. Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.

**H. FISCAL COST**

In 2015, Public Works brought an ALPR Contract to City Council. Council approved a contract for Public Works to buy five Genetec ALPR Units with PCS Mobile communication, for a pilot program for \$450,000.

In 2017, after success with the program, City Council approved an amendment to the contract, allowing Public Works to purchase 15 more ALPR Units for Parking Enforcement vehicles, and to continue its use of PCS Mobile, for 1,200,000. The money was allocated from the goBerkeley/Federal Highway Administration Parking Meter Fund.

Yearly service for the ALPR Units includes warranties, hosting services, cellular connection, mobile computing, and training which varies. The costs through fiscal year 2022 are currently estimated at \$1,175,000.

Personnel costs are minimal in that the ALPR Units are used as a resource during normal working hours.

**I. THIRD PARTY DEPENDENCE AND ACCESS**

1. Vendor Access-Scofflaw Enforcement: The contracted vendor for the City's Scofflaw Enforcement program is currently Paylock. Paylock stores data on a secure server, and provides access to authorized personnel via Paylock's "Bootview" secure website, as described below:

## PROPOSED D4 AMENDMENTS

- a. All data captured by the ALPR is stored on the booting vehicle's laptop for 30 days, and is only accessible during that period via the ALPR proprietary software. This includes reads, hits, and photographs associated with each.
  - b. When a car is booted and/or towed, the read, hit and photographic data relating to the booting and/or towing of scofflaw vehicles is uploaded to Paylock's secure server. No other data is uploaded to Paylock's secure server.
2. Vendor Access-General Parking Enforcement and goBerkeley Program: The contracted vendor for the City's Parking Enforcement ALPR is currently Genetec. The city uses Genetec ALPRs to support efficient enforcement of posted time limit parking and Residential Preferential Parking permits.
  - a. In addition, Genetec periodically provides reports to the City of Berkeley Transportation Division's "goBerkeley" parking management program so that the City's program can analyze data about parking demand. These reports do not contain any information about a vehicle's license plate number, the name of the registered owner, address of registered owner, or any other information gleaned from the license plate number associated with a particular vehicle.

Rather, the reports consist of completely anonymized information, using identification numbers that are not associated with a particular license plate or registered owner.
  - b. The reports will provide only the date, time, location, approximate address, "goBerkeley" blockface ID, and Residential Permit Pass (RPP) area in which a vehicle was observed. If a citation was not issued for an RPP or other time limit violation, the report may also provide the reason a parking enforcement officer concluded there was no parking violation, e.g., RPP visitor pass, disabled placard or license plate, etc.
3. Department of Information Technology Access: Technical support and assistance for ALPR's is provided by the City of Berkeley's Department of Information Technology (IT) and associated ALPR system providers/vendors as identified herein. IT staff who do not have the proper clearance and training do not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT provides initial infrastructure set-up, and continued systems support as needed to ensure efficient and accurate performance of the ALPR hardware and software. Only IT staff members who have successfully undergone DOJ background checks and training are authorized by the Chief of Police to view specific ALPR records.
4. Other Law Enforcement Agency Access: ALPR data may only be shared with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law. Requests for ALPR data by non-law enforcement or nonprosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code§ 1798.90.55). Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
5. Member Access: No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training. No ALPR operator may access CLETS data unless



## PROPOSED D4 AMENDMENTS

otherwise authorized to do so. If practicable, the officer should verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

6. Public Access: Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law. Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.

[7. Third-party data-sharing is subject to non-privileged and non-confidential City Council notification pursuant to BMC 2.99.020 \(2\) \(a\).](#)

### J. ALTERNATIVES

None.

### K. EXPERIENCE OF OTHER ENTITIES

The use of ALPR technology is common amongst law enforcement agencies throughout the country, in support of parking enforcement, and law enforcement criminal investigations.

**ANNOTATED AGENDA  
BERKELEY CITY COUNCIL MEETING**

**Tuesday, July 11, 2017**

**6:00 P.M.**

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – KRISS WORTHINGTON  
DISTRICT 8 – LORI DROSTE

**Preliminary Matters**

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

**Present:** Bartlett, Davila, Droste, Hahn, Maio, Wengraf, Worthington, Arreguin

**Absent:** Harrison

Councilmember Harrison present 6:14 p.m.

**Ceremonial Matters:**

1. Recognition of UN Association of California, Alpha Kappa Alpha, and Alpha Nu Omega

**City Auditor Comments:**

1. Recognition of Public Works for completing the Equipment Fund Audit

**City Manager Comments:**

1. Launch of Berkeley Bike Share Program on July 11, 2017

**Public Comment on Non-Agenda Matters:** 3 speakers.

**Public Comment on Consent Calendar and Information Items Only:** 1 speakers.

**Consent Calendar**

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

**Vote:** All Ayes.

## Consent Calendar

1. **Referral Response: Healthy Default Beverages with Children's Meals; Adding BMC Chapter 12.72**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,560-N.S. adding Berkeley Municipal Code (BMC) Chapter 12.72 to require that any food vendor that sells a children's meal with a beverage included shall make the default beverage offered with the children's meal either water or milk, with no added sweeteners.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Paul Buddenhagen, Housing and Community Services, 981-5400  
**Action:** Adopted second reading of Ordinance No. 7,560-N.S.
  
2. **Technical Corrections to the Zoning Ordinance, Amending Berkeley Municipal Code Sub-Titles 23D and 23E**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,561-N.S. amending Berkeley Municipal Code Sub-Titles 23D and 23E to make non-substantive, technical corrections to the Zoning Ordinance.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** None  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
**Action:** Adopted second reading of Ordinance No. 7,561-N.S.
  
3. **Changes to Affordable Housing Mitigation Fee; Amending Berkeley Municipal Code Section 22.20.065**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,562-N.S. amending BMC Section 22.20.065 related to the Affordable Housing Mitigation Fee.  
**First Reading Vote:** Ayes – Maio, Davila, Bartlett, Harrison, Hahn, Wengraf, Worthington, Arreguin; Noes – None; Abstain - Droste; Absent – None  
**Financial Implications:** See report  
Contact: Zach Cowan, City Attorney, 981-6950  
**Action:** Adopted second reading of Ordinance No. 7,562-N.S.
  
4. **FY 2018 Annual Appropriations Ordinance**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,563-N.S. adopting the FY 2018 Annual Appropriations Ordinance (AAO) in the amount of \$476,396,570 (gross appropriations) and \$424,590,046 (net appropriations).  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000  
**Action:** Adopted second reading of Ordinance No. 7,563-N.S.

## Consent Calendar

- 5. Housing Trust Fund Recommendation – Harper Crossing**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1) Approving a Housing Trust Fund (HTF) reservation for Satellite Affordable Housing Associates' Harper Crossing in the amount of \$285,464, and 2) Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.  
**Financial Implications:** See report  
 Contact: Paul Buddenhagen, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,077–N.S.
- 6. Housing Trust Fund Recommendation – Northern California Land Trust (NCLT) Scattered Site Rehabilitation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution reserving funds for Northern California Land Trust's Scattered Sites rehabilitation, specifically by: 1. Waiving Section III.A.1 of the Housing Trust Fund (HTF) Guidelines and accepting NCLT as an eligible developer despite its lack of recent experience. 2. Adopting a finding that a City subsidy in excess of 40% of total development costs is justified by the nature of Northern California Land Trust's Scattered Site Rehab and unavailability of alternative funding, as required by the HTF Guidelines, Section V.B.7. 3. Approving a HTF reservation for Northern California Land Trust's Scattered Site Rehab project, in the amount of \$569,692. 4. Authorizing City Manager to refinance the Scattered Site Rehab properties' outstanding HTF loans, with a combined balance currently estimated at \$695,000, into the new development loan with terms consistent with the HTF Guidelines. 5. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate these actions. 6. Recommending that Council recommend to the Northern California Land Trust that the organization move towards establishing a Board of Directors' structure consistent with current community land trust model standards.  
**Financial Implications:** See report  
 Contact: Paul Buddenhagen, Housing and Community Services, 981-5400  
**Action:** Moved to Action Calendar. 4 speakers. M/S/C (Maio/Harrison) to adopt Resolution No. 68,078–N.S. revised to add the two Whereas clauses below, and to direct staff to include the conversion language in the loan documents with NCLT.

*BE IT FURTHER RESOLVED that NCLT educate all current tenants about the benefits of transitioning to a limited equity co-op structure, subsequently begin negotiations to make the conversion to a limited equity co-op structure, and collaborate with an organization that has the capacity and experience to conduct the education and advise on the conversion process.*

*BE IT FURTHER RESOLVED that NCLT submit quarterly financial reports and annual reports relaying the status of their financial situation and progress in changing the structure of the Board of Directors and transition to a limited equity co-op.*

**Vote:** All Ayes.

## Consent Calendar

7. **Classification and Salary: Homeless Services Coordinator**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Resolution No. 67,484-N.S. Classification and Salary Resolution for Public Employees Union - Local One, to establish the classification of Homeless Services Coordinator with a monthly salary range of \$8,200 - \$9,915 effective July 11, 2017.  
**Financial Implications:** See report  
 Contact: Sarah Reynoso, Human Resources, 981-6800  
**Action:** Adopted Resolution No. 68,079–N.S.
  
8. **Contract: AMS.NET for Network Equipment and Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with AMS.NET, Inc. for network hardware, support, and maintenance, for a total not to exceed \$455,335 from July 1, 2017 to June 30, 2020.  
**Financial Implications:** Capital Improvement Fund - \$455,335  
 Contact: Savita Chaudhary, Information Technology, 981-6500  
**Action:** Adopted Resolution No. 68,080–N.S.
  
9. **Contract No. 10522 Amendment: Redwood Engineering Construction for Willard Park Play Area and Pathway Renovations Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10522 with Redwood Engineering Construction for the Willard Park Play Area and Pathway Renovation project, increasing the amount by \$115,000 for an amended total amount not to exceed \$417,400.  
**Financial Implications:** Parks Tax Fund - \$417,400  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 68,081–N.S.
  
10. **Contract No. 9044 Amendment: Building Opportunities for Self Sufficiency (BOSS)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9044 with Building Opportunities for Self Sufficiency for leaf and litter abatement services increasing the contract amount by \$120,000 for a total not to exceed \$1,722,500.  
**Financial Implications:** Zero Waste Fund - \$120,000  
 Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,082–N.S.

## Consent Calendar

- 11. Contract No. 9488B Amendment: Berry Brothers Towing for Towing Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9488B with Berry Brothers Towing to provide towing services for Department of Public Works Equipment Maintenance, increasing the contract amount \$20,000 for an amended total not to exceed of \$110,000.  
**Financial Implications:** Equipment Maintenance Fund - \$20,000  
 Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,083–N.S.
- 12. Contract No. 9730A Amendment: Fairbanks Scales, Inc.**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9730A with Fairbanks Scales, Inc. for preventative maintenance and repairs on various scales at the City’s Solid Waste Management and Transfer Station, increasing the contract amount by \$50,000 for a total contract amount not to exceed \$140,000, and extending the term of the contract to June 30, 2019.  
**Financial Implications:** Zero Waste Fund - \$50,000  
 Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,084–N.S.
- 13. Contract No. 9977 Amendment: Portable Computer Systems dba PCS Mobile to Purchase 15 Automated License Plate Recognition (ALPR) Units**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9977 with Portable Computer Systems dba PCS Mobile to purchase fifteen additional Automated License Plate Recognition units to increase parking enforcement operations capacity and effectiveness, and increasing the total \$1,200,000 for a new amount not to exceed \$1,650,000, and extending the term from May 30, 2020 to June 30, 2022.  
**Financial Implications:** Parking Meter Fund - \$1,200,000  
 Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Moved to Action Calendar. 8 speakers. M/S/C (Worthington/Wengraf) to adopt Resolution No. 68,085–N.S. authorizing the City Manager to execute an amendment to Contract No. 9977 with Portable Computer Systems dba PCS Mobile to purchase fifteen additional Automated License Plate Recognition units to increase parking enforcement operations capacity and effectiveness, and increasing the total \$1,200,000 for a new amount not to exceed \$1,650,000, and extending the term from May 30, 2020 to June 30, 2022; and amend Section 7.f of Administrative Order #0001-2016 to defer any release of data until the surveillance policy and ordinance are adopted.  
**Vote:** Ayes – Maio, Harrison, Wengraf, Worthington, Droste, Arreguin; Noes – Davila, Bartlett, Hahn.

## Consent Calendar

- 14. Contract No. 10472 Amendments: ELS Architecture & Urban Design and Contract No. 10464 Noll & Tam Architects: On-Call Architectural Services**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions authorizing the City Manager to execute amendments to the following contracts for on-call architectural services for a combined total of \$2,000,000 as follows:  
 1. ELS Architecture and Urban Design, Contract No. 10472, increasing the contract amount by \$1,000,000, for a total not-to-exceed amount of \$1,500,000 and extending the contract period through June 30, 2019;  
 2. Noll & Tam Architects, Contract No. 10464, increasing the contract amount by \$1,000,000, for a total not-to-exceed amount of \$1,500,000 and extending the contract period through June 30, 2019.  
**Financial Implications:** Various Funds - \$2,000,000  
 Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,086–N.S. (ELS) and Resolution No. 68,087–N.S. (Noll & Tam)
- 15. Contract: Chrisp Company for Roadway Thermoplastic Markings**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for the Roadway Thermoplastic Markings Project, 16-11078-C; and authorizing the City Manager to execute a five year contract period from July 1, 2017 through June 30, 2022, and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications with Chrisp Company in an amount not to exceed \$1,250,000.  
**Financial Implications:** Various Funds - \$1,250,000  
 Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,088–N.S.
- 16. Contract: Clean Harbors, Inc. for Hazardous Waste Management Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Clean Harbors, Inc. for hazardous waste management, removal, and disposal services for the City of Berkeley in an amount not-to-exceed \$150,000 for the period August 1, 2017 through June 30, 2020.  
**Financial Implications:** Various Funds - \$150,000  
 Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,089–N.S.

## Consent Calendar

- 17. Mitigating Impacts of Outdoor Air Quality on Indoor Air Quality in Berkeley**  
**From: Community Environmental Advisory Commission**  
**Recommendation:** Direct the City Manager to request the Planning Commission use the analyses presented here, and the draft provided in Appendix II, to create new Standard Conditions of Approval (SCA) for new building construction near major sources of air pollution, to achieve an acceptable level of indoor air quality (IAQ) for sensitive receptors. Total spending for required IAQ mitigations shall be at 1-2% of estimated total project costs.  
**Financial Implications:** See report  
 Contact: Nabil Al-Hadithy, Commission Secretary, 981-7400  
**Action:** Approved recommendation as modified below.

*Refer the item to the Planning Commission to consider the analyses presented here, and the draft provided in Appendix II, to create new Standard Conditions of Approval (SCA) for new building construction near major sources of air pollution, to achieve an acceptable level of indoor air quality (IAQ) for sensitive receptors.*

- 18. Ending Tax Breaks for Private Prisons Act**  
**From: Peace and Justice Commission**  
**Recommendation:** Adopt a Resolution: 1. Directing the City Clerk to send a letter to Rep. Devin Nunes (R-CA) of the Joint Committee on Taxation with copies to all members of the Congressional Joint Committee on Taxation, and the Senate Finance Committee calling on Congress to pass the “Ending Tax Breaks for Private Prisons Act;” and 2. Having the Council of the City of Berkeley sign the MoveOn.org online petition telling congress to end private prison tax breaks.  
**Financial Implications:** None  
 Contact: Eric Brenman, Commission Secretary, 981-5400  
**Action:** Moved to Action Calendar. 1 speaker. M/S/C (Worthington/Maio) to adopt Resolution No. 68,090–N.S.

**Vote (Recommendation #1):** All Ayes.

**Vote (Recommendation #2):** Ayes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – Hahn.



## Council Consent Items

- 19. Vitality of University Avenue**  
**From: Councilmembers Maio, Davila, and Harrison**  
**Recommendation:** Refer to the City Manager and Economic Development to analyze storefront vacancies on University Avenue and make recommendations on how to create a more vibrant streetscape on our main boulevard.  
**Financial Implications:** Staff time  
 Contact: Linda Maio, Councilmember, District 1, 981-7110  
**Action:** Approved recommendation.
- 20. Support Oakland Public Defender Rodney Brooks' Efforts to Keep In-Custody Arraignment Hearings in Oakland and Not Move Them to the East County Hall of Justice in Dublin**  
**From: Councilmembers Davila and Harrison, and Mayor Arreguin**  
**Recommendation:** Send a letter from Berkeley City Council supporting Oakland Public Defender Rodney Brooks' efforts to keep in-custody arraignment hearings in Oakland and not move them to the East County Hall of Justice in Dublin.  
**Financial Implications:** None  
 Contact: Cheryl Davila, Councilmember, District 2, 981-7120  
**Action:** Approved recommendation.
- 21. Referral to the Community Environmental Advisory Commission: Cigarette Butt Pollution Prevention Program in South Berkeley (*Item contains revised materials.*)**  
**From: Councilmembers Bartlett and Harrison**  
**Recommendation:** Refer to the Community Environmental Commission (CEAC) to consider developing a Cigarette Butt Pollution Prevention Program for South Berkeley. Explore the following items: a) Location. Work with the local business associations, business owners, as well as other neighborhood and community organizations to identify key locations for cigarette butt receptacles. b) Operation. Work with local businesses to develop a system for cleanup and disposal of the contents of the receptacles. c) Cost. Identify any one-time costs associated with the program, including purchasing and installation of the receptacles. Identify any costs that should be set aside for maintenance. There should not be regular ongoing costs. CEAC should work with the businesses and neighborhoods to develop a community-based system to facilitate daily operations.  
**Financial Implications:** Staff time  
 Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Approved recommendation as revised in Supplemental Reports Packet #1 to add Councilmember Harrison as a co-sponsor and add that the item is also referred to the City Manager.

## Council Consent Items

- 22. Support for AB 932 – Bill Giving San Francisco and San Diego Flexibility to Build Shelters and Transitional Housing for Unsheltered Homeless Residents From: Councilmembers Bartlett, Hahn, and Davila**  
**Recommendation:** Recommend that the Berkeley City Council send a letter to Senator Nancy Skinner and Governor Jerry Brown urging them to support AB 932.  
**Financial Implications:** None  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Approved recommendation with the letter revised to add the following phrase to the last sentence, “and request the addition of the City of Berkeley to the cities included in the bill.”
- 23. Support for SB 33: Bill Prohibiting Financial Institutions from Forcing Consumers to Give up Legal Rights when the Bank has Committed Intentional Fraud Against Them**  
**From: Councilmembers Bartlett, Hahn, and Davila**  
**Recommendation:** Recommend that the Berkeley City Council send a letter to Assemblymember Tony Thurmond, and Governor Jerry Brown urging them to support SB 33.  
**Financial Implications:** None  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Approved recommendation.
- 24. Support of AB 214: Postsecondary Education, Student Hunger (*Item contains revised materials.*)**  
**From: Councilmembers Harrison, Hahn, Davila, and Bartlett**  
**Recommendation:** Adopt a Resolution supporting AB 214 Postsecondary Education, Student Hunger, an act to reduce hunger and homelessness in college students in California, and sending a copy of the resolution to Governor Jerry Brown, and Assemblymembers Lorena Gonzalez Fletcher (Appropriations Chair), Frank Bigelow (Vice Chair), Richard Bloom, Raul Bocanegra, Rob Bonta, William Brough, Ian Calderon, Ed Chau, Susan Talamantes Eggman, Vince Fong, Laura Friedman, James Gallagher, Eduardo Garcia, and Adam Gray.  
**Financial Implications:** Minimal  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** Adopted Resolution No. 68,091–N.S.

## Council Consent Items

- 25. Adopt a Resolution Approving the Allocation of \$3,131,651 in Predevelopment from the Housing Trust Fund for the Berkeley Way Project**  
**From: Councilmembers Worthington, Harrison, Hahn, and Mayor Arreguin**  
**Recommendation:** That the Council adopts a Resolution to approve the allocation of \$3,131,651 in Housing Trust Funds for the predevelopment of BRIDGE Housing Corporation and Berkeley Food and Housing Project's Berkeley Way project, in compliance with the Housing Advisory Commission's recommendation, scheduled to be voted on July 6, 2017.  
**Financial Implications:** See report  
 Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
**Action:** Adopted Resolution No. 68,092–N.S. as revised in Supplemental Reports Packet #2.
- 26. Support California AB 395 to Protect Internet Privacy**  
**From: Councilmember Worthington**  
**Recommendation:** That the Council support California Assembly Bill 395 (AB 395) in its aim to protect the internet security and privacy of Californians.  
**Financial Implications:** See report  
 Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
**Action:** Approved recommendation as Revised in Supplemental Reports Packet #2 to correct the bill number to AB 375.

## Action Calendar – Public Hearings

- 27. Amending the Berkeley Election Reform Act to Implement Public Financing**  
**From: Fair Campaign Practices Commission**  
**Recommendation:** Conduct a public hearing and upon conclusion, adopt first reading of an Ordinance amending Berkeley Municipal Code 2.12 to make changes to facilitate the implementation of the Berkeley Fair Elections Act of 2016 by a vote of not less than two-third of the City Council, in accordance with procedure for amending the Berkeley Election Reform Act set forth in Berkeley Municipal Code 2.12.051.A.  
**Financial Implications:** See report  
 Contact: Jessica Mar, Commission Secretary, 981-6950
- Public Testimony:** The Mayor opened the public hearing. 3 speakers. M/S/C (Worthington/Hahn) to close the public hearing.  
**Vote:** All Ayes.
- Action:** Adopted first reading of Ordinance No. 7,564–N.S. Second reading scheduled for July 25, 2017.  
**Vote:** All Ayes.

## Action Calendar – Old Business

**28a. Automatic Door Openers in Multi-Unit Residential Buildings** *(Continued from May 30, 2017)*

**From: Commission on Disability**

**Recommendation:** Adopt a Resolution requiring: all new construction of multi-unit residential buildings (four or more units) with a common entryway in the City of Berkeley to include automatic door openers; significant remodeling or conversion of residential multi-unit buildings with four or more units and a common entryway to include automatic door openers; and owners of existing multi-unit residential buildings (four or more units) with a common entryway must install automatic door openers at the request of a resident.

**Financial Implications:** Unknown

Contact: Ella Callow, Commission Secretary, 981-6300

**28b. Companion Report: Automatic Door Openers in Multi-Unit Residential Buildings** *(Continued from May 30, 2017)*

**From: City Manager**

**Recommendation:** The City Manager recommends the City Council evaluate the resolution requested by the Commission on Disability as an amendment to BMC § 19.28.010. If Council agrees with the substantive recommendations in the Commission on Disability (CoD) report entitled “Recommendations to Require Inclusion of Automatic Door Openers in Residential Buildings with Four or More Units and a Common Entryway,” the City Manager recommends Council consider a stand-alone ordinance (similar to BMC § 19.80) that would (1) limit the scope to privately owned buildings with four or more units and a common entryway; (2) not subsidize installation of automatic door openers by building owners/builders; (3) include language that limits the City’s responsibility to conduct inspections to ensure compliance; and (4) limit the City’s liability for torts related to automatic door openers that are installed.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, 981-6300

**Action:** 2 speakers. M/S/C (Worthington/Maio) to hold over the item to September 12, 2017.

**Vote:** All Ayes.

## Action Calendar – Old Business

29. **Housing Accountability Act** (*Continued from June 13, 2017. Item includes supplemental materials.*)

**From: City Manager**

Contact: Zach Cowan, City Attorney, 981-6950

**Action:** 5 speakers. M/S/C (Arreguin/Davila) to refer to the City Manager, Planning Commission, Zoning Adjustments Board, and Design Review Committee to consider the following actions, and others they may find appropriate, to address the potential impacts of the Housing Accountability Act and to preserve local land use discretion:

1. Amend the General Plan and Zoning Ordinance to adopt numerical density and/or building intensity standards that can be applied on a parcel-by-parcel basis in an easy and predictable manner. These would constitute reliable and understandable “objective general plan and zoning standards” that would establish known maximum densities. This could be done across the board or for specified districts.
2. Devise and adopt “objective, identified written public health or safety standards” applicable to new housing development projects.
3. Adopt “design review standards that are part of ‘applicable, objective general plan and zoning standards and criteria’”.
4. Quantify and set objective zoning standards and criteria under the first sentence of Government Code Section 65589.5(j) for views, shadows, and other impacts that often underlie detriment findings.

**Vote (Paragraphs 1-3):** Ayes – Maio, Davila, Harrison, Hahn, Wengraf, Worthington, Arreguin; Noes – Bartlett, Droste.

**Vote (Paragraph 4):** Ayes – Maio, Davila, Harrison, Hahn, Wengraf, Arreguin; Noes – Bartlett, Droste, Worthington.

Recess: 9:10 p.m. – 9:27 p.m.

30. **Amend BMC Sections 3.78.030, 040, and 050 Related to Commission Procedures** (*Continued from June 13, 2017*)

**From: Human Welfare and Community Action Commission**

**Recommendation:** Adopt a Resolution requesting that the City Manager examine the addition of language to the Berkeley Municipal Code that clarifies aspects of the management of City of Berkeley commissions and the removal and appointment of commissioners.

**Financial Implications:** See report

Contact: Wing Wong, Commission Secretary, 981-5400

**Action:** Moved to Consent Calendar. No action taken by the City Council on this item.

**Vote:** Ayes – Maio, Bartlett, Harrison, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – Davila.

## Action Calendar – Old Business

- 31. Ordinance to Ban the Sale of Fur in Berkeley; Adding BMC Chapter 9.22**  
**From: Councilmember Worthington** (*Continued from June 13, 2017*)  
**Recommendation:** Adopt second reading of Ordinance No. 7,539-N.S. adding BMC Chapter 9.22 to eliminate the sale of fur apparel products in order to promote community awareness of animal welfare.  
 First Reading Vote: Ayes - Maio, Davila, Bartlett, Hahn, Wengraf, Arreguin; Noes – Harrison, Worthington, Droste; Abstain – None; Absent – None.  
**Financial Implications:** None  
 Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
**Action:** Item held over to July 25, 2017.
- 32. Support the Resilient Shoreline Program of Citizens for East Shore Parks**  
*(Continued from June 27, 2017)*  
**From: Mayor Arreguin and Councilmembers Hahn, Wengraf, and Maio**  
**Recommendation:** Adopt a Resolution supporting the Resilient Shoreline Program of Citizens for East Shore Parks (CESP) to raise awareness about the detrimental effects of sea-level rise and promote resilient shoreline solutions. Additionally, refer to the mid-year budget process a contribution of \$10,000 to participate in CESP’s Visualizing Sea-level Rise event in Berkeley.  
**Financial Implications:** General Fund - \$10,000  
 Contact: Jesse Arreguin, Mayor, 981-7100  
**Action:** Moved to Consent Calendar. Adopted Resolution No. 68.093–N.S. in support of the Resilient Shoreline Program, and Resolution No. 68,094–N.S. to authorize the expenditure of surplus funds from the Mayor’s and Councilmembers’ expense accounts for CESP from the following Councilmembers up to amounts listed: Mayor Arreguin - \$2,000; Councilmember Wengraf - \$500; Councilmember Maio - \$250; Councilmember Harrison - \$250; Councilmember Davila - \$250.
- 33. Expedited Review for Affordable Housing Projects** (*Continued from June 27, 2017. Item contains revised materials.*)  
**From: Councilmembers Hahn, Davila, and Bartlett**  
**Recommendation:** 1. Refer to the City Manager the creation of an expedited review process for housing projects in which Affordable Housing units make up more than 20% of the proposed on-site units; and  
 2. Direct the City Manager to immediately confer priority status and offer expedited review to 100% Affordable projects, pending adoption of a more formal and widely applicable expedited review process.  
**Financial Implications:** Staff time  
 Contact: Sophie Hahn, Councilmember, District 5, 981-7150  
**Action:** Item held over to July 25, 2017.

## Action Calendar – Old Business

- 34. General Fund Stability Reserve Usage Criteria** *(Continued from June 27, 2017. Item contains revised materials.)*

**From: Councilmembers Droste, Wengraf, and Maio**

**Recommendation:** Discuss the General Fund Stability Reserve Usage Policies described in the report and adopt policies such as those proposed, requiring a two-thirds vote of the City Council to amend them. Following recommendation from the City Manager, the City Council shall, from time to time, recognize and define “essential services”, “appropriate levels” of such services, and “extreme conditions”. Any draw-down of Stability Reserve funds shall coincide with the adoption of a plan to repay the dollar amount of the draw down. If adopting a repayment plan immediately is infeasible due to emergency circumstances, it shall be adopted no more than 3 months from the date of the withdrawal appropriation. The level of the Stability Reserve shall be restored as economic recovery occurs, consistent with the maintenance of essential services, with repayment to begin no more than 5 years from the date of withdrawal and be completed within 10 years from the date of withdrawal.

**Financial Implications:** See report

Contact: Lori Droste, Councilmember, District 8, 981-7180

**Action:** 4 speakers. M/S/C (Hahn/Arreguin) to continue the item to September 26, 2017.

**Vote:** All Ayes.

## Action Calendar – Old Business

### 35. **Medical Cannabis Cultivation Ordinance Revisions** *(Continued from June 27, 2017. Item contains revised materials.)*

**From: City Manager**

**Recommendation:** Consider the responses provided by the Planning Commission and Medical Cannabis Commission (MCC) to Council's referral regarding the desired maximum number of Medical Cannabis Cultivation locations (Zoning Ordinance/BMC Section 23E.72.040.A) and give direction to staff regarding any recommended changes to the Zoning Ordinance.

**Financial Implications:** See report

Contact: Timothy Burroughs, Planning and Development, 981-7400

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

**Vote:** Ayes – Maio, Davila, Bartlett, Harrison, Hahn, Wengraf, Worthington, Arreguin; Noes – None; Abstain – Droste.

**Action:** 1 speaker. M/S/Failed (Hahn/Bartlett) to adopt the proposal from Councilmember Hahn in Supplemental Reports Packet #2

1. *To initially allow 6 Standard cultivation sites at no more than 22,000 square feet per site, as allowed by State regulations, for a cumulative maximum of 132,000 square feet. The remainder of square footage, up to a cumulative maximum of 182,000 square feet, would be dedicated to a Small Sites program, reserved for local, artisan, cooperative, and green growers, with 5 additional sites allowed, each of no more than 10,000 square feet. The total combined number of Standard and Small Sites allowed would be 11, and total square footage capped at 182,000 square feet;*
2. *To direct staff to create two application processes; one for Standard Sites and another for Small Sites favoring local, artisan, cooperative, and green growers;*
3. *To allow only 1 site per operator, and create an overall preference for qualified owners from populations or groups that are or have been disproportionately targeted for enforcement, criminalization, and/or incarceration related to marijuana offenses;*
4. *One year after a site commences operations, direct staff to undertake an evaluation that includes, but is not limited to, contacting neighbors and businesses within 500 feet and evaluating potential positive and negative impacts, recommending any helpful/necessary changes to the enabling code and helping ensure the operator is in compliance with all rules and regulations. This site-by-site review will be limited to 8 sites, representing a variety of sizes and locations, as a means of identifying benefits and challenges of cultivation operations and improving the City's regulatory framework;*
5. *Once the first 11 sites have been permitted, direct staff to evaluate the overall and cumulative success and impacts of the cultivation sites program on a neighborhood and city-wide basis, review the preferences and programs for effectiveness, and consider whether the number of sites can be increased.*

**Vote:** Ayes – Bartlett, Hahn; Noes – Davila, Harrison; Abstain – Maio, Wengraf, Worthington, Droste, Arreguin.



## Action Calendar – Old Business

**Action:** M/S/C (Harrison/Maio) to adopt the proposal from Councilmember Harrison in Supplemental Reports Packet #2 amended to include paragraph #3 from Councilmember Hahn's proposal.

*Direct staff to prioritize local growers and cooperatives in the permitting process or set aside some of the allotted square footage specifically for use by local small growers and cooperatives. This could be achieved by maintaining the limit of 6 cultivation locations between 15,000 and 22,000 ft<sup>2</sup> in size for all forms of cultivators (using between 90,000 and 132,000 of the available 180,000 ft<sup>2</sup>) while allocating the remaining 48,000 ft<sup>2</sup> to local cultivators and cooperatives, without a specific location limit. During the permitting process, each operator will be limited to one site to avoid anti-competitive practices and prevent a monopoly. After one year of operation, staff will evaluate the positive and negative impacts of the cultivation site on the surrounding businesses and neighbors, and enforce on a complaint-driven basis*

*#3 Hahn: To allow only 1 site per operator, and create an overall preference for qualified owners from populations or groups that are or have been disproportionately targeted for enforcement, criminalization, and/or incarceration related to marijuana offenses;*

**Vote:** Ayes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – Hahn.

**Action:** M/S/Failed (Droste/Wengraf) to adjourn the meeting.

**Vote:** Ayes – Maio, Bartlett, Wengraf, Droste; Noes – Davila, Harrison, Hahn, Worthington, Arreguin.

**Action:** M/S/C (Arreguin/Maio) to suspend the rules and extend the meeting to 12:00 a.m.

**Vote:** Ayes – Maio, Davila, Bartlett, Harrison, Hahn, Worthington, Arreguin; Noes – Droste; Abstain – Wengraf.

## Action Calendar – Old Business

36. **Analysis and Recommendations for the Pathways Project to Address Homelessness in Berkeley** *(Continued from June 27, 2017. Item contains supplemental materials.)*

**From: City Manager**

**Recommendation:** Prioritize funding decisions for proposed Pathways Project programs (an Encampment Resolution Team, a STAIR Center, a Bridge Living Community, and a Homeward Bound program) based on which homeless issue Council most wishes to address in Berkeley:

1. Fund an Encampment Resolution Team and a STAIR Center for an estimated \$2.4 million in year one, plus \$2.1 million annually thereafter, if Council most wishes to provide temporary respite for unsheltered homeless individuals with no dedicated housing exits.
2. Fund a Bridge Living Community and a Homeward Bound program for an estimated \$2.6 million in year one, plus \$2.4 million annually thereafter, if Council most wishes to house an estimated 100-120 homeless individuals per year, but add no new emergency respite programs.
3. Fund all four programs at an estimated \$4.8 million in year one, and an estimated \$4.3 million annually thereafter, if Council wishes to address both the goal of temporary respite and permanent housing concurrently.

All funding estimates include roughly \$190,000 for 1 FTE in new City Staff time for program administration.

The City Manager recommends prioritizing a Bridge Living Community and associated rental subsidies and a Homeward Bound program.

**Financial Implications:** See report

Contact: Paul Buddenhagen, Housing and Community Services, 981-5400

**Action:** M/S/C (Arreguin/Maio) to suspend the rules and extend the meeting to 12:15 a.m.

**Vote:** Ayes – Maio, Davila, Bartlett, Harrison, Hahn, Worthington, Arreguin; Noes – Droste; Abstain – Wengraf.

**Action:** 5 speakers. M/S/C (Hahn/Davila) to adopt “Option 4” as presented in the City Manager’s report to Council on June 27, 2017, submitted by Paul Buddenhagen, Director of Health, Housing and Community Services, to establish a combined STAIR Center/Bridge Living Community and associated Homeward Bound and rapid rehousing components with the following additions, as recommended by formal action of the Council’s Ad Hoc Subcommittee on Homelessness:

1. Add an Outreach Resolution Team
2. Add a program to address illegal dumping and excessive accumulations of items and materials associated with homeless encampments, in particular in the heavily impacted West Berkeley corridor

**Vote:** All Ayes.

## Action Calendar – Old Business

### 37a. Allocation of U1 Funds by the City Council *(Continued from June 27, 2017)*

**From: Housing Advisory Commission**

**Recommendation:** 1. As specified by Measure U1, the City Council shall receive and consider housing strategy recommendations from the Housing Advisory Commission prior to allocating any Measure U1 funds.

2. When considering allocations for U1 funds, the City Council will make specific findings of how the spending meets the goals of Measure U1: improve housing affordability in Berkeley and protect residents from homelessness.

**Financial Implications:** See report

Contact: Amy Davidson, Commission Secretary, 981-5400

### 37b. Companion Report: Allocation of U1 Funds by the City Council *(Continued from June 27, 2017)*

**From: City Manager**

**Recommendation:** 1. Reaffirm that, as specified in Measure U1, the City Council shall receive and consider recommendations by the Housing Advisory Commission on funding and programs to increase affordable housing and protect Berkeley residents from homelessness, either annually or biannually. 2. Take no action with regard to committing to make findings that expenditures meet the goals of Measure U1.

**Financial Implications:** See report

Contact: Jovan Grogan, Deputy City Manager, (510) 981-7000

**Action:** Item 37b moved to the Consent Calendar and approved recommendation as amended below.

*1. Reaffirm that the City Council shall receive and consider recommendations by the Housing Advisory Commission as specified in Measure U1; and 2. Take no action with regard to committing to make findings that expenditures meet the goals of Measure U1.*

### 38a. Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley *(Continued from June 27, 2017)*

**From: Housing Advisory Commission**

**Recommendation:** That the City Council not use U1 funds to backfill the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue, and 1925 Ninth Street, City of Berkeley.

**Financial Implications:** See report

Contact: Amy Davidson, Commission Secretary, 981-5400

## Action Calendar – Old Business

- 38b. Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley** *(Continued from June 27, 2017)*

**From: Housing Advisory Commission**

**Recommendation:** Accept staff's recommendation to use \$4,730,815 of Measure U1 revenue over a 5 year period (\$946,163 annually) to repay the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley.

**Financial Implications:** See report

Contact: Jovan Grogan, Deputy City Manager, (510) 981-7000

**Action:** M/S/Failed (Hahn/Davila) to suspend the rules and extend the meeting to 12:25 a.m.

**Vote:** Ayes – Davila, Harrison, Hahn, Worthington, Arreguin; Noes – Maio, Bartlett, Wengraf; Abstain – None; Absent - Droste.

Councilmember Droste absent 12:05 a.m. – 12:15 a.m.

**Action:** 5 speakers. Item held over to July 25, 2017

## Action Calendar – New Business

- 39a. International Symbol of Accessibility (ISA) Change for City Signage**

**From: Commission on Disability**

**Recommendation:** Adopt a Resolution changing future signs indicating accessibility in Berkeley. The Berkeley Commission on Disability is recommending Council support a proposed change in signs that indicates accessibility.

**Financial Implications:** Minimal

Contact: Ella Callow, Commission Secretary, 981-6300

- 39b. Companion Report: International Symbol of Accessibility (ISA) Change for City Signage**

**From: City Manager**

**Recommendation:** Refer the item back to the Commission on Disability for further analysis regarding cost differences between the existing International Symbol of Accessibility signage and the recommended signage as well as specific vendors that currently provide the recommended signage to other municipalities.

**Financial Implications:** Unknown

Contact: Phillip Harrington, Public Works, 981-6300

**Action:** Item 39a moved to Consent Calendar. Adopted Resolution No. 68,095-N.S. changing future signs indicating accessibility in Berkeley.

## Action Calendar – New Business

### Information Reports

- 40. FY 2018 Civic Arts Grant Awards**  
**From: City Manager**  
Contact: Jordan Klein, Economic Development, 981-7530  
**Action:** Received and filed.
- 41. FY 2017 Investment Report: Quarter Ended March 31, 2017**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Received and filed.
- 42. Status of City's \$6M Loan to the Ed Roberts Campus**  
**From: City Manager**  
Contact: Paul Buddenhagen, Housing and Community Services, 981-5400  
**Action:** Received and filed.
- 43. Update on Retrofit Grants Program, Activities Funded by FEMA Hazard Mitigation Grant, and Status of the Soft Story Ordinance**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
**Action:** Received and filed.
- 44. Status Report July 2017 - Audit of Equipment Replacement Reserve**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Received and filed.

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

### Adjournment:

Adjourned at 12:15 a.m. in memory of:

1. Frances Rachel, Local Activist
2. David Williamson, Local Athlete and Mentor

### Communications

#### Restricting Flavored Tobacco Sales

1. Carol Denney

#### Vegetables Growing in Shade

2. Diego Aguilar-Canabal

#### Community Concerns

3. Nick Faber

**Housing and Climate Change**

4. Cameron Scherer

**Thank You Letter**

5. Berkeley Neighborhoods Council

**Housing and Zoning Suggestions**

6. Berkeley Design Advocates

**Berkeley Animal Care Services Concerns**

7. Jane Funk / Jovan Grogan

**Free Speech**

8. Therese Fitzpatrick (2)

**Environmental Health Division Concerns**

9. Leo Schwartz

**Bank Divestments**

10. Sheila Goldmacher

**Berkeley Police Department Response to Protest**

11. Rachel Lederman

**Bike Improvements for Repaving**

12. Dave Campbell

**Berkeley Rose Garden**

13. Annie Dillon

**Request for Certificate of Permissible Rent Level Form**

14. W.B.C.

**Supplemental Communications and Reports 1**

**Item 21: Referral to the Community Environmental Advisory Commission: Cigarette Butt Pollution Prevention Program in South Berkeley**

15. Revised materials, submitted by Councilmember Bartlett

**Item 24: Support of AB 214: Postsecondary Education, Student Hunger**

16. Revised materials, submitted by Councilmember Harrison

**Item 29: Housing Accountability Act**

17. Rob Wrenn

**Item 33: Expedited Review for Affordable Housing Projects**

18. Revised materials, submitted by Councilmember Hahn

**Item 35: Medical Cannabis Cultivation Ordinance Revisions**

19. Supplemental materials, submitted by Councilmember Hahn

**Item 36: Analysis and Recommendations for the Pathways Project to Address Homelessness in Berkeley**

20. Supplemental materials, submitted by Councilmember Hahn

**Item 37a: Allocation of U1 Funds by the City Council**

**Item 37b: Companion Report: Allocation of U1 Funds by the City Council**

**Item 38a: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley**

**Item 38b: Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley**

- 21. Cecile Pineda
- 22. Norma Harrison
- 23. Tree Fitzpatrick
- 24. Nico Calavita

**Item 40: FY 2018 Civic Arts Grant Awards**

- 25. Bruce Coughran
- 26. Cherie Hill
- 27. Andrea Hirsig
- 28. Susan Muscarella
- 29. Andrew Page
- 30. Liz Ozol
- 31. Pamela Miller
- 32. Carol Lashof
- 33. Rebecca Seeman
- 34. George-Ann Bowers
- 35. Sara Gambina-Belknap
- 36. Janice Murota
- 37. Inferno Theatre
- 38. Dyana Vukovich
- 39. Sharon Dolan
- 40. Wendy Ponder
- 41. Emmerich Anklam
- 42. Rachel Nissim
- 43. Carol Handelman
- 44. Jan Zvaifler
- 45. Emily Wainacht

**Supplemental Communications and Reports 2**

**Item 6: Housing Trust Fund Recommendation – Northern California Land Trust (NCLT) Scattered Site Rehabilitation**

- 46. Revised materials, submitted by Councilmember Harrison

**Item 13: Contract No. 9977 Amendment: Portable Computer Systems dba PCS Mobile to Purchase 15 Automated License Plate Recognition (ALPR) Units**

- 47. Alfred Twu
- 48. Ryan Thorngren

**Item 21: Referral to the Community Environmental Advisory Commission: Cigarette Butt Pollution Prevention Program in South Berkeley**

- 49. Carol Denney

**Item 25: Adopt a Resolution Approving the Allocation of \$3,131,651 in Predevelopment from the Housing Trust Fund for the Berkeley Way Project**

- 50. Revised materials, submitted by Councilmember Worthington
- 51. Supplemental materials, submitted by Health, Housing & Community Services

**Item 26: Support California AB 395 to Protect Internet Privacy**

- 52. Revised materials, submitted by Councilmember Worthington

**Item 27: Amending the Berkeley Election Reform Act to Implement Public Financing**

- 53. Daniel Newman, on behalf of the Berkeley Fair Elections Coalition
- 54. Rob Wrenn
- 55. Igor Tregub

**Item 28: Automatic Door Openers in Multi-Unit Residential**

- 56. Supplemental materials, submitted by Commission on Disability

**Item 32: Support the Resilient Shoreline Program of Citizens for East Shore Parks**

- 57. Revised materials, submitted by Mayor Arreguin

**Item 33: Expedited Review for Affordable Housing Projects**

- 58. Supplemental materials, submitted by Councilmember Droste

**Item 35: Medical Cannabis Cultivation Ordinance Revisions**

- 59. Supplemental materials, submitted by Councilmember Hahn
- 60. Supplemental materials, submitted by Councilmember Harrison
- 61. Medical Cannabis Commission
- 62. Charley Pappas

**Item 37a: Allocation of U1 Funds by the City Council**

**Item 37b: Companion Report: Allocation of U1 Funds by the City Council**

**Item 38a: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley**

**Item 38b: Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley**

- 63. Sheila Goldmacher (2)
- 64. Lynnda Ohama
- 65. Jim Latchney
- 66. Christine Schwartz
- 67. Kris Eggen
- 68. Diana Bohn
- 69. Sally Nelson (2)
- 70. Bill Bogert
- 71. Judy Nakadegawa
- 72. Pei Wu
- 73. Joshua
- 74. Joel Reed
- 75. Daniel Moore
- 76. Joshua Pfeffer
- 77. Gary Hicks
- 78. Ellen Woods



- 79. Happy Skywalker
- 80. Pam Webster
- 81. Phil Allen
- 82. Marcia Poole
- 83. Lisa Giampaoli
- 84. Maurice Catlett
- 85. Norma Harrison
- 86. Moni Law
- 87. Cassidy Crofton
- 88. Linda Franklin
- 89. Chimey Lee
- 90. Lauren Chester
- 91. Alex White

**Item 25: Adopt a Resolution Approving the Allocation of \$3,131,651 in Predevelopment from the Housing Trust Fund for the Berkeley Way Project**

- 92. 37 Communications submitted via Berkeley Considers, includes summary information.

**Supplemental Communications and Reports 3**

**Item 6: Housing Trust Fund Recommendation – Northern California Land Trust (NCLT) Scattered Site Rehabilitation**

- 93. Ian Winters

**Item 13: Contract No. 9977 Amendment: Portable Computer Systems dba PCS Mobile to Purchase 15 Automated License Plate Recognition (ALPR) Units**

- 94. Presentation, submitted by Public Works Department
- 95. Gunnar Rieth
- 96. Felipe Diaz
- 97. Blair Beekman

**Item 27: Amending the Berkeley Election Reform Act to Implement Public Financing**

- 98. Presentation, submitted by Fair Campaign Practices Commission

**Item 35: Medical Cannabis Cultivation Ordinance Revisions**

- 99. Presentation, submitted by Planning & Development

**Item 36: Analysis and Recommendations for the Pathways Project to Address Homelessness in Berkeley**

- 100. Presentation, submitted by Health, Housing & Community Services

**Item 37a: Allocation of U1 Funds by the City Council**

**Item 37b: Companion Report: Allocation of U1 Funds by the City Council**

**Item 38a: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley**

**Item 38b: Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley**

- 101. Sheila Goldmacher
- 102. John Tortorice

## **Misc. Communications**

### **Board of Library Trustees**

103. Unknown

### **HERO Program**

104. Unknown

**DEPARTMENT ORDER**

**ADMINISTRATIVE ORDER #001-2016**

**DATE ISSUED: 02/18/16**

---

**SUBJECT: AUTOMATED LICENSE PLATE READER (ALPR)**

**PURPOSE**

- 1 - This order establishes guidelines for the use of the Berkeley Police Department's Automated License Plate Reader (ALPR) technology and data. 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). ALPRs may be used by the Berkeley Police Department Parking Enforcement and Traffic Units for official law enforcement purposes.

**POLICY**

**Administration of ALPR Data**

- 2- Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain through the Traffic Bureau. The Investigations Division Captain will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

**ALPR Operation**

- 3- Department personnel shall not use, or allow others to use, the ALPR equipment or database records for any unauthorized purpose.
  - a. An ALPR shall only be used for official and legitimate law enforcement business.
  - b. Reasonable suspicion or probable cause is not required before using an ALPR.
  - c. No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
  - d. No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.

**DEPARTMENT ORDER**

**ADMINISTRATIVE ORDER #001-2016**

**DATE ISSUED: 02/18/16**

---

**ALPR Data Collection and Retention**

- 4- All data and images gathered by an ALPR are for the official use of the Berkeley Police Department. Such data may contain confidential CLETS information and is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or other law enforcement agencies only as permitted by law.
- 5- The Parking Enforcement Manager is responsible for ensuring proper collection and retention of ALPR data. Technical support and assistance shall be provided by City Department of Information Technology personnel and associated ALPR system providers/vendors as identified below. IT staff will not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT's role will be limited to providing initial infrastructure set-up, unless particular IT staff members have been cleared by DOJ background checks and authorized by the Chief of Police to receive ALPR records.
- 6- All ALPR data shall be stored as described in this order and thereafter shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data shall be downloaded from the server onto portable media and booked into evidence. The records will then be subject to standard evidence retention policies and statutes.
  - a. Collected images and metadata of hits will not be stored for more than 365 days. Metadata of reads will not be stored for more than 30 days. Images of reads will not be transferred to the server.

**Accountability and Safeguards**

- 7- All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data:
  - a. Non-law enforcement requests for access to stored ALPR data shall be processed according to General Order R-23 in accordance with applicable law.
  - b. Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requestor is the registered owner of the vehicle in question, and when providing such

**DEPARTMENTAL ORDER****ADMINISTRATIVE ORDER #001-2016****DATE ISSUED: 02/18/16**

---

information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.

- c. ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- d. Berkeley Police personnel approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relates to a specific criminal investigation or department-related civil or administrative action and parking enforcement.
- e. ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes only in connection with specific criminal investigations.
- f. Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state, or federal agency or entity without the express written consent of the City Manager.
- g. Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units are marked, corrected, or deleted in accordance with the type and severity of the error in question.
- h. ALPR system audits will be conducted by personnel assigned to the Professional Standards Bureau on a regular basis, at least biennially.

**Current ALPR Deployments**

- 9- The Berkeley Police Department uses ALPR technology in the Parking Enforcement Unit for parking and scofflaw enforcement.
- 10- Effective 2/18/16, the Parking Enforcement Unit will utilize five (5) Parking Enforcement Go-4 vehicles equipped with ALPR units to conduct enforcement of posted time limits in commercial areas and Residential Preferential Parking (RPP) permit areas. These ALPR's will also access information in the DMV/SVS database (stolen and wanted vehicles). The

**DEPARTMENTAL ORDER****ADMINISTRATIVE ORDER #001-2016****DATE ISSUED: 02/18/16**

---

current contracted vendor for this system is PCS Mobile using Genetec ALPR technology.

- 11- The Scofflaw Enforcement program (often referred to as the "booting" program) utilizes an ALPR to scan license plates, and checks scanned "reads" against a file of vehicles which have five or more outstanding parking citations exceeding 30-days old. Typically, upon a confirmed "hit," the vehicle is immobilized with a "boot", or towed, and the owner has to pay the outstanding citations and fees in order to release the boot and/or recover their car from storage. This allows the city to recover outstanding citation fees and penalties. ALPR equipment is installed in the Parking Enforcement Unit's Scofflaw Enforcement vehicle.
- 12- The contracted vendor for the City's Scofflaw Enforcement program is currently Paylock. Paylock stores data on a secure server, and provides access to authorized personnel via Paylock's "Bootview" secure website, as described below:
  - a. All data captured by the ALPR is stored on the laptop for 30 days, and is only accessible during that period via the ALPR proprietary software. This includes reads, hits, and photographs associated with each.
- 13- When a car is booted and/or towed, the read, hit, and photographic data relating to the booting and/or towing of scofflaw vehicles is uploaded to Paylock's secure server. No other data is uploaded to Paylock's secure server.
- 14- The City's Parking Enforcement ALPR vendor (currently Genetec) will periodically provide reports to the City of Berkeley Transportation Division's goBerkeley parking management program so that it can analyze data about parking demand. These reports will not contain any information about a vehicle's license plate number, the name of the registered owner, address of registered owner, or any other information gleaned from the license plate number associated with a particular vehicle. Rather, the reports will consist of 100 percent anonymized information using identification numbers that are not associated with a particular license plate or registered owner. The reports will provide only the date, time, location, approximate address, goBerkeley blockface ID, and RPP area in which a vehicle was observed. If a citation was not issued for an RPP or other time limit violation, the report may also provide the reason a parking enforcement

**DEPARTMENTAL ORDER**

**ADMINISTRATIVE ORDER #001-2016**

**DATE ISSUED: 02/18/16**

---

officer concluded there was no parking violation, e.g., RPP visitor pass, disabled placard or license plate, etc.



Michael K. Meehan  
Chief of Police

References: NCRIC ALPR Policy  
SB 34  
General Order R-23

Cc: All BPD Personnel

**EXPENDITURE NON-CONSTRUCTION CONTRACT REVIEW FORM: NEW CONTRACT**

CMS # XUHAL  
(To be filled in by department)

Contract # 9977  
(To be filled in by Auditor)

CONTRACTOR NAME: Portable Computer Systems dba PCS Mobile

Subject of Contract: License Plate Recognition System

| This contract package contains:                                                                                                                        | Attached                            | Waiver Attached                     | Not Required                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <b>3 Original Contracts (Department, Vital Record and Vendor) in folders</b>                                                                           |                                     |                                     |                                     |
| *The Vital Record contract MUST be in a folder.<br>*Optional: In lieu of folders, Department and Vendor copies may be assembled with an Acco-fastener. |                                     |                                     |                                     |
| 1. CONTRACT BOILERPLATE <u>W/changes - see M. Woo e-mail</u>                                                                                           | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Scope of Services (Exhibit <u>X</u> @ boilerplate) <u>Exhibit/Attachment B</u>                                                                      | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| <del>3. Payment Provisions (Exhibit <u>X</u> @ boilerplate) <u>Attachment C</u></del>                                                                  | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Evidence of Competitive Solicitation OR Waiver by CM or by Council Resolution                                                                       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 5. CERTIFICATIONS <u>SPICK 14-10875-C</u>                                                                                                              |                                     |                                     |                                     |
| a. Workforce Composition (businesses with 5 or more employees)                                                                                         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| b. Nuclear Free Berkeley Disclosure                                                                                                                    | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c. Oppressive States Disclosure (Exception: Community-based, non-profit organizations)                                                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| d. Certification of Compliance with Living Wage Ordinance (LWO): <u>use current form on web*</u>                                                       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| e. Certification of Compliance with Equal Benefits Ordinance: <u>use current form on web*</u>                                                          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| f. Community Agency: Certification of Anti-Lobbying                                                                                                    | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| g. Community Agency: Certification of Drug-Free Workplace                                                                                              | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <del>6. Insurance Certificate/s AND Endorsement/s OR Insurance Waiver/s (originals, not copies)</del>                                                  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 7. Authorizing Council Resolution # <u>66,917 1/27/15</u>                                                                                              | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 8. Consultant Contracts: Form 700, Statement of Economic Interests                                                                                     | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| <del>9. Federally Funded Project Requirement: Debarment status printout</del>                                                                          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

Berkeley Business License # BL-002930  
 Requisition # 185183 (Hard copy attached)  
 Budget Code 674 4920 431 117D06  
840 4920 431 144 147D01  
 Was there any advance payment? No  Yes  30.38

Contract Amount \$ 450,000  
 Council Approved Amount \$ 450,000  
 If Yes, Advanced Amount \$ \_\_\_\_\_  
 If Yes, Purchase Order # \_\_\_\_\_

**Routing and signatures:**  
 All elements of the contract package, including information provided above, have been reviewed for completeness and accuracy and evidenced by the following signatures (Project Manager please print name):

1. WILLA NG / FARID JAVANDEL PW-TRANS 981-7061 6/11/15  
 Project Manager (PRINT NAME) & Department Phone No. Date

2. [Signature] 6/19/15  
 Department Administrative Officer/Accounting Date

3. [Signature] 6/19/15  
 Department Head Date

4. [Signature] 26 JUN 15  
 Contract Administrator Date

5. [Signature] 6/25/15  
 Budget Manager Date

Routing continues to the following persons, who sign directly on the contract:

6. City Manager (Will not sign unless all signatures and dates appear above)

**RECEIVED**  
**JUN 29 2015**  
**CITY AUDITOR**

amb 6/29/15 JA 6/30/15



**LICENSE PLATE RECOGNITION SYSTEM SERVICES CONTRACT**

**THIS CONTRACT** is between the CITY OF BERKELEY ("City"), a Charter City organized and existing under the laws of the State of California, and Portable Computer Systems, Inc. dba PCS Mobile ("Provider"), a Colorado corporation doing business at 1200 W. Mississipp Avenue, Denver, Colorado, 80223, who agree as follows:

**Article 1. CONTRACT APPENDICES**

The Contract Appendices are as follows:

- A Security Center License Agreement
- B Scope of Services
- C Payment Terms
- D Equipment Specifications
- E Detailed Training Outline
- F Warranty Agreement and Software Maintenance Agreement
- G Equipment Acceptance Certificate
- H Current Police Administrative Order on use of aLPR Equipment

The terms of each of the appendices are incorporated herein by reference and made a part of this Contract. However, in the event of a conflict between any provision or term in this Contract and an Appendix, the terms of this Contract shall prevail.

**Article 2. SCOPE OF SERVICES**

Contractor agrees to perform all services described in Appendix A, Appendix B, Appendix E, Appendix F, Appendix G and Appendix H in accordance with its stated terms and conditions.

**Article 3. TERM AND RENEWAL**

3.1. The term of this contract shall be for a period of five (5) years. This Contract shall begin on May 1, 2015 and end on May 30, 2020. The City Manager of the City may extend the term of this contract by giving written notice.

3.2. The terms and conditions of this Contract shall not be altered or otherwise modified except by a written amendment to this Contract executed by City and Provider.

3.4. A written notice is deemed served when a party sends the notice in an envelope addressed to the other party to this Contract and deposits it with the U.S. Postal Service, first class mail, postage prepaid. For purposes of this Contract, all notices to City shall be addressed as follows:

City Manager  
City of Berkeley  
2180 Milvia Street  
Berkeley, California 94704

For purposes of this Contract, all notices to Provider shall be addressed as follows:

CMS# H044AL  
AUTH# 66,917

Steve McKay, Treasurer, Manager of Finance  
Portable Computer Systems, Inc dba PCS Mobile  
1200 W. Mississippi Avenue  
Denver, CO 80233

3.5. If City terminates this Contract for convenience before Provider completes the services in Appendix B, Provider shall then be entitled to recover its costs expended up to that point plus a reasonable profit, but no other loss, cost, damage, expense or liability may be claimed, requested or recovered.

3.6. PCS Mobile warrants and represents that its officials, including its officers and employees in their official capacity, presently have no interest and agrees that its officials, including its officers and employees in their official capacity, will not acquire any interest which would represent a conflict of interest under California Government Code sections 1090 et seq. and 87100 et seq. during the performance of this Agreement.

**Article 4. PAYMENT TERMS**

4.1 For services referred to in Article 2 (Scope of Services), City will pay Provider a total amount not to exceed \$450,000. City shall make payments to Provider in accordance with the provisions described in Appendix C, which is attached to and made a part of this Contract.

**Article 5. PROVISIONS OF LICENSE PLATE RECOGNITION  
EQUIPMENT PURCHASE AND IMPLEMENTATION**

5.1. The license plate recognition ("LPR") equipment and software implementation will occur in accordance with the terms specified in Article 2 (Scope of Services).

5.2. Provider shall provide all required hosting and operations support for the System at costs identified in Appendix C.

5.3. Provider shall provide City a non-exclusive, non-transferable license to use the Hosted Software in accordance with the applicable documentation and in accordance with the terms set forth in Appendix A for the term of this Contract at a cost identified in Appendix C.

5.4. Provider shall provide five (5) LPR units, with specification described in Appendix D, to the City and provide all necessary City employees training as set forth in Appendix E to maintain this equipment for the term of this Contract.

5.5. Provider shall provide and perform the services in full compliance with all applicable laws, codes and standards (both public and private), including, but not limited to, the standards included in Appendix B and warranties expressed in Appendix F.

5.6. Provider shall provide goods for the term of this Contract as set forth in Appendix B.

5.7. Provider shall provide City technical support for the term of this Contract as set forth in Appendix B and Appendix F.

**Article 6. CITY'S RESPONSIBILITIES**

6.1. In connection with the performance of this contract and the provision of services, City shall be responsible for the following:

6.1.1 City shall be responsible for ensuring that City's use of the services and the performance of City's other obligations hereunder comply with all laws applicable to City.

6.1.2 City shall be responsible for the accuracy and completeness of all records and databases provided by City in connection with this Contract for use on Provider's system.

**Article 7. SUBCONTRACTING**

7.1. Provider is prohibited from subcontracting this Contract, or any part of it, unless such subcontracting is approved by City in advance in writing.

**Article 8. PROVIDER'S REPRESENTATIONS AND WARRANTIES**

In order to induce the City to enter into this Contract, Provider makes the following representations and warranties:

8.1. Provider has the expertise, manufacturing, management and maintenance capabilities, and financial capabilities to perform and complete all of its obligations contained in this Contract.

8.2. Provider is and will at all times be fully qualified and capable of performing its obligations under this Contract and possesses or will timely obtain all necessary licenses and/or permits required to perform such obligations.

8.3. Provider represents and agrees that the Services shall be performed in a professional manner and shall conform to established industry best practices.

8.4. Provider shall deliver all obligations undertaken in this Contract free and clear of all liens, rights of conditional vendors, encumbrances, and claims of copyright, patent or license holders, and in conformance with the requirements of this Contract.

**Article 9. INSURANCE**

9.1. Not less than ten (10) days prior to commencing any work, Provider shall furnish to City satisfactory proof that Provider has taken out for the entire period of this Contract the

following insurance in a form satisfactory to City and with an insurance carrier satisfactory to City, authorized to do business in California and rated by A.M. Best & Company A or better, which will protect those described below from claims described below which arise or are alleged to have arisen out of or result from the services of Provider, for which Provider may be legally liable, whether performed by Provider, its subcontractors or subconsultants of any tier or by those employed directly or indirectly by them or any of them, or by anyone for whose acts any of them may be liable. All insurance, except professional liability insurance, shall name the City, its officers, agents, volunteers and employees as additional insured's and shall provide primary coverage with respect to the City, and there shall be a waiver of subrogation as to each named and additional insured.

**9.1.1 Commercial general liability insurance:** Comprehensive or Commercial General Liability Insurance with limits not less than two million dollars (\$2,000,000.00) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations. If the Comprehensive or Commercial General Liability Insurance is written on a Claims Made Form then, following termination of this Contract, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Contract.

**9.1.2 Professional liability insurance:** If any licensed professional performs services under this Contract, a professional liability insurance policy in the minimum amount of one million dollars (\$1,000,000.00) each occurrence to cover any claims arising out of Provider's performance of services under this Contract.

**9.1.3 Business automobile liability insurance:** Primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto), if applicable. Limits shall be not less than five hundred thousand dollars (\$500,000.00) each occurrence including coverage for owned, non-owned and hired vehicles, subject to a deductible of not more than ten thousand dollars (\$10,000.00) payable by Provider.

**9.1.4 Full workers' compensation liability insurance** for all persons whom Provider may employ in furnishing and providing the Services hereunder, in accordance with California law. Workers' compensation policy shall include Employer Liability Insurance with limits not less than one million dollars (\$1,000,000.00) each accident or occurrence. There shall be a waiver of subrogation as to the City and each named and additional insured under such policy.

9.2 Certificates of Insurance and Endorsements shall have clearly typed thereon the City contract number and title of contract, shall provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to City's Contract Administrator. Endorsements naming the City as additional insured shall be attached to the Certificate of Insurance.

9.3 Nothing contained herein shall be construed as limiting in any way the extent to which Provider or any of its subcontractors or sub consultants may be held responsible for payment of damages resulting from their operations.

9.4 If Provider fails to maintain insurance, the City may take out insurance to cover any damages of the above mentioned classes for which the City and others to be insured referenced above might be held liable on account of Provider's failure to pay such damages, or compensation which the City might be liable under the provision of the Worker's Compensation Insurance and Safety Act, by reason of employee of Provider being injured or killed, and deduct, and in addition to any other remedy, retain amount of premium from any sums due Provider under this Contract.

9.5 Provider shall forward all insurance documents to:

**Department Name:** Public Works Transportation Division

**Attn:** Willa Ng

**CMS#** XUHAL

**Department Address:** 1947 Center Street, 3<sup>rd</sup> Floor, Berkeley, CA 94704

**Article 10. INDEMNIFICATION**

10.1 Provider shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officials, commissioners, officers, agents, employees and volunteers from and against any and all loss, liability, claims, suits, actions, damages, injury (including, without limitation, injury to or death of an employee of Provider or its subcontractors) , or any violation of any federal, state, or municipal law or ordinance, arising out of the willful misconduct or negligent acts or omissions of Provider or its employees, subcontractors, or agents, or by acts for which they could be held strictly liable, or by the quality or character of their work.

10.2 The foregoing obligation of Provider shall not apply when (a) the injury, loss of life, damage to property or violation of law arise wholly from the negligence or willful misconduct of the City or its officials, commissioners, officers, agents, employees and volunteers and (b) the actions of Provider or its employees, subcontractors, or agents have contributed in no part to the injury, loss of life, damage to property or violation of law. It is understood that the duty of Provider to indemnify and hold harmless includes the duty to defend as set forth in California Civil Code section 2778. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Provider from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Provider agrees to the provisions of this Section and acknowledges that it is a material element of consideration.

**Article 11. CANCELLATION AND TERMINATION**

11.1 **Termination of Provider for Default.** In the event Provider fails to perform one or more of its material obligations under this Contract and has failed within twenty (20) days

of receiving notice from City to (a) cure the default or (b) if the default cannot be cured within twenty (20) days, provide the written assurances and plan as specified in subsection 11.1.1, this Contract may be terminated and all of Provider's rights hereunder ended. Termination will be effective after twenty (20) days written notice to Provider. No new work will be undertaken after the date of receipt of any notice of termination, or five (5) days after the date of the notice, whichever is earlier. In the event of such termination, Provider will be paid for those services performed under this Contract up to the date of termination and for reasonable direct costs incurred up to the date of termination, and any annual fees will be pro-rated. However, City may offset from any such amounts due Provider any damages or other costs City has or will incur due to Provider's non-performance. Any such offset by City will not constitute a waiver of any other remedies City may have against Provider for financial injury or otherwise.

11.1.1 If the City at any time reasonably believes that Provider is or may be in default under this Contract, the City may in its sole discretion notify Provider of this fact and request written assurances from Provider of performance of the Contract and a written plan from Provider to identify and attempt to remedy any failures to perform the terms of the Contract which the City may advise the Provider of in writing. Failure of the Provider to provide written assurances of performance as required herein will constitute a separate material breach of this Contract sufficient to invoke paragraph 11.1 above.

11.1.2 In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience in accordance with subsection 11.2, and Provider shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance.

**11.2 Termination of Provider for Convenience.** Termination of this Agreement for convenience shall be in accordance with 49 C.F.R. 18.44.

11.2.1 City may terminate this Contract for City's convenience and without cause at any time by giving Provider thirty (30) days written notice of such termination. In the event of such termination, Provider will be paid for those services performed, pursuant to this Contract, up to the date of termination in accordance with Appendix C (Payment Terms). In no event will City be liable for costs incurred by Provider after receipt of notice of termination. Such non-recoverable costs include, but are not limited to, anticipated profits of this Contract, post-termination employee salaries, post-termination administrative expenses, or any other cost which is not reasonable or authorized under this section.

**11.3 Obligations of Provider Upon Termination.** Upon termination of this Contract, Provider will submit an invoice to City for an amount which represents the value of its work or services actually performed prior to the effective date of termination and for direct costs for which Provider is entitled under this Contract to be compensated, except that with respect to reimbursement for Provider's services, in no event will the compensation paid for the month in which the termination occurs be greater than the charges for the services delivered prior to the notice. Upon approval and payment of this invoice by City, City shall be under no further obligation to Provider monetarily or otherwise.

**11.4 Termination of City for Default.** City shall be in default of this Contract thirty (30) days after written notice of City's failure to comply in any respect with any material terms and conditions of this Contract and City fails to cure such breach within such thirty (30) day period. Notwithstanding the above, City shall be in default hereunder upon ten (10) business days written notice in the event the breach is due to non-payment by the City and City fails to cure such breach due to non-payment within such ten (10) day period.

**11.5 Return of City Data.** Within thirty (30) days of notification of termination of this Contract, Provider shall provide City with all City-owned data in dedicated data files suitable for importation into commercially available database software (e.g., MS-Access or MS-SQL). The dedicated data files will be comprised of City's data contained in Provider's system. The structure of the relational database will be specific to the City's data and will not be representative of the proprietary Provider's database.

**Article 12. GENERAL WARRANTIES, LIMITATIONS ON WARRANTIES**

**12.1 Compliance with Specifications.** Provider's computer programs, files, hosted services, documentation and all other work product will strictly comply with the descriptions and representations made in Appendix D (Equipment Specifications) and including performance capabilities, completeness, specifications, configurations, and function that appear therein.

**12.2** Provider may lawfully grant the license set forth in Section 5.3 and Appendix A.

**12.3** Neither the licensed software or use of the hosted services, including all subsequent versions, updates, enhancements and/or releases, nor licensed materials, or the use thereof within the scope of the License, infringes a patent, trademark or copyright or is claimed to be a trade secret of any person who has not consented to the granting of the License. Developer shall indemnify and hold harmless City from and against any claims, including reasonable legal fees and expenses, based upon infringement of any United States copyright or patent by the Software. City agrees to notify Developer of any such claim promptly in writing and to allow Developer to control the proceedings. City agrees to cooperate fully with Developer during such proceedings. Developer shall defend and settle at its sole expense all proceedings arising out of the foregoing. In the event of such infringement, Developer may replace, in whole or in part, and at its own expense, the Software with a substantially compatible and functionally equivalent computer program or modify the Software to avoid the infringement.

**12.4** During the Initial Term, and any Renewal Term thereafter, the hosted services and software, including all subsequent versions, updates, enhancements and/or releases, will conform to the applicable printed documentation (i.e., all reference materials or manuals) delivered by Provider to City.

**12.5** Neither the software, including all subsequent versions, updates, enhancements and/or releases, nor the licensed materials or hosted services contain any virus, time bomb mechanism, or other software or code that can disable or adversely affect any and all of the software or the licensed materials or destroy any data or other software.

12.6 The limited warranty set forth in Section 12.1 is in lieu of all other warranties, express or implied warranties or merchantability and fitness for a particular purpose.

**Article 13. CONFORMITY WITH LAW AND SAFETY**

13.1 Provider shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, and all other applicable federal, state, municipal and local safety regulations. All services performed by Provider must be in accordance with these laws, ordinances, codes and regulations. Provider shall release, defend, indemnify and hold harmless City, its officers, agents, volunteers and employees from any and all damages, liability, fines, penalties and consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

13.2 If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Contract, Provider shall immediately notify the City's Risk Manager by telephone. If any accident occurs in connection with this Contract, Provider shall promptly submit a written report to City, in such form as the City may require. This report shall include the following information: 1) name and address of the injured or deceased person(s); 2) name and address of Provider's subprovider, if any; 3) name and address of Provider's liability insurance carrier; and 4) a detailed description of the accident, including whether any of City's equipment, tools or materials were involved.

13.3 If a release of hazardous materials or hazardous waste that cannot be controlled occurs in connection with the performance of this Contract, Provider shall immediately notify the Berkeley Police Department and the City's Health Protection office.

13.4 Provider shall not store hazardous materials or hazardous waste within the City of Berkeley without a proper permit from the City.

**Article 14. NON-DISCRIMINATION**

14.1 Provider hereby agrees to comply with the provisions of Berkeley Municipal Code ("B.M.C.") Chapter 13.26 as amended from time to time. In the performance of this Contract, Provider agrees as follows:

14.2 Provider shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

14.3 Provider shall permit the City access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the opinion of the City, are necessary to monitor compliance with this non-discrimination provision. In addition, Provider shall fill-out, in a timely fashion, forms supplied by the City to monitor this non-discrimination provision.

**Article 15. INDEPENDENT CONTRACTOR**

15.1 Provider shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which Provider performs the services required of



Provider by the terms of this Contract. Provider shall be liable for its acts and omissions, and those of its employees and its agents. Nothing contained herein shall be construed as creating an employment, agency or partnership relationship between City and Provider.

15.2 Direction from City regarding the subject of this Contract shall be construed as providing for direction as to policy and the result of Provider's Work only and not as to the means or methods by which such a result is obtained.

15.3 Except as expressly provided in this Contract, nothing in this Contract shall operate to confer rights or benefits on persons or entities not party to this Contract.

15.4 Payment of any taxes, including California Sales and use Taxes, levied upon this Contract, the transaction, or the services or goods delivered pursuant hereto, shall be the obligation of Provider.

**Article 16. CONFLICT OF INTEREST PROHIBITED**

16.1 In accordance with Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, neither Provider nor any employee, officer, director, partner or member of Provider, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a City board, committee or commission member, who has directly or indirectly influenced the making of this Contract.

16.2 In accordance with Government Code section 1090 and the Political Reform Act, Government Code section 87100 *et seq.*, no person who is a director, officer, partner, trustee, employee or consultant of the Provider, or immediate family member of any of the preceding, shall make or participate in a decision made by the City or a City board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Provider.

16.3 Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 *et seq.*, its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64.

16.4 Provider shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this contract, or any ensuing City construction project. Provider shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing City construction project, which will follow.

16.5 Provider hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

16.6 Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

**Article 17. NUCLEAR FREE BERKELEY**

Provider agrees to comply with B.M.C. Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

**Article 18. OPPRESSIVE STATES CONTRACTING PROHIBITION**

18.1 In accordance with Resolution No. 59,853-N.S., Provider certifies that it has no contractual relations with, and agrees during the term of this Contract to forego contractual relations to provide personal services to, the following entities:

- (1) The governing regime in any Oppressive State.
- (2) Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- (3) Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of its contract with the City), for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

18.2 For purposes of this Contract, the Tibet Autonomous Region and the provinces of Amdo, Kham, and U-Tsang shall be deemed oppressive states.

18.3 Provider's failure to comply with this section shall constitute a default of this Contract and City may terminate this Contract pursuant to Section 3. In the event that the City terminates Provider due to a default under this provision, City may deem Provider a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

**Article 19. RECYCLED PAPER FOR WRITTEN REPORTS**

If Provider is required by this Contract to prepare a written report or study, Provider shall use recycled paper for said report or study when such paper is available at a cost of not more than ten percent more than the cost of virgin paper, and when such paper is available at the time it is needed. For the purposes of this Contract, recycled paper is paper that contains at least 50% recycled product. If recycled paper is not available, Provider shall use white paper. Written reports or studies prepared under this Contract shall be printed on both sides of the page whenever practical.

**Article 20. BERKELEY LIVING WAGE ORDINANCE**

20.1 Provider hereby agrees to comply with the provisions of the Berkeley Living Wage Ordinance, B.M.C. Chapter 13.27. If Provider is currently subject to the Berkeley Living Wage Ordinance, as indicated by the Living Wage Certification form, attached hereto, Provider will be required to provide all eligible employees with City mandated minimum compensation during the term of this Contract, as defined in B.M.C. Chapter 13.27, as well as comply with the terms enumerated herein. Provider expressly acknowledges that, even if Provider is not currently subject to the Living Wage Ordinance, cumulative contracts with City may subject Provider to the requirements under B.M.C. Chapter 13.27 in subsequent contracts.

20.2 If Provider is currently subject to the Berkeley Living Wage Ordinance, Provider shall be required to maintain monthly records of those employees providing service under the Contract. These records shall include the total number of hours worked, the number of hours spent providing service under this Contract, the hourly rate paid, and the amount paid by Provider for health benefits, if any, for each of its employees providing services under the Contract. These records are expressly subject to the auditing terms described in Section 23.

20.3 If Provider is currently subject to the Berkeley Living Wage Ordinance, Provider shall include the requirements thereof, as defined in B.M.C. Chapter 13.27, in any and all

subcontracts in which Provider engages to execute its responsibilities under this Contract. All subprovider employees who spend 25% or more of their compensated time engaged in work directly related to this Contract shall be entitled to a living wage, as described in B.M.C. Chapter 13.27 and herein.

20.4 If Provider fails to comply with the requirements of this Section, the City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Provider's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this Contract pursuant to Section 3. In the event that City terminates Provider due to a default under this provision, City may deem Provider a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Provider may be responsible for liquidated damage in the amount of \$50 per employee per day for each and every instance of an underpayment to an employee. It is mutually understood and agreed that Provider's failure to pay any of its eligible employees at least the applicable living wage rate will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damage set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Provider's breach. City may deduct any assessed liquidated damages from any payments otherwise due Provider.

**Article 21. BERKELEY EQUAL BENEFITS ORDINANCE**

21.1 Provider hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Provider is currently subject to the Berkeley Equal Benefits Ordinance, as indicated by the Equal Benefits Certification form, attached hereto, Provider will be required to provide all eligible employees with City mandated equal benefits, as defined in B.M.C. Chapter 13.29, during the term of this contract, as well as comply with the terms enumerated herein.

21.2 If Provider is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Provider agrees to provide the City with all records the City deems necessary to determine compliance with this provision. These records are expressly subject to the auditing terms described in Section 23 of this contract.

21.3 If Provider fails to comply with the requirements of this Section, City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Provider's failure to comply with this Section shall constitute a material breach of the Contract, upon which City may terminate this contract pursuant to Section 3. In the event the City terminates this contract due to a default by Provider under this provision, the City may deem Provider a non-responsible bidder for not more than five (5) years from the date this Contract is terminated.

In addition, at City's sole discretion, Provider may be responsible for liquidated damages in the amount of \$50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Provider's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages

set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Provider's breach. City may deduct any assessed liquidated damages from any payments otherwise due Provider.

**Article 22.                    PREVAILING WAGES**

Certain labor categories under this contract may be subject to prevailing wages as identified in the State of California Labor Code commencing with Sections 1720 et. seq. and 1770 et. seq. These labor categories, when employed for any "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," constitute a "Public Work" within the definition of Section 1720(a)(1) of the California Labor Code requiring payment of prevailing wages. In performing its obligations under this contract, Contractor is solely responsible to determine which, if any, of the work is governed by a labor category pursuant to California Labor Code sections 1720 et. seq. and 1770 et. seq. and pay the pertinent prevailing wage. Contractor shall defend, indemnify and hold harmless City concerning any liability arising out of Labor Code section 1720 et. seq. and 1770 et. seq.

**Article 23.                    AUDIT**

Pursuant to Section 61 of the Berkeley City Charter, the City Auditor's Office may conduct an audit of Provider's financial, performance and compliance records maintained in connection with the operations and services performed under this Contract. In the event of such audit, Provider agrees to provide the City Auditor with reasonable access to Provider's employees and make all such financial, performance and compliance records available to the Auditor's Office. City agrees to provide Provider an opportunity to discuss and respond to any findings before a final audit report is filed.

**Article 24.                    AMENDMENTS**

The terms and conditions of this Contract shall not be altered or otherwise modified except by a written amendment to this Contract executed by City and Provider.

**Article 25.                    CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER**

Provider has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Provider is exempt from the provisions of B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Provider shall pay all state and federal income taxes and any other taxes due. **Provider certifies under penalty of perjury that the taxpayer identification number written below is correct.**

Business License Number    BL-002930  
Taxpayer ID Number        84-1396969

**Article 26.****MISCELLANEOUS**

**26.1 Governing Law.** This Contract shall be deemed to have been executed in Alameda County. The formation, interpretation and performance of this Contract shall be governed by the laws of the State of California, excluding its conflict of laws rules. Venue for all litigation relative to the formation, interpretation and performance of this Contract shall be in Alameda County, California.

**26.2 Assignment.** Neither City nor Provider shall assign this Contract without the prior written consent of the other party and any purported assignment without the other party's consent shall be void.

**26.3 Compliance with Applicable Laws.** Provider and any subcontractors shall comply with all laws, including the Berkeley City Charter, the Berkeley Municipal Code, and all city policies, rules and regulations which are applicable to the performance of the Services hereunder.

**26.4 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Contract is invalid, void, or unenforceable, the provisions of this Contract not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

**26.5 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Contract does not constitute a waiver of any other breach of that term or any other term of the contract.

**26.6 Solicitation.** Provider agrees not to solicit business at any meeting, focus group, service call, or interview related to this Contract, either orally or through any written materials.

**26.7 Force Majeure.** Neither party shall be in default or otherwise liable for any delay in or failure of its performance under this Contract if such delay or failure arises by any reason beyond its reasonable control, including any act of God, any acts of the common enemy, the elements, earthquakes, floods, fires, epidemics, riots, or acts of terrorism, provided, however, that lack of funds shall not be deemed to be a reason beyond a party's reasonable control. The parties will promptly inform and consult with each other as to any of the above causes which in their judgment may be the cause of a delay in the performance of this Contract.

**26.8 Integration, Incorporation:** This Contract, including all of the Appendices attached hereto, represents the entire and integrated Contract between City and Provider and supercedes all prior negotiations, representations, or Contracts, either written or oral. All exhibits attached hereto are incorporated by reference herein.

**26.9 Counterparts.** This Contract may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one Contract.

26.10 **Contract Administration.** This Contract shall be administered by Danette Perry, Parking Services Manager, Public Works Department, or her designee, who shall act as the City's representative. All correspondence shall be directed to or through Ms. Perry or her designee.

26.11 **Section Headings.** The sections and other headings of this Contract are for convenience of reference only and shall be disregarded in the interpretation of this Contract

26.12 **Notices.** Any written notice to the City shall be sent to:

Farid Javandel  
Public Works Department  
City of Berkeley  
1947 Center Street  
Berkeley, California 94704

Any written notice to Provider shall be sent to:

Steve McKay, Treasurer, Manager of Finance,  
Portable Computer Systems, Inc dba PCS Mobile  
1200 W. Mississippi Avenue  
Denver, Colorado, 80223

Article 27. **FEDERAL REQUIREMENTS**

27.1 **CONFLICT OF INTEREST**

- A. Provider shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this contract, or any ensuing City construction project. Provider shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing City construction project, which will follow.
- B. Provider hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.
- C. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

27.2 **REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (Verbatim)**

Provider warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any CITY employee. For breach or violation of this warranty, CITY shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

27.3 **PROHIBITION OF EXPENDING CITY STATE OR FEDERAL FUNDS FOR LOBBYING**

- A. Provider certifies to the best of his or her knowledge and belief that:
  - 1. No state, federal or City appropriated funds have been paid, or will be paid by-or-on behalf of Provider to any person for influencing or attempting to influence an officer or

employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; Provider shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. Provider also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

#### 27.4 STATEMENT OF COMPLIANCE

Provider's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Provider has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

During the performance of this Contract, Provider and its subProviders shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Provider and subProviders shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Provider and subProviders shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Provider and its subProviders shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

The Provider shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

The Provider, with regard to the work performed by it during the Agreement shall act in

accordance with Title VI. Specifically, the Provider shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of SubProviders, including procurement of materials and leases of equipment. The Provider shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

#### 27.5 DEBARMENT AND SUSPENSION CERTIFICATION

A. Provider's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Provider has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Any exceptions to this certification must be disclosed to CITY.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Provider responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

#### 27.6 CONTINGENT FEE

Provider warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by Provider for the purpose of securing business. For breach or violation of this warranty, City has the right to annul this contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

#### 27.7 INSPECTION OF WORK

Provider and any subconsultant shall permit City, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

#### 27.8 NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, Provider hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Provider within the immediately preceding two-year period, because of Provider's failure to comply with an order of a federal court that orders Provider to comply with an order of the National Labor Relations Board.

#### 27.9 ACCESS TO RECORDS

A. In accordance with 49 C.F.R. 18.36(i), the Provider agrees to provide the CITY, the FHWA, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Provider which are directly



pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

B. The Provider agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

C. The Providers agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the CITY, FHWA, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

IN WITNESS WHEREOF, City and Provider have executed this Contract as of the date written on the first paragraph of this Contract.

FOR CITY OF BERKELEY

Signed by:

\_\_\_\_\_  
*Christine Del*  
City Manager

Countersigned by:

\_\_\_\_\_  
*Ann Marie Hogan 6/29/15*  
City Auditor

Approved as to form by:

\_\_\_\_\_  
*Michael Woo*  
City Attorney for City of Berkeley

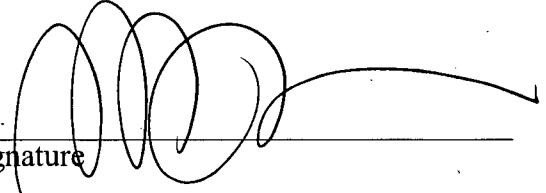
Attested by:

\_\_\_\_\_  
*Rose Hansen*  
Dep City Clerk

Provider

Portable Computer Systems Inc  
~~DA~~ PCS Mobile

Provider Name (print or type)



Signature

Martin Murphy

Print Name

Vice-President

Tax Identification



Berkeley Business License # BL-002930

Incorporated: Yes  No

Certified Woman Business Enterprise: Yes No

Certified Minority Business Enterprise: Yes No

If yes, state ethnicity: \_\_\_\_\_

Certified Disadvantaged Business Enterprise: Yes No

**TABLE OF APPENDICES**

| Appendix | Title                                              |
|----------|----------------------------------------------------|
| A        | SECURITY CENTER LICENSE AGREEMENT                  |
| B        | SCOPE OF SERVICES                                  |
| C        | PAYMENT TERMS                                      |
| D        | EQUIPMENT SPECIFICATIONS                           |
| E        | DETAILED TRAINING OUTLINE                          |
| F        | WARRANTY AGREEMENT                                 |
| G        | SOFTWARE MAINTENANCE & SUPPORT AGREEMENT           |
| H        | EQUIPMENT ACCEPTANCE CERTIFICATE                   |
| I        | CURRENT POLICE ADMINISTRATIVE ORDER ON USE OF ALPR |

## APPENDIX A

### SECURITY LICENSE AGREEMENT?

This Appendix A is attached to and incorporated by reference in the Contract made May 1, 2015 between the CITY OF BERKELEY ("City") and Portable Computer Systems, Inc. dba PCS Mobile, ("Provider"), providing for the licensing and services related to License Plate Recognition Equipment and Software purchase.

#### 1 GRANT OF LICENSE

- 1.1 Provider grants City a non-exclusive and non-transferable license for the term of this Contract to use the systems software that is hosted by Provider and described below in subsection 1.4.
- 1.2 **Licensed Content, Not City Owned:** Nothing in this Agreement will be construed as assigning, selling, conveying, or otherwise transferring any ownership rights or title in Genetec AutoVu , including but not limited to pre-existing or independently developed intellectual property, materials, software, methodologies, tools, or inventions, that are developed, conceived or created for any Genetec business purpose, or any derivative works to any of the foregoing.
- 1.3 **City Purchased Equipment:** Nothing in this agreement will be construed as assigning, selling, conveying, or otherwise transferring any intellectual property ownership rights in Genetec Equipment including but not limited to pre-existing or independently developed intellectual property materials, software, methodologies, tools, or inventions, that are developed, conceived or created for any PCS MOBILE / GENETEC business purpose, or any derivative works to any of the foregoing.

#### 2 RESTRICTIONS ON USE

City is authorized to use the Software hosted by Provider only for City's internal purposes. City agrees that it will not use or permit the Software to be used by any other entity.

#### 3 DATA OWNERSHIP AND RESPONSIBILITIES

- 3.1 Provider shall be responsible for providing all equipment and software necessary for maintaining all data files. Data files are expressly the property of the City of Berkeley. Additionally, data files shall be readily transferable to new systems that the City may choose to use in the future.  
Microsoft SQL Server (MSSQL) is the City's preferred Relational Data Base Management

System. The City is currently standardized on MSSQL 2008 R2, but has begun implementing MSSQL 2012 and MSSQL 2014.

- 3.2 Provider agrees that it shall not at any time sell, assign, transfer or otherwise make available to, or allow use by Provider, agent of Provider or a third party any of the City's Proprietary Information.
- 3.3 Provider shall hold in confidence the City's Proprietary Information and allow its employees access to City's data only for the purposes of complying with this Contract.
- 3.4 Provider will take all necessary measures to secure and protect City's data including, but not limited to, daily backups, offsite storage of backup media, graphics, physical security, software access controls, encryption and proper backup rotations. Provider acknowledges that City is entitled to copy, export or otherwise duplicate City's data at any time.
- 3.5 Provider will maintain data security protocols that match or exceed safeguards for data use, storage, access and archive stated in the Berkeley Police Departments' most current Administrative or General Order on the use of Automatic LPR equipment and software. The Police Departments' current Administrative Order is incorporated by reference in this section, and included in Appendix H.
- 3.6 The provisions of this section (Data Ownership and Responsibilities) of the Contract shall survive expiration or termination of this Contract.

END OF APPENDIX A

## APPENDIX B

### SCOPE OF SERVICES

This Appendix B is attached to and incorporated by reference in the Contract made May 1, 2015 between the CITY OF BERKELEY ("City") and Portable Computer Systems, Inc. dba PCS Mobile., ("Provider"), providing for the License Plate Recognition Equipment and Software purchase.

#### **1 Deliverables**

Provider shall provide the City with complete product, installation, and training associated with delivering a License Plate Recognition Equipment and Software System.

#### DEFINITIONS:

- 1.1.LPR: The term "LPR" or "license plate recognition" refers to equipment and software that detects the presence of a vehicle and reports the numbers and letters shown on the license plate.
- 1.2.mLPR: The term "mLPR" shall mean "mobile license plate recognition", are units specifically designed for mounting on a vehicle for detection of vehicles while in motion.
- 1.3.LPR system: The term "LPR system" shall refer to all components for an operational system, including the mLPR external and in-vehicle equipment, operating software, data storage systems and data transmission equipment and software and integration equipment and software.
- 1.4.Days: The term "Day(s)" shall mean calendar days and not business or working days, unless otherwise indicated.
- 1.5.Contract Manager: The term "Contract Manager" shall mean the City employee responsible for the coordination with the Provider for the implementation, operation and management of the LPR system and for the City's day-to-day administration and coordination of City responsibilities for the LPR system pursuant to the contract.
- 1.6.Parking Occupancy: The term "parking occupancy" refers to the number of vehicles parked on a blockface, block, street segment or area, by date and time.
- 1.7.Time Limit Violation: The term "time limit violation" shall be defined as any vehicle that has been parked longer than the time limit posted by the parking sign or parking meter that governs that space, unless the vehicle displays a valid permit for that space.

- 1.8. Automatic Data Collection System: The term "Automatic Data Collection System" refers to the system by which the City collects and summarizes parking occupancy data for the purposes of analysis and setting rate and time limit policies.
- 1.9. Functional LPR. The term "Functional LPR" shall mean any of the Provider's mLPR units functioning within the normal parameters of operation. A Functional LPR will detect and report vehicle license plates, report vehicles that match criteria input by the operator, e.g. time limit violations, create summary reports and integrate with the City's Automatic Data Collection System and police enforcement systems. Acceptance of the mLPR unit by the City shall be based on the mLPR unit being a fully Functional LPR.
- 1.10. Acceptance: The term "Acceptance" shall mean the point at which the City assumes responsibility for payment of merchandise provided by the Provider. Acceptance shall occur after the City has successfully installed the equipment and the equipment is properly integrated and communicating with the City's Automatic Data Collection System and enforcement systems. mLPR units must meet the definition of Functional LPR at the time of acceptance.

## **2 PROVIDER'S RESPONSIBILITIES**

- 2.1. Provider shall deliver and install a Functional LPR, and provide an external web-based system to which the mLPR units connect and provide services to the City of Berkeley in accordance with the terms of this Agreement. The items, quantities, descriptions and unit prices that PCS MOBILE will provide under this contract are listed in Appendix C Payment Terms.
- 2.2. The provider's technology shall conform to the following standards:
- Security protocols that meet or exceed the standards set in Appendix H.
  - All applicable local, state and federal guidelines and laws.
- 2.3. Provider shall deliver and install equipment and software for five (5) operational mLPR units on City vehicles that range in size from the Go-4 parking enforcement vehicle to an SUV type vehicle. All equipment is to be new and fully tested and perform according to the specifications provided and described in Appendix D of this Agreement.
- 2.4. Provider shall develop customized software for use of the Functional LPR to collect parking occupancy data, including complete integration to the City's Automatic Data Collection System.
- 2.5. Provider shall provide and maintain an external data storage and web-based service to integrate with the City's Automatic Data Collection System.



**3 SUPPORTIVE SERVICES**

3.1 Provider shall provide the following additional services in conjunction with this Agreement:

3.1.1 Pre-delivery, detailed training and preparation of City's staff as detailed in Appendix E and as required for the following:

3.1.2 Installation of mLPR units on City's GO-4 vehicles;

3.1.3 Maintenance activities;

3.1.4 Troubleshooting problems;

3.1.5 Operations- programming, inventory, etc.:

3.1 During the term of this agreement, the Provider shall provide the following services:

**3.2.1 SERVICE DESCRIPTIONS**

| <u>Ref. No.</u> | <u>Service Name</u>          | <u>Description</u>                                                                                                                                                                                                                                                        | <u>Specifications</u>                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.              | Maintenance - Phone Support  | This is a service that will give the Customer a tool for technical support, but the Customer will apply the fix. When an issue develops, the Customer can call a PCS Mobile technician and the technician will help the Customer troubleshoot the problem over the phone. | Shall be initiated only by Customer's Designated Representative. Phone support shall support English language. Incidents (Tickets) will be tracked in AutoTask for every issue. One of the tools PCS Mobile may use is a remote session to the computer of the affected unit to determine and address problem.                                                                                                                                |
| 2.              | Maintenance -On-Site Support | Any service or support that requires a PCS Mobile technician to go to the Customer site to resolve the issue. This service will be provided on an as needed and determined basis by the City of Berkeley exclusively.                                                     | Tickets will be tracked in AutoTask for every issue.<br>Types of issues <ul style="list-style-type: none"> <li>• Mounting Issues: Issues where the mount needs to be addressed to resolve a safety concern.</li> <li>• Data Issues: Issues where the data solution is not working. This can be a connectivity issue or device failure.</li> <li>• Power Issues: Issues where the 12v power/wiring, power distribution is an issue.</li> </ul> |

|    |                          |                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                          |                                                                                                                                                                                                                                                                                                                                                    | <ul style="list-style-type: none"> <li>• Camera issues: Issues where the camera is not reading properly, etc. Must be a new issue or change in a known good operating solution. (Troubleshooting) Visits can be scheduled to handle a list of issues or for Preventative Maintenance (PM).</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 3. | Depot Repair (Warranty)  | This is a service where any hardware warranty issues are issued to PCS Mobile. The PCS Mobile technician will troubleshoot/verify the problem and facilitate the repair through the manufacturer, on behalf of the Customer.                                                                                                                       | <p>Ticket will be tracked in AutoTask for every issue.</p> <p>Equipment must be covered under the Manufacturer's Warranty.</p> <p>PCS Mobile must have physical possession of Equipment.</p> <p>Can be picked up by PCS Mobile representative or, can be shipped to PCS Mobile facility.</p> <p>PCS Mobile will set up Return Manufacturer Approval RMA with manufacturer.</p> <p>PCS Mobile will prepare the equipment to be shipped per manufacturer instructions.</p> <p>PCS Mobile will receive repaired/replaced equipment and deliver to customer.</p> <p>Warranty repair service history will be tracked and reported.</p>                                                                                                                                  |
| 4. | Spares                   | Spare equipment specifications have been provided in Appendix C.                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 5. | Preventative Maintenance | <p>Service consisting of testing individual components to assist in the prevention of failure.</p> <p>Purpose of preventative maintenance is to stay ahead of any potential issues in the Customer's mobile environment.</p> <p>PCS Mobile will provide one (1) Preventative Maintenance visit for each of 5 mLPR units deployed per 6 months.</p> | <p>Work will be performed on-site.</p> <p>All preventative maintenance will be documented in an AutoTask Ticket so that proper reporting can be delivered to customer and to internal staff.</p> <p>Preventative Maintenance work shall include:</p> <ul style="list-style-type: none"> <li>• Checking mounting equipment – sturdiness, torque on bolts, general wear and tear, etc.</li> <li>• MDC quick hardware diagnostics – this is a pass/fail test on the internal hardware components.</li> <li>• Video processor diagnostics.</li> <li>• Camera diagnostics.</li> <li>• Checking mounting of cameras.</li> <li>• Verification of proper termination, voltage and containment of all wiring.</li> <li>• Inventory of all mobile data, video and</li> </ul> |

|  |  |  |                                                                                                                                                                                                                                                                                                                                |
|--|--|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  |  | <ul style="list-style-type: none"> <li>mounting equipment.</li> <li>General cleaning of external surfaces of devices.</li> <li>Reporting features of work done, which can include preventative maintenance history, listing of common problems to determine failure rates.</li> <li>Minor adjustments and/or fixes.</li> </ul> |
|--|--|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### 3.2.2 SERVICE MANAGEMENT

#### 3.2.2.1 SERVICE AVAILABILITY

| Ref. No. | Service Name                  | Availability                                                        | Response                                                                                                                                                                                                                | Restrictions                                          |
|----------|-------------------------------|---------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| 1.       | Maintenance - Phone Support   | 8 to 5 Pacific Standard Time, business days (Normal Working Hours). | PCS Mobile will respond to phone call and/or phone message within 30 minutes.                                                                                                                                           |                                                       |
| 2.       | Maintenance - On-Site Support | 8 to 5 Pacific Standard Time, business days (Normal Working Hours). | <p>PCS Mobile will respond as quickly as determined necessary by the City of Berkeley while keeping travel costs in mind.</p> <p>Visits can be scheduled to handle a list of issues or for Preventative Maintenance</p> | PCS                                                   |
| 3.       | Depot Repair (Warranty)       | 8 to 5 Pacific Standard, business days (Normal Working Hours).      | PCS Mobile will process return to Manufacturer repair facility within one (1) business day.                                                                                                                             | Repair and return limited to manufacturer's response. |
| 4.       | Spares                        | 8 to 5 Pacific Standard, business days (Normal Working Hours).      | Spare parts may be replaced through purchase by the City of Berkeley. The spare parts will be used to supplement the extended warranty and to maximize uptime of systems.                                               |                                                       |
| 5.       | Preventative Maintenance      | 8 to 5 Pacific Standard, business days (Normal Working Hours).      | Preventative maintenance time frames will average 2-3 hours, depending on services offered. This service will be provided when directed exclusively by the City of Berkeley.                                            |                                                       |

### 3.2.2.2 SERVICE REQUESTS

In support of services outlined in this Agreement, the Customer may place service requests with PCS Mobile by phone or email. PCS Mobile will respond to service related incidents and/or requests submitted by the Customer within time frames as indicated under Service Availability/Response.

### 3.2.2.3 SERVICE REPORTING

| Ref. No. | Report Name                     | Report Description                                                                                                                                                                                                          | Report Interval | Recipient |
|----------|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------|
| 1.       | Support Ticket History Report   | Custom reporting. Support history provided with detail for any time period as determined in agreement. Report would cover all activity as indicated in support activity: Phone Support, On-Site, Depot Repair, Spare Usage. | Monthly         |           |
| 2.       | Preventative Maintenance Report | Report features of work done, which can include preventative maintenance history and listing of common problems to determine failure rates.                                                                                 | Monthly         |           |

### 3.3 ADDITIONAL SERVICES

If substantial changes in any Services are required due to reasons beyond the control of the Provider, such changed Services shall be considered Additional Services and additional fees may be required. Any such changed Services will be performed only if approved by City prior to beginning of work thereon, and will be invoiced as Additional Services at the rates indicated in the table HOURLY BILLING RATES.

City further agrees to pay PCS Mobile for any Additional Services promptly upon receipt of invoice therefore. City will also reimburse PCS Mobile, promptly upon receipt of invoice, for any and all out-of-pocket expenses incurred by PCS Mobile in the performance of Additional Services.

## HOURLY BILLING RATES

| Technician Level                        | Hourly Billing Rate |
|-----------------------------------------|---------------------|
| Field Service Representative I          | \$65                |
| Field Service Representative II         | \$75                |
| Field Service Representative III        | \$90                |
| Video/LPR Specialist                    | \$125               |
| Software Engineer / Database Technician | \$156.25            |

3.4 Integration and data storage, transmission that meets the standards of the City's Automatic Data Collection System with requirements as shown in Appendix D. City customization requests may incur additional costs that will be quoted and approved by the City prior to commencement of such project.

3.6 Provider will offer all available mLPR software upgrades, including those developed for other customers, at no additional charge to the City. City shall maintain the sole authority to determine when and where such upgrades will be implemented. Additional charges may apply for new software that requires new or upgraded hardware.

3.7 All data related to the LPR system will be maintained by the Provider and replicated on one or more duplicate servers with periodic backups. Further redundancy will be provided by replicating the data daily on a secure server located within the continental United States. Data will be archived and stored according to the standards set in Appendix H.

3.8 The Provider is responsible for maintaining data integration and communication between the Provider's system and the City's designated systems:

3.8.1 For the purposes of parking occupancy collection, the Provider is responsible for the successful transfer of parking occupancy data between the Provider and the City's designated Automatic Data Collection system as shown in Appendix D

3.8.2 For the purposes of the Police Department, the Provider is responsible for the successful transfer of citation, scofflaw and stolen vehicle information between the Provider and the City's citation, scofflaw and stolen vehicle databases as shown in Appendix D

#### **4 REPORT REQUIREMENTS**

##### **4.1 DISASTER RECOVERY PLAN AND SYSTEM RECOVERY**

4.1.1 Disaster Recovery/Backup Plan. It is the responsibility of the Provider to take every precaution to ensure that all systems, files, data, equipment, communications, and facilities are reliable. In the event that a natural disaster or some other unanticipated event does disrupt the system, the Provider must have a detailed, City-approved recovery plan in place, tested, and ready to be implemented for all key facilities so that services are restored quickly and in accordance with City performance standards.

#### 4.2 AUDITS, RECORDS TO BE MAINTAINED, ACCESS TO RECORDS

4.2.1 The Provider shall maintain account books, records, documents and other evidence directly pertinent to performance and billing of the work under the Contract, in accordance with generally accepted accounting practices. The Provider shall also maintain the financial information and data used by the Provider in the preparation or support of cost estimates to the City. The City, or its duly authorized representative, shall have access to such account books, records, documents, and other evidence, for the purpose of inspection, audit, and copying. The Provider shall provide proper facilities for such access. The Provider shall not charge the City for time spent assisting the City in reviewing said documents.

4.2.2 Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards. The Provider agrees to provide full access to the City all information, reports, and records pursuant to this section. Where the audit concerns the Provider, the City's representative shall afford the Provider an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the Provider.

4.2.3 The Provider shall maintain copies of the complete records of the execution of the Contract, including, but not limited to documents, as necessary to assist in the defense of any legal action claiming liability or neglect of duty which may involve the City. The City shall also have access to these records. These records shall be maintained for a period of not less than three years after the earliest date which the applicable statutes may establish for the release of potential liability for the services rendered or performed under the Contract.

4.2.4 Accounting records as above shall be maintained and made available during performance of the work under the Contract for three years from date the Contract ends. In addition, those records which relate to any appeal, contract, litigation, or the settlement of claims arising out of such performance or cost, or items to which

an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeals, litigation, claims, or exception.

**5 INSTALLATION/INSPECTION SHIPPING**

5.1 Provider shall be responsible for all shipping and delivery costs associated with original order. Future orders shall be FOB Destination – Prepay and Add Shipping

5.2 Provider shall deliver new, fully-tested equipment, at mutually agreed upon time(s) and date(s) under the supervision of the City.

**6 CITY'S RESPONSIBILITIES**

6.1 City staff, in conjunction with Provider's staff, shall inspect LPR equipment following installation to ensure proper installation and operation.

6.2 City shall evidence its acceptance of the equipment under the Agreement by delivery to the Provider of an Equipment Acceptance Certificate, similar to Appendix H of this Agreement, with respect thereto.

END OF APPENDIX B

**APPENDIX C  
PAYMENT TERMS**

This Appendix C is attached to and incorporated by reference with the Contract made on May 1, 2015 between the CITY OF BERKELEY ("City") and Portable Computer Systems, Inc. dba PCS Mobile, ("Provider"), providing for the licensing and services related to the License Plate Recognition Equipment and Software.

**1 TOTAL CONTRACT PRICE:**

Contract Price for the furnishing of all Licenses, Services and Equipment shall not exceed \$450,000. For the convenience of the parties, the Contract price includes the following expenses as noted in the price chart below:

| <b>PROPOSED COST ELEMENTS - SUMMARY</b>                             |               |
|---------------------------------------------------------------------|---------------|
| Cost Element                                                        | Price         |
| Mobile LPR Equipment and Install - Overtime Kit - 5 or more systems | \$ 189,260.00 |
| Mobile Computing - Complete Kit                                     | \$ 30,875.00  |
| Spare Parts                                                         | \$ 19,235.00  |
| Cellular Connection Costs (Shown as Annual Cost)                    | \$ 4,710.00   |
| Miscellaneous On-call Services and Equipment                        | \$ 69,670.00  |

| <b>Costs Options - Extended Warranty and Mobile Assurance - Overtime Kit (Pricing if Purchase Five (5) or More Systems)</b> |                           |                                                                                                                                                                                                                                                                                                                                                                                                                               |          |              |                     |
|-----------------------------------------------------------------------------------------------------------------------------|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------------|---------------------|
| Item Number                                                                                                                 | Item                      | Item Description                                                                                                                                                                                                                                                                                                                                                                                                              | Quantity | Unit Price   | Extended Price      |
| <b>Extended Warranty and SMA Options</b>                                                                                    |                           |                                                                                                                                                                                                                                                                                                                                                                                                                               |          |              |                     |
|                                                                                                                             | <b>SMA for Five Years</b> |                                                                                                                                                                                                                                                                                                                                                                                                                               |          |              |                     |
| SMA-BASE-5Y                                                                                                                 |                           | SMA Base Package = 5 years; this item replaces SMA-BASE-1Y if purchased at time of sale ** Replaces SMA-BASE-1Y if Chosen                                                                                                                                                                                                                                                                                                     | 1        | \$ 1,200.00  | \$ 1,200.00         |
|                                                                                                                             | <b>Extended Warranty</b>  |                                                                                                                                                                                                                                                                                                                                                                                                                               |          |              |                     |
| AU-K-OXX-EWRR-P5                                                                                                            |                           | Extended Warranty for AU-K-OXX kit with Return and Repair coverage - Total warranty coverage of 5 Years when prepaid at time of system purchase (one year included in the selling price and four (4) additional years). This includes coverage of AutoVu vehicle hardware, Patroller software upgrades and Bing license renewal. Does not cover in-vehicle PC. **Option vs AU-K-OXX-EWRR-1Y purchased annually through Year 5 | 5        | \$ 14,840.00 | \$ 74,200.00        |
| <b>Subtotal</b>                                                                                                             |                           |                                                                                                                                                                                                                                                                                                                                                                                                                               |          |              | <b>\$ 75,400.00</b> |
| <b>Extended Warranty and SMA for total of Five (5) years of coverage</b>                                                    |                           |                                                                                                                                                                                                                                                                                                                                                                                                                               |          |              | <b>\$ 75,400.00</b> |



| Support - Mobile Assurance (annual Cost)                  |                                        |                                                                                                                                                                                                                                                          |                           |
|-----------------------------------------------------------|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| MOB-MAMBaseCamp                                           | Mobile Assurance®<br>Mobility BaseCamp | Any service or support that requires a PCS Mobile Mobility Specialist to work with the customer via Phone, Email, Remote, and/or at the PCS Mobile Shop to resolve issues involving the AutoVu LPR solution in the vehicle.                              | 5 \$ 100.00 \$ 500.00     |
| MOB-SUPPORT                                               | Mobile Assurance®<br>BaseCamp Server   | Any service or support that requires a PCS Mobile IT Specialist to work with the customer via Phone, Email, Remote, and/or at the PCS Mobile Shop to resolve issues involving the AutoVu LPR Software (i.e. Security Center or Patroller) on the server. | 1 \$ 1,500.00 \$ 1,500.00 |
| Subtotal                                                  |                                        |                                                                                                                                                                                                                                                          | \$ 2,000.00               |
| Annual cost for Remote Support of Five (5) AutoVu Systems |                                        |                                                                                                                                                                                                                                                          | \$ 2,000.00               |

| Support - Mobile Assurance Options (Per Incident Costs)               |                          |                                                                                                                                                                                                                                                                                                                |                           |
|-----------------------------------------------------------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| MOB-MAPM                                                              | Preventative Maintenance | Optional Preventative Maintenance to include with any package. This visit includes checking and re-seating all connections, mounting hardware, testing and adjusting of hardware and software. (This cost will be incurred when instructed by City of Berkeley of needed service and at their sole discretion) | 5 \$ 200.00 \$ 1,000.00   |
| Travel_Zone_4                                                         | Travel Cost              | Travel Cost per trip for Preventative Maintenance or On-Site Support                                                                                                                                                                                                                                           | 1 \$ 1,400.00 \$ 1,400.00 |
| Subtotal                                                              |                          |                                                                                                                                                                                                                                                                                                                | \$ 2,400.00               |
| Preventative Maintenance Costs for five (5) Units - Per Incident cost |                          |                                                                                                                                                                                                                                                                                                                | \$ 2,400.00               |

| <b>Costs Options - Hosting and Custom Development</b> |                                    |                                                                                                                                                                                                                                                                     |          |             |                     |
|-------------------------------------------------------|------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-------------|---------------------|
| Item Number                                           | Item                               | Item Description                                                                                                                                                                                                                                                    | Quantity | Unit Price  | Extended Price      |
| <b>Hosting Options</b>                                |                                    |                                                                                                                                                                                                                                                                     |          |             |                     |
| GSC-Av-MS-1Y                                          | <b>Storage Server</b>              | GSC AutoVu Managed Service for one (1) year. Max ten (10) Patroller connections included. No fixed camera connection supported. Max five (5) concurrent Security Desk connections. Limited functionalities (please refer to product description)                    | 5        | \$ 3,540.00 | \$ 17,700.00        |
| <b>Hosting Configuration</b>                          |                                    |                                                                                                                                                                                                                                                                     |          |             |                     |
| PS-AV-AMS-250-NA                                      |                                    | Permit zone configuration services for AutoVu Mobile University or City with or without Wheel imaging Package (ex: Zone editor, mapping, custom enforcement rules). Maximum of 250 permit zones will be configured. (For "Autovu Managed Services" Deployment only) | 1        | \$ 1,250.00 | \$ 1,250.00         |
| <b>Services for Hosting</b>                           |                                    |                                                                                                                                                                                                                                                                     |          |             |                     |
| <b>Custom Development for Occupancy Functionality</b> |                                    |                                                                                                                                                                                                                                                                     |          |             |                     |
| PS-C-DEVELOP-NA                                       | <b>Custom Development Services</b> | **Custom development of software for Occupancy functionality. This is an hourly cost for Genetec's Engineering Services. Time sheets will be provided for all of this work.                                                                                         | 240      | \$ 156.25   | \$ 37,500.00        |
| <b>Subtotal</b>                                       |                                    |                                                                                                                                                                                                                                                                     |          |             | <b>\$ 56,450.00</b> |
| <b>Options and Services Cost Total</b>                |                                    |                                                                                                                                                                                                                                                                     |          |             | <b>\$ 56,450.00</b> |

\*\* Currently we provide a GPS coordinate for every read we export. What is proposed is we will include a BlockFace with every export. The Blockface will also be converted, using an excel spreadsheet from Berkeley, to the existing nomenclature used by Berkeley.  
 In essence we will be reporting the read data , and next to every read we will attach the block face. Xerox will need to convert that into a % of occupancy and possibly turnover.

**2 INVOICES**

Invoices shall contain itemized charges reflecting agreed upon unit prices or hourly billable rates as shown in this agreement with proper supporting documents.

**3 TIMING OF PAYMENTS**

**3.1 Payments Due Upon Delivery of Services.** City and Provider agree that any undisputed costs shown above shall be paid by the City upon completion of the service and acceptance by the City and within thirty (30) days of receipt of properly supported invoices from Provider.

Payment of any invoice shall not be deemed a waiver of any dispute.

City agrees that it shall promptly notify Provider in writing of any dispute with an invoice.

END OF APPENDIX C

## APPENDIX D

### SPECIFICATIONS LICENSE PLATE RECOGNITION EQUIPMENT AND SOFTWARE SYSTEM

This document is intended for the Provider of the Functional LPR system that can be used for both occupancy detection and enforcement.

The system being specified here will be used by the City to capture vehicle occupancy in both demarcated and non-demarcated areas in the City. The occupancy data will be sent to the City's Automatic Data Collection system being developed by Xerox. The format of the data and the mechanism for data transfer shall be defined by Xerox.

In addition, the LPR system will integrate with City's existing systems e.g PPEO Handheld (Xerox), to provide time limit and illegal parking enforcement. The Provider shall work with the Providers of City's existing systems for the integration. The following sections and diagram describe the overall Automated Data Collection and Enforcement System solution.

#### 1. In-vehicle System

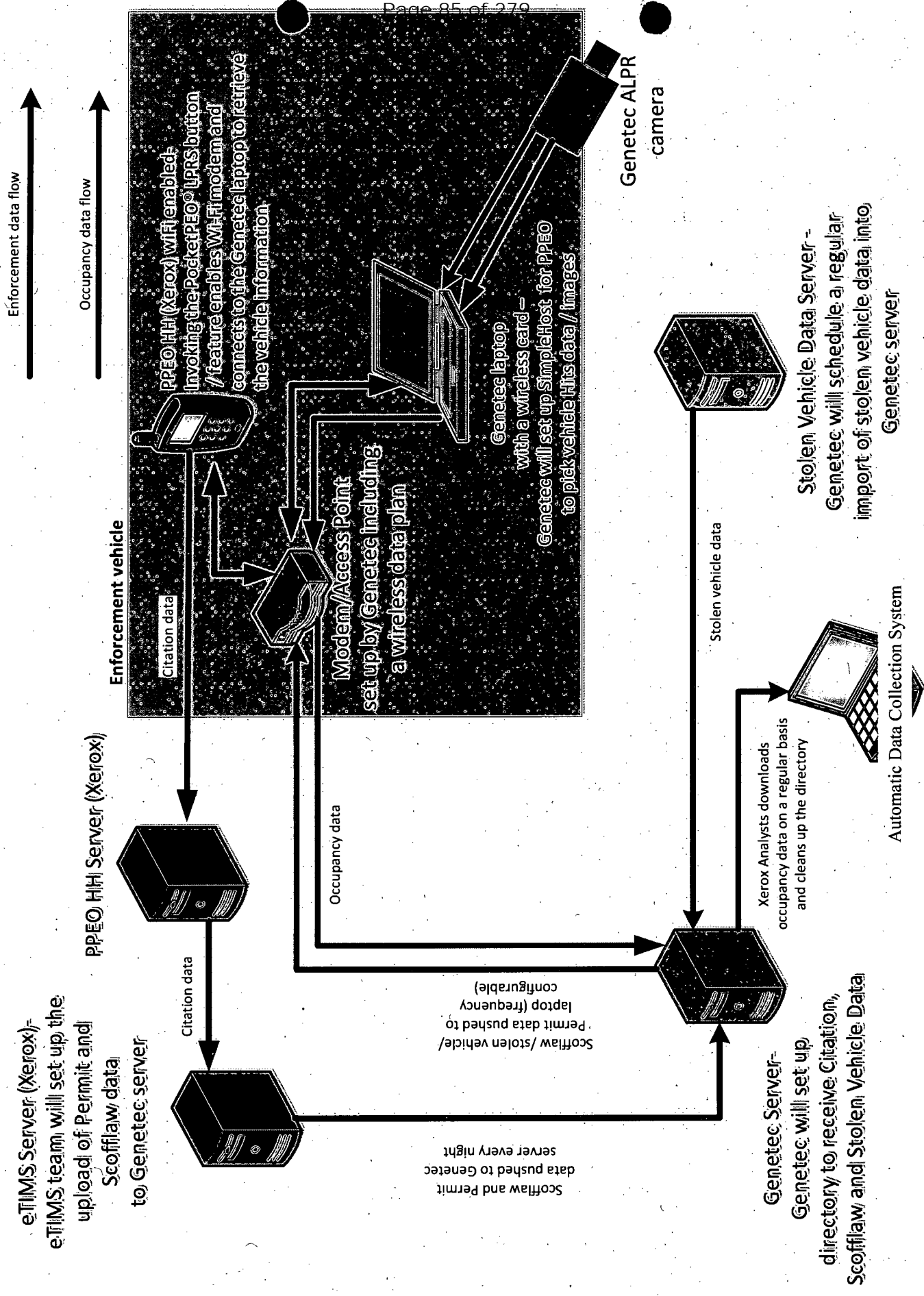
- a. ALPR system: The ALPR cameras including the license plate and wheel image cameras will capture and provide images to the in-vehicle Genetec laptop which will run the Security Desk, Patroller. Provider shall provide and install the ALPR cameras, laptop and other associated hardware/software
- b. Modem/Access point: Provider shall provide a modem/access point for wireless communication between Genetec laptop and PPEO handheld and for cellular wireless communications with the Genetec backend server. Provider shall also provide the monthly data plan with sufficient bandwidth required for real-time transfer of data from the in-vehicle laptop to the backend server.
- c. Provider shall coordinate with Xerox to set up the data transfer of vehicle "hits" data between the laptop and PPEO handheld.

#### 2. Backend system

- a. Provider shall provide hosting for goBerkeley Automated Data Collection and Enforcement System. This server may be hosted by Genetec. Provider shall coordinate with Xerox to set up directories in the host server to receive residential permits and Scofflaw data from Xerox on a mutually agreed upon and City-configurable schedule.
- b. Provider shall configure the host server to receive the latest California Stolen Vehicles data from the CA Department of Justice Stolen Vehicle System (SVS) on a mutually agreed upon and City-configurable schedule.

- c. Provider shall configure the host server to push the latest residential permit, Scofflaw and Stolen vehicle data to the in-vehicle Genetec laptop on a mutually agreed upon and City-configurable schedule.
- d. Vendor shall configure the host server and in-vehicle laptop to transfer the vehicle occupancy data from the laptop to the server in real-time
- e. Vendor shall make available to Xerox the following information for occupancy:
  - i. Occupancy data by block face
  - ii. Occupancy data for each vehicle including high precision GPS coordinates (which according to Genetec will be available in the upcoming release of their new software)

Vendor shall provide access to Xerox for a regular download the occupancy data. Xerox will download the data from Genetec server.



eTIMS Server (Xerox)-  
eTIMS team will set up the  
upload of Permit and  
Scofflaw data  
to Genetec server

Citation data

Occupancy data

Scofflaw and Permit  
data pushed to Genetec  
server every night

Scofflaw /stolen vehicle/  
Permit data pushed to  
laptop (frequency  
configurable)

Genetec Server-  
Genetec will set up  
directory to receive Citation,  
Scofflaw and Stolen Vehicle Data

Xerox Analysts downloads  
occupancy data on a regular basis  
and cleans up the directory

Automatic Data Collection System

Stolen Vehicle Data Server -  
Genetec will schedule a regular  
import of stolen vehicle data into  
Genetec server

### Overall Description

The LPR system being specified here includes the hardware that will be deployed in the field and its associated backend system including hardware and software. It also includes the user interfaces that will be available to City users for monitoring the system.

### System Perspective

The LPR system will be used in conjunction with the following systems/data sources:

- a) For Occupancy
  - System being developed by Xerox
    - Occupancy reporting data hub
    - City web site displaying parking occupancy statistics
- b) For Enforcement
  - Existing systems
    - Electronic handheld ticket writer software – currently PocketPEO® (Xerox)
    - Citation database – currently eTIMS® (Xerox) through PocketPEO handheld device
    - Law Enforcement Records Management System (LERMS)
    - Residential Parking Permit database – currently eTIMS® (Xerox)

### Specifications

The LPR system must meet the following specifications:

| Spec # | Specifications                                                                                                                                                       |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1      | The system shall detect the presence of a parallel parked vehicle in situations where parked vehicle bumpers are at least 12 inches apart.                           |
| 2      | The system shall be able to detect the presence of a stationary angle parked vehicle- defined as a stationary vehicle (angled between 45 and 90 degrees to the curb) |

| Spec # | Specifications                                                                                                                                                                                                                     |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3      | The system shall detect the presence of a parked vehicle, notwithstanding changes in illumination (shadows, sunlight, glare, day/night lighting transition)                                                                        |
| 4      | The system shall detect a vehicle, the length of the vehicle notwithstanding ("Smart" Cars to tractor-trailer trucks, bicycles are NOT defined as vehicles in these requirements). Two and three wheeled vehicles are not included |
| 5      | The system shall detect vehicles simultaneously on both sides of the street                                                                                                                                                        |
| 6      | The system shall report the block face (per City's block face ID) where the detected vehicle is located                                                                                                                            |
| 7      | The system shall have a unique identifier for each vehicle (such as license plate, make, model, color or other unique data points) if detected as a parked vehicle                                                                 |
| 8      | The system shall incorporate existing enforcement beat areas in each record                                                                                                                                                        |
| 9      | The system shall generate statistical reports by enforcement beat areas                                                                                                                                                            |
| 10     | The system shall integrate with current parking regulations information (eTIMS, PocketPEO) to automatically detect a parking time limit violation                                                                                  |
| 11     | The system shall incorporate multiple time limit zones on the same enforcement run.                                                                                                                                                |
| 12     | The system shall integrate with current Residential Permit Parking (RPP) regulations to determine a permit zone violation; and a parking time limit violation within an RPP zone                                                   |



| Spec # | Specifications                                                                                                                                                                                                                         |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 13     | The system shall display recorded data to the Parking Enforcement Officer on the LPR system laptop.                                                                                                                                    |
| 14     | Report violation "alarms" that result from integration of recorded data with parking regulations to the Parking Enforcement Officer's handheld Computer in real-time. Violation alarms are desired for:                                |
| 15     | <ul style="list-style-type: none"> <li>• Violation of time limits in the City's 30 minute, 2 hr, 3hr and 8 hr time limit zones</li> </ul>                                                                                              |
| 16     | <ul style="list-style-type: none"> <li>• Violation of time limits and/or non-permit parking in the City's Residential Permit Parking zones</li> </ul>                                                                                  |
| 17     | The system shall allow PEO ability to override an alarm and enter an "exception" note or report. Overridden alarms will be tracked by time, day and PEO. Overridden data shall be a permanent record and cannot be modified or edited. |
| 18     | The system shall have a list of pre-defined common exceptions and allow entry of freeform comment                                                                                                                                      |
| 19     | The system shall generate daily, weekly, monthly and annual statistical reports detailing but not limited to:                                                                                                                          |
| 19.1   | Total number of vehicle license plate reads                                                                                                                                                                                            |
| 19.2   | Total number of parking violations issued as a result of read vehicle license plate data. The report shall separate data for each Berkeley Municipal Code (BMC).                                                                       |
| 19.3   | Total of parking violations not issued                                                                                                                                                                                                 |
| 19.4   | Individual PEO enforcement activity and performance                                                                                                                                                                                    |

| Spec # | Specifications                                                                                                                                                                                                                                                   |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20     | The system shall ask the officer to login using unique security PIN and badge number                                                                                                                                                                             |
| 21     | The detection system shall be mountable with temporary mounts on the following types of vehicles:<br>(a) GO-4 (b) Sedan (c) SUV                                                                                                                                  |
| 22     | The system shall record and store the state and number of a license plate with (n-2) 98% accuracy                                                                                                                                                                |
| 23     | The vendor shall provide ample processing power with the ability to dynamically scale CPU resources as needed for up to 25,000 spaces Citywide                                                                                                                   |
| 24     | The vendor shall provide disk space that is in accordance with the specifications listed in this document.                                                                                                                                                       |
| 25     | The system shall be scalable such that when additional resources such as processing power, memory allocation, or disk space are needed; the system will dynamically scale accordingly to handle data collection and enforcement of up to 25,000 spaces Citywide. |
| 26     | The vendor shall provide the appropriate bandwidth to meet or exceed the desired level of service to handle data collection and enforcement of up to 25,000 spaces Citywide.                                                                                     |
| 27     | The system shall accurately detect the presence of a parked vehicle at least 90% of the time                                                                                                                                                                     |
| 28     | The system shall report accurate GPS coordinates at the time of vehicle detection at least 90% of the time                                                                                                                                                       |

| Spec # | Specifications                                                                                                                                                                                                                           |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 29     | The system shall accurately report the block face where the vehicle is physically located at least 90% of the time                                                                                                                       |
| 30     | The system shall uniquely identify each vehicle (such as license plate, make, model, color or other unique data points) at least 98% of the time                                                                                         |
| 31     | All data shall be in real-time and actively available on PEO handheld on site at least 98% of the time                                                                                                                                   |
| 32     | The vendor systems shall provide interfaces which support TCP/IP communications. Data exchange between systems shall be implemented via XML structured data over Web Services.                                                           |
| 33     | System to system communications shall be secured using SSL or IPsec.                                                                                                                                                                     |
| 34     | The vendors shall work with Xerox during the requirements & design phases of the project to define and document data exchange file formats via interface control documents and XML XSD definitions.                                      |
| 35     | The system shall record and store the date, day and time of the detection of a parked vehicle in the format defined for the Xerox-built Automatic Data Collection System                                                                 |
| 36     | The system shall integrate with the Pilot's parking regulation and capacity database. At a minimum, the parking regulation and capacity database will list the number of legal parking spaces per block face with a unique block face ID |

| Spec # | Specifications                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 37     | <p>The system shall provide data output that is compatible with the latest versions Microsoft SQL. As the new versions of Microsoft SQL become available, the provider will ensure compatibility. The proposed system should provide a way to store custom data elements and to enforce validation and business rules for that data. The system should further support the ability to include that data in reports and dashboards.</p> |
| 38     | <p>The system shall provide a data output that is compatible with ESRI data models.</p>                                                                                                                                                                                                                                                                                                                                                |
| 39     | <p>The system shall keep the captured data (license plate information) secure. Adequate information security shall be applied to protect all data collected and stored to meet or exceed the standards listed in Appendix H. Systems through which data is passed or is stored shall be protected from unauthorized access from both internal and external sources.</p>                                                                |
| 40     | <p>The system shall have the capability to specify a separate user-configurable retention period on read and hit data. The retention settings shall result in all read/hit data captured before the specified period to be automatically purged without user intervention.</p>                                                                                                                                                         |
| 41     | <p>The vendor shall host supporting networks and systems outside of the City of Berkeley network.</p>                                                                                                                                                                                                                                                                                                                                  |
| 42     | <p>The system shall provide a system with high availability and configured according to industry standard 99.999% of uptime or less than five (5) minutes of unscheduled downtime per year.</p>                                                                                                                                                                                                                                        |

| Spec # | Specifications                                                                                                                                                                                                                                                                                                                          |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 43     | The vendor shall provide adequate disaster recovery and take routine backups of the system with a four (4) hour Recovery Point Objective (RPO) and an eight (8) hour Recovery Time Objective (RTO).                                                                                                                                     |
| 44     | The vendor shall provide security in accordance with industry standard SSAE 16 Type II for hosted solutions. Provider will protect system with the appropriate industry standard security provisions including firewall protection, AES 256 bit data encryption, antivirus protection, logging access of data and manipulation of data. |
| 45     | The vendor shall provide means to authenticate City personnel to access the equipment/service management system. The solution must allow for future integration in Active Directory when the system is hosted in the City                                                                                                               |
| 46     | Provide a way to log different activities including, but not limited to, user authentication, file modification, user activity. Additionally, the system must provide a way to turn logging up such that debugging events may be achieved.                                                                                              |
| 47     | The vendor shall use virtualization technology that is compatible with VMware when the system is hosted in the City                                                                                                                                                                                                                     |
| 48     | The vendor shall provide City staff access to the system to perform any data manipulation that may be required. Ideally, this will be administered in a web based platform.                                                                                                                                                             |

| Spec # | Specifications                                                                                                                                                                                                                                                                                                     |
|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 49     | Provide an overall architecture that is in line with industry best practices. The design should use open standards protocols.                                                                                                                                                                                      |
| 50     | The vendor shall provide maintenance of the system such that service packs and patches are applied in a timely fashion. The provider is responsible for the health of the Operating System and Core applications.                                                                                                  |
| 51     | The vendor shall adhere to UML documentation standards for workflow improvement and technology implementation projects and provide the proposed process flow and high level technical specifications for interface assumptions/requirements, required 3rd party components/services, and data exchange mechanisms. |

END OF APPENDIX D

**APPENDIX E  
DETAILED TRAINING OUTLINE**

Portable Computer Systems, Inc dba PCS Mobile (“Provider”) shall provide the City with ongoing training to familiarize City staff with the mLPR units and the system. System training may be conducted by webinar or other remote educational methods; technical training must be conducted in person, no more than twice annually, not to exceed 10 business days annually. Additional training may be arranged as needed at a cost to the City.

The following training will be provided:

**1 Technical Training: (4 hour training sessions)**

The Provider shall provide City staff with in-depth, technical training on the functionality of the mLPR units. Training will be conducted in person, on an as needed basis no more than twice annually. Training dates will be scheduled, by mutual agreement, at least thirty days prior to the actual day. Technical training shall be divided into two sections: physical maintenance of the mLPR unit and virtual maintenance of the mLPR unit.

1.1 Physical Maintenance: At the conclusion of physical maintenance training, City staff will be able to maintain the hardware of the mLPR unit for day-to-day operation.

1.2 Virtual Maintenance: At the conclusion of virtual maintenance training, City staff will be able to operate system diagnostics and work with remote access staff to maintain the software that operates the mLPR units and interfaces with the City’s Automatic Data Collection System and enforcement systems.

1.3 Manual: Provider shall provide the City with a detailed training manual, discussing the above-mentioned areas of training.

END OF APPENDIX E

## APPENDIX F

### LIMITED AND EXTENDED WARRANTIES (5-YEAR) SERVICE CONTRACT AND SOFTWARE MAINTENANCE & SUPPORT AGREEMENT

- I. Portable Computer Systems, Inc. dba PCS Mobile shall provide the City with warranties and software maintenance services for the 5 year term of this contract. The terms of these warranties and software maintenance agreements are shown in the attached document titled: Warranty Levels and Software Maintenance Agreements, Version 5.
- II. **Charged-For-Enhancements.** From time to time, at Provider's sole discretion, Provider will make available to City Charged-for-Enhancements to the Software that City may license from Provider upon payment of the license fee established by Provider.
- III. **Software Functionality Enhancement Requests (Customizations).** If software functionality as outlined on the system documentation does not meet City's requirements, City may contract Provider to provided system functionality enhancements (customizations).

Provider will evaluate customization requests and provide City with a written change order that includes a scope of work and cost estimate prior to the development of customization specifications. Upon the City's written approval of the change order, Provider will prepare detailed customization specification for City's review and written approval prior to development.

The City must notify the Provider of customization functionality deficiencies (if customization does not function as outlined in approved specifications) within 60 days of customization delivery. Provider will correct all customization functionality deficiencies at no charge if notified within 60 days of delivery.

At Provider's discretion customer customizations may be added to the software's standard feature set and provided to Provider's other customers.

- IV. **On-Site Support.** Provider, will provide City On-Site Support as needed, as PCS MOBILE / GENETEC based on the terms and unit rates described in Appendix B, at the request of the City.
- V. **Network Hardware & Software Support.** Support & Maintenance services do not include: network support, monitoring, backup, installation or warranty on or of City's



network hardware or software.

**VI. Obligations of City.**

- A. *City Contact.* City shall notify Provider of City's designee. To the maximum extent practicable, City's communications with Provider will be through the City's designee(s).
- B. *Facility and Personnel Access.* City agrees to grant Provider access to City's facilities and personnel concerned with the mLPR operation to enable Provider to provide services.

END OF APPENDIX F

Appendix G

# Warranty Levels & Software Maintenance Agreements

Version 5

Innovative Solutions

**Genetec**

# Table of Contents

|            |                                                |           |
|------------|------------------------------------------------|-----------|
| <b>1</b>   | <b>Overview</b>                                | <b>5</b>  |
| <b>2</b>   | <b>Genetec's Standard Warranty Levels</b>      | <b>6</b>  |
| <b>2.1</b> | <b>Standard Software Warranty</b>              | <b>6</b>  |
| 2.1.1      | Standard Software Warranty Coverage            | 6         |
| 2.1.2      | Products Covered by Standard Software Warranty | 6         |
| 2.1.3      | Summary of Standard Software Warranty          | 7         |
| <b>2.2</b> | <b>Genetec's Standard Hardware Warranty</b>    | <b>7</b>  |
| 2.2.1      | Standard Hardware Warranty Coverage            | 7         |
| 2.2.2      | Products Covered by Standard Hardware Warranty | 8         |
| 2.2.3      | Summary of Standard Hardware Warranty          | 8         |
| 2.2.4      | Warranty on repairs and replacement parts      | 9         |
| 2.2.5      | Exclusive Warranty Remedy                      | 9         |
| 2.2.6      | Warranty Exclusions                            | 9         |
| 2.2.7      | Relocation of AutoVu Mobile Systems            | 9         |
| <b>3</b>   | <b>Software Maintenance Agreements (SMA)</b>   | <b>10</b> |
| <b>3.1</b> | <b>What is an SMA?</b>                         | <b>10</b> |
| <b>3.2</b> | <b>Products Covered by SMA</b>                 | <b>10</b> |
| <b>3.3</b> | <b>SMA</b>                                     | <b>11</b> |
| <b>3.4</b> | <b>SMA Plus</b>                                | <b>12</b> |
| <b>3.5</b> | <b>SMA Value-Added Services Descriptions</b>   | <b>13</b> |
| 3.5.1      | Priority Queuing                               | 13        |
| 3.5.2      | Technical Appointments                         | 13        |
| 3.5.3      | Remote System Assessment                       | 13        |
| 3.5.4      | On-Site System Assessment                      | 13        |
| 3.5.5      | Dedicated Support Engineer                     | 13        |
| a)         | Shared Dedicated GTAC Support Engineer         | 14        |
| b)         | Dedicated GTAC Support Engineer                | 14        |
| c)         | Dedicated Onsite Support Engineer              | 14        |
| 3.5.6      | Discount on Professional Services              | 14        |

|          |                                                                 |           |
|----------|-----------------------------------------------------------------|-----------|
| <b>4</b> | <b>Genetec's Hardware Extended Warranties</b>                   | <b>15</b> |
| 4.1      | What is an Extended Warranty?                                   | 15        |
| 4.2      | Summary of Extended Warranty with Return and Repair Coverage    | 15        |
| 4.3      | Summary of Extended Warranty with Advanced Replacement Coverage | 16        |
| 4.4      | Exclusive Extended Warranty Remedy                              | 16        |
| 4.5      | Extended Warranty Exclusions                                    | 16        |
| <b>5</b> | <b>Pricing &amp; Ordering</b>                                   | <b>17</b> |
| 5.1      | <b>SMA</b> s                                                    | 17        |
| 5.1.1    | SMA Pricing Structure                                           | 17        |
| 5.1.2    | SMA Multi-Year Discount                                         | 17        |
| 5.1.3    | Multi System/Site SMA                                           | 17        |
| 5.1.4    | SMA for License Add-ons                                         | 18        |
| 5.1.5    | SMA Renewals                                                    | 18        |
| 5.1.6    | SMA Ordering Information                                        | 18        |
| 5.1.7    | SMA Quoting Examples                                            | 19        |
| a)       | Example 1: Unified Video/ACS SC5 System                         | 19        |
| b)       | Example 2: Multiple Systems with a Single SMA                   | 19        |
| c)       | Example 3: Single Year SMA Add-on                               | 20        |
| d)       | Example 4 : Multi-year SMA Add-on                               | 20        |
| 5.2      | <b>Hardware Extended Warranties</b>                             | <b>21</b> |
| 5.2.1    | Hardware Extended Warranty Availability                         | 21        |
| 5.2.2    | Hardware Extended Warranty Multi-Year Discount                  | 21        |
| 5.2.3    | Hardware Warranty Renewals                                      | 21        |
| 5.2.4    | Hardware Extended Warranty Ordering Information                 | 21        |
| 5.3      | <b>"À la carte" upgrades and GTAC support</b>                   | <b>22</b> |
| 5.3.1    | Software upgrade – Major Release                                | 22        |
| 5.3.2    | Software upgrade – Minor Release                                | 22        |
| 5.3.3    | GTAC Support                                                    | 22        |
| 5.3.4    | On-Site Technical Support                                       | 22        |
| 5.3.5    | Technical Appointments                                          | 23        |
| <b>6</b> | <b>The Genetec Technical Assistance Center</b>                  | <b>23</b> |
| 6.1      | <b>Contacting the GTAC</b>                                      | <b>23</b> |

|            |                                                    |           |
|------------|----------------------------------------------------|-----------|
| 6.1.1      | Via the Genetec Technical Assistance Portal (GTAP) | 23        |
| 6.1.2      | Via Phone                                          | 23        |
| <b>6.2</b> | <b>Escalation Process</b>                          | <b>23</b> |
| <b>6.3</b> | <b>Support Case Life-cycle</b>                     | <b>24</b> |
| <b>7</b>   | <b>GTAC Service Levels</b>                         | <b>25</b> |
| <b>7.1</b> | <b>Support Case Severity Levels</b>                | <b>25</b> |
| 7.1.1      | Description of Severity Levels                     | 25        |
| 7.1.2      | Severity Level Examples                            | 25        |
| <b>7.2</b> | <b>Response Times</b>                              | <b>28</b> |
| 7.2.1      | First Response                                     | 28        |
| 7.2.2      | Status Updates                                     | 28        |
| 7.2.3      | Three Strike Rule - Follow up                      | 29        |
| <b>7.3</b> | <b>Resource Commitment</b>                         | <b>29</b> |
| <b>8</b>   | <b>The Genetec Technical Assistance Portal</b>     | <b>30</b> |
| <b>8.1</b> | <b>Accessing the GTAP</b>                          | <b>30</b> |
| <b>8.2</b> | <b>Available Resources</b>                         | <b>31</b> |
| 8.2.1      | System Management (Licenses)                       | 31        |
| 8.2.2      | GTAC Case Management                               | 31        |
| 8.2.3      | Documentation and Knowledge Base                   | 31        |
| 8.2.4      | Video and Webinars                                 | 31        |
| 8.2.5      | Community Forums                                   | 32        |
| 8.2.6      | Arrange for Technical Appointments                 | 32        |
| 8.2.7      | Supported Device Tool                              | 32        |
| 8.2.8      | Known Issues                                       | 32        |
| 8.2.9      | GTAC Monthly Minute                                | 32        |
| <b>9</b>   | <b>Appendix A – Software Warranty Lengths</b>      | <b>33</b> |
| <b>10</b>  | <b>Appendix B – Hardware Warranty Lengths</b>      | <b>34</b> |

# 1 Overview

The following document describes the warranty levels, Software Maintenance Agreements (SMAs) and Hardware Extended Warranties offered by Genetec for products developed, manufactured and sold by Genetec.

## 2 Genetec's Standard Warranty Levels

### 2.1 Standard Software Warranty

#### 2.1.1 Standard Software Warranty Coverage

Genetec warrants that its software products will perform in all material respects in accordance with the accompanying user manual, and the media on which the Software Product resides will be free from defects in materials and workmanship under normal use.

The Standard Warranty covers any Technical Assistance required from Genetec as a result of a Software defect.

#### 2.1.2 Products Covered by Standard Software Warranty

All packaged software products developed by Genetec, including but not limited to, Security Center Security Center Mobile, Omnicast, Synergis and AutoVu Patroller.

All custom software applications developed by Genetec using one of Genetec's SDK.

### 2.1.3 Summary of Standard Software Warranty

| GTAC Support                              |                                   |
|-------------------------------------------|-----------------------------------|
| GTAC Hours                                | GTAC business hours <sup>1</sup>  |
| Support Cases                             | Optional <sup>2</sup>             |
| On-Site Support                           | Optional                          |
| Priority Queuing                          | n/a                               |
| GTAP Access                               |                                   |
| System Management                         | Included                          |
| Case Management                           | Included                          |
| Knowledge Base                            | Included                          |
| Computer Based Training Courses           | Included                          |
| User Forums                               | Included                          |
| Monthly Minute Newsletter                 | Included                          |
| Software Subscription Services            |                                   |
| Service Releases and Hot Fixes            | Included                          |
| Minor Release Upgrades                    | n/a                               |
| Major Release Upgrades                    | n/a                               |
| Value Added Services                      |                                   |
| Technical Appointments                    | Included                          |
| Remote System Assessment                  | n/a                               |
| On-site System Assessment                 | n/a                               |
| Dedicated GTAC Support Engineer           | n/a                               |
| Dedicated Onsite Support Engineer         | n/a                               |
| Discount on Services (including training) | n/a                               |
| Warranty Period                           |                                   |
| Length of SMA                             | According to product <sup>3</sup> |
| Warranty Start Date                       | 30 days after license issuance    |

<sup>1</sup>: GTAC business hours are from Monday through Friday, 8am to 8pm Eastern Time. The GTAC is closed on Canadian statutory holidays.

<sup>2</sup>: Support cases are available for purchase on systems without SMA coverage with the exception of license related issues and product defects.

<sup>3</sup>: Product standard warranty lengths and maximum extended warranty lengths can be found in Appendix A.

## 2.2 Genetec's Standard Hardware Warranty

### 2.2.1 Standard Hardware Warranty Coverage

Genetec warrants each product it manufactures to be free from defects in materials and assembly in the course of normal use and service, and provides technical assistance related to these defects.

Genetec Hardware Warranties cover both the product Hardware and Software running on the product, with the exception of appliances running one of Genetec's software products (ex: SV-16) in which case the Software Warranty takes precedence over the hardware warranty for software related issues.



The Genetec Standard Hardware Warranty does not cover labor to send a Genetec engineer on-site to evaluate a system problem and/or determine if there is a warranty issue or not and/or replace a defective product.

### 2.2.2 Products Covered by Standard Hardware Warranty

All hardware products manufactured or resold by Genetec, including but not limited to, AutoVu Sharp, AutoVu SharpX, HID VertX, SV-16 are covered by the Standard Warranty.

### 2.2.3 Summary of Standard Hardware Warranty

| GTAC Support                              |                                                                       |
|-------------------------------------------|-----------------------------------------------------------------------|
| GTAC Hours                                | GTAC business hours <sup>1</sup>                                      |
| Support Cases                             | Unlimited                                                             |
| On-Site Support                           | Optional                                                              |
| Priority Queuing                          | n/a                                                                   |
| In Warranty Repairs                       |                                                                       |
| Product Return and Repair                 | Included <sup>3,4,5</sup>                                             |
| Advanced Replacement of Defective Product | Included within 90 days of purchase                                   |
| Unit Repair Turnaround time               | 10 business days between receipt by Genetec and ship date to customer |
| Functional Product Return                 | Service charge for returned product with no defect found              |
| Product DOA (within 90 days of shipment)  | Free advanced replacement of a new product                            |
| Product Software Updates/Upgrades         |                                                                       |
| Product Software Updates/Upgrades         | Included                                                              |
| GTAP Access                               |                                                                       |
| System Management                         | Included                                                              |
| Case Management                           | Included                                                              |
| Knowledge Base                            | Included                                                              |
| Computer Based Training Courses           | Included                                                              |
| User Forums                               | Included                                                              |
| Monthly Minute Newsletter                 | Included                                                              |
| Warranty Period                           |                                                                       |
| Length of Warranty                        | According to product <sup>6</sup>                                     |
| Warranty Start Date                       | On the day the product is delivered                                   |

<sup>1</sup>: GTAC business hours are from Monday through Friday, 8am to 8pm Eastern Time. The GTAC is closed on Canadian statutory holidays.

<sup>2</sup>: Support cases are available for purchase on systems under Standard Warranty without Extended Hardware Warranty with the exception of product defect related issues

<sup>3</sup>: Additional charges may be applied if damage is a result of using the product in a way that it is not typically intended to be used.

<sup>4</sup>: Product may be replaced by a fully functional refurbished product.

<sup>5</sup>: Customer is responsible for all shipping charges to return the product back to Genetec, and Genetec will cover the shipping charges to send the product back to the customer.

<sup>6</sup>: Product standard warranty lengths and maximum extended warranty lengths can be found in Appendix B.

#### **2.2.4 Warranty on repairs and replacement parts**

All Genetec products serviced by Genetec for repairs and replacements parts are warranted against defects in workmanship and materials for a period of 90 days, or the remainder of the original warranty, whichever is the longest.

#### **2.2.5 Exclusive Warranty Remedy**

During the applicable warranty period and in the event that a product is determined by Genetec to be defective in materials or assembly, Genetec will at its sole discretion either credit the customer the price paid for the defective product, or repair the defective product without charge, or replace the defective product with a new or refurbished product, or replace the defective product with a different product with identical or better specifications.

#### **2.2.6 Warranty Exclusions**

The following items are not covered by Genetec's Standard Hardware Warranty:

- Any equipment not furnished by Genetec
- A product which is used with non-supported ancillary equipment or software.
- Freight cost to return a product to Genetec.
- Defects or damage resulting from customer's improper testing, operation, installation, maintenance, modification, alteration, or adjustment.
- Defects or damage from misuse, accident or neglect.
- Defects or damage resulting from use of the product in other than its normal and customary manner.
- Defects or damage resulting from drilling holes, adding decals or other adhesives, or by painting the product.
- Defects or damage due to lightning or other electrical discharge.
- Product that is disassembled or repaired in such a manner as to adversely affect performance or prevent adequate inspection and testing to verify any warranty claim.
- Modification or abuse of, or tampering with, the product.
- Normal wear and tear.

#### **2.2.7 Relocation of AutoVu Mobile Systems**

Relocating a hard mounted AutoVu Mobile System from one vehicle to another will void the warranty on the cables. This does not apply to portable systems with magnetic mounts.

## 3 Software Maintenance Agreements (SMA)

### 3.1 What is an SMA?

An SMA provides customers with any new software releases, both minor and major updates, as well as unlimited access to Technical Support. The SMA protects the investment that is made in the solution by maintaining the systems up to date with the latest technological innovations developed by Genetec, by ensuring that the system operates and functions optimally and that the users leverage the system's full potential in order to generate maximum ROI of the solution.

### 3.2 Products Covered by SMA

All packaged software products developed by Genetec, including but not limited to, Security Center Security Center Mobile, Omnicast, Synergis and AutoVu Patroller.

All custom software applications developed by Genetec using one of Genetec's SDKs.

All software upgrades performed under the SMA continue to be covered by the SMA as long as it is in force.

## 3.3 SMA

| <b>GTAC Support</b>                              |                                                                         |
|--------------------------------------------------|-------------------------------------------------------------------------|
| <b>GTAC Hours</b>                                | GTAC business hours + customers business hours <sup>1</sup>             |
| <b>Support Cases</b>                             | Unlimited                                                               |
| <b>On-Site Support</b>                           | Optional                                                                |
| <b>Priority Queuing</b>                          | Included <sup>3</sup>                                                   |
| <b>GTAP Access</b>                               |                                                                         |
| <b>System Management</b>                         | Included                                                                |
| <b>Case Management</b>                           | Included                                                                |
| <b>Knowledge Base</b>                            | Included                                                                |
| <b>Computer Based Training Courses</b>           | Included                                                                |
| <b>User Forums</b>                               | Included                                                                |
| <b>Monthly Minute Newsletter</b>                 | Included                                                                |
| <b>Software Subscription Services</b>            |                                                                         |
| <b>Service Releases and Hot Fixes</b>            | Included                                                                |
| <b>Minor Release Upgrades</b>                    | Included                                                                |
| <b>Major Release Upgrades</b>                    | Included                                                                |
| <b>Value Added Services</b>                      |                                                                         |
| <b>Technical Appointments</b>                    | Included                                                                |
| <b>Remote System Assessment</b>                  | Optional                                                                |
| <b>On-site System Assessment</b>                 | Optional                                                                |
| <b>Dedicated GTAC Support Engineer</b>           | n/a                                                                     |
| <b>Dedicated Onsite Support Engineer</b>         | n/a                                                                     |
| <b>Discount on Services (including training)</b> | 5%                                                                      |
| <b>SMA Period</b>                                |                                                                         |
| <b>Length of SMA</b>                             | 1-5 year terms                                                          |
| <b>SMA Start Date</b>                            | 30 days after license issuance or on SMA anniversary date for a renewal |

<sup>1</sup> GTAC business hours are from Monday through Friday, 8am to 8pm Eastern Time. The GTAC is closed on Canadian statutory holidays.

<sup>2</sup> Done via pager if outside GTAC standard support hours with the exception of Canadian statutory holidays when the GTAC is closed.

<sup>3</sup> Customers with a valid SMA will get priority queuing over customers without an SMA when contacting the GTAC via phone.

<sup>4</sup> Each SMA includes 4 hours of Technical Appointments per year.

## 3.4 SMA Plus

| GTAC Support                              |                                                                         |
|-------------------------------------------|-------------------------------------------------------------------------|
| GTAC Hours                                | 7x24 <sup>1</sup>                                                       |
| Support Cases                             | Unlimited                                                               |
| On-Site Support                           | Optional                                                                |
| Priority Queuing                          | Included <sup>2</sup>                                                   |
| GTAP Access                               |                                                                         |
| System Management                         | Included                                                                |
| Case Management                           | Included                                                                |
| Knowledge Base                            | Included                                                                |
| Computer Based Training Courses           | Included                                                                |
| User Forums                               | Included                                                                |
| Monthly Minute Newsletter                 | Included                                                                |
| Software Subscription Services            |                                                                         |
| Service Releases and Hot Fixes            | Included                                                                |
| Minor Release Upgrades                    | Included                                                                |
| Major Release Upgrades                    | Included                                                                |
| Value Added Services                      |                                                                         |
| Technical Appointments                    | Included <sup>3</sup>                                                   |
| Remote System Assessment                  | Included <sup>4</sup>                                                   |
| On-site System Assessment                 | Optional                                                                |
| Dedicated GTAC Support Engineer           | Optional                                                                |
| Dedicated Onsite Support Engineer         | Optional                                                                |
| Discount on Services (including training) | 10%                                                                     |
| SMA Period                                |                                                                         |
| Length of SMA                             | 1-5 year terms                                                          |
| SMA Start Date                            | 30 days after license issuance or on SMA anniversary date for a renewal |

<sup>1</sup> Done via pager outside GTAC standard support hours.

<sup>2</sup> Customers with a valid SMA will get priority queuing over customers without an SMA when contacting the GTAC via phone.

<sup>3</sup> Each SMA Plus includes 8 hours of Technical Appointments per year.

<sup>4</sup> Each SMA Plus includes one Remote System Assessment per year.

**3.5 SMA Value-Added Services Descriptions**

**3.5.1 Priority Queuing**

Customers with a valid SMA will get priority in the queue over customers without an SMA when calling the GTAC. When multiple customers with valid SMAs are in the queue simultaneously, priority is given on a first come first served basis.

**3.5.2 Technical Appointments**

Customers with a valid SMA may schedule technical appointments with a Genetec Technical Support Engineer. Technical appointments may be used to discuss system design, plan a system upgrade, assist during a system upgrade or used for any other product-related technical work.

Technical appointments can be booked on the GTAP. Technical appointments must be scheduled during regular GTAC hours but are also available after hours, if needed, at an extra cost.

Each SMA type includes a predefined block of hours to be used each year for technical appointments as detailed in the table below. Additional hours may be purchased if needed.

| Type of SMA | Included appointment hours | Maximum number of appointments |
|-------------|----------------------------|--------------------------------|
| SMA         | 4 hours                    | 2                              |
| SMA Plus    | 8 hours                    | 4                              |

**3.5.3 Remote System Assessment**

A GTAC engineer will remotely connect to the customer system and perform a standard technical system assessment and provide recommendations. A report will be sent out to the customer at the end of the remote system assessment. The Remote System Assessment is a complementary service offered to SMA Plus customers once per year. This service is also available for purchase to SMA customers.

In order to provide this service, customer must provide the GTAC with a valid remote connection to their site.

**3.5.4 On-Site System Assessment**

Receive a visit from a Genetec Field Engineer onsite. During this visit, the Field Engineer can do a technical assessment of the system, perform system maintenance, discuss system design or perform various other tasks. The length of the visit will be evaluated by Genetec based on the Scope of Work.

**3.5.5 Dedicated Support Engineer**

Customers will be assigned a Dedicated Support Engineer. This Engineer will act as the main point of contact for all support related issues and will be familiar with the system design and its intricacies.

There are three different options available for this service:

**a) Shared Dedicated GTAC Support Engineer**

The assigned Dedicated GTAC Support Engineer will be responsible to support several dedicated client accounts. Therefore, customers acquiring this service will essentially be sharing the Dedicated GTAC support engineer with up to 5 other customers.

Customers with a Shared Dedicated GTAC Support Engineer will be assigned a specific 1-800 number (for North American customers only) and email address. Outside of the GTAC's business hours, customers must go through the regular support queues in order to obtain immediate assistance.

**b) Dedicated GTAC Support Engineer**

The assigned Dedicated GTAC Support Engineer will be responsible to exclusively support a single customer.

Customers with a Dedicated GTAC Support Engineer will be assigned a specific 1-800 number (for North American customers only) and email address. Outside of the GTAC's business hours, customers must go through the regular support queues in order to obtain immediate assistance.

**c) Dedicated Onsite Support Engineer**

The Dedicated Onsite Support Engineer will reside at the customer's premises and provide proactive assistance, reactive support and system management.

The Dedicated Onsite Support Engineer is generally available during business hours on business days unless otherwise agreed upon.

**3.5.6 Discount on Professional Services**

Customers with a valid SMA will benefit from discounts on all Genetec professional services, including Technical Training as detailed in the table below.

| Type of SMA | Discount on Services |
|-------------|----------------------|
| SMA         | 5%                   |
| SMA Plus    | 10%                  |

## 4 Genetec's Hardware Extended Warranties

### 4.1 What is an Extended Warranty?

An Extended Warranty provides the means to extend the standard warranty length of hardware products sold by Genetec and that are eligible for a warranty extension. (See Appendix B – Hardware Warranty Lengths)

### 4.2 Summary of Extended Warranty with Return and Repair Coverage

| GTAC Support                              |                                                                       |
|-------------------------------------------|-----------------------------------------------------------------------|
| GTAC Hours                                | GTAC standard support hours <sup>1</sup>                              |
| Support Case Allowance                    | Unlimited                                                             |
| On-Site Support                           | Optional                                                              |
| Priority Queuing                          | n/a                                                                   |
| In Warranty Repairs                       |                                                                       |
| Product Return and Repair                 | Included <sup>2,3,4</sup>                                             |
| Advanced Replacement of Defective Product | Included within 90 days of product purchase                           |
| Unit Repair Turnaround time               | 10 business days between receipt by Genetec and ship date to customer |
| Functional Product Return                 | Service charge for returned product with no defect found              |
| Product Software Updates/Upgrades         |                                                                       |
| Product Software Updates/Upgrades         | Included                                                              |
| GTAP Access                               |                                                                       |
| System Management                         | Included                                                              |
| Case Management                           | Included                                                              |
| Knowledge Base                            | Included                                                              |
| Computer Based Training Courses           | Included                                                              |
| User Forums                               | Included                                                              |
| Monthly Minute Newsletter                 | Included                                                              |
| Warranty Period                           |                                                                       |
| Length of Extended Warranty               | According to product <sup>5</sup>                                     |
| Warranty Start Date                       | On the day the product is delivered                                   |

<sup>1</sup> GTAC standard support hours are from Monday through Friday, 8am to 8pm Eastern Time. The GTAC is closed on Canadian statutory holidays.

<sup>2</sup> Additional charges may be applied if damage is a result of using the product in a way that it is not typically intended to be used.

<sup>3</sup> Product may be replaced by a fully functional refurbished product.

<sup>4</sup> Customer is responsible for all shipping charges to return the product back to Genetec, and Genetec will cover the shipping charges to send the product back to the customer.

<sup>5</sup> Product standard warranty lengths and maximum extended warranty lengths can be found in Appendix B.



### 4.3 Summary of Extended Warranty with Advanced Replacement Coverage

| GTAC Support                              |                                                                                                                                                                                  |
|-------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| GTAC Hours                                | GTAC standard support hours <sup>1</sup>                                                                                                                                         |
| Support Case Allowance                    | Unlimited                                                                                                                                                                        |
| On-Site Support                           | Optional                                                                                                                                                                         |
| Priority Queuing                          | n/a                                                                                                                                                                              |
| In Warranty Repairs                       |                                                                                                                                                                                  |
| Product Return and Repair                 | n/a                                                                                                                                                                              |
| Advanced Replacement of Defective Product | Included <sup>2,3,4</sup>                                                                                                                                                        |
| Unit Repair Turnaround Time               | Customer is responsible for replacing and returning the defective product to Genetec <sup>3</sup> within 30 days; otherwise the MSRP of product will be invoiced to the customer |
| Functional Product Return                 | Service charge for returned product with no defect found                                                                                                                         |
| Product Software Updates/Upgrades         |                                                                                                                                                                                  |
| Product Software Updates/Upgrades         | Included                                                                                                                                                                         |
| GTAP Access                               |                                                                                                                                                                                  |
| System Management                         | Included                                                                                                                                                                         |
| Case Management                           | Included                                                                                                                                                                         |
| Knowledge Base                            | Included                                                                                                                                                                         |
| Computer Based Training Courses           | Included                                                                                                                                                                         |
| User Forums                               | Included                                                                                                                                                                         |
| Monthly Minute Newsletter                 | Included                                                                                                                                                                         |
| Warranty Period                           |                                                                                                                                                                                  |
| Length of Extended Warranty               | According to Product <sup>5</sup>                                                                                                                                                |
| Warranty Start Date                       | On the day the product is delivered                                                                                                                                              |

<sup>1</sup> GTAC standard support hours are from Monday through Friday, 8am to 8pm Eastern Time. The GTAC is closed on Canadian statutory holidays.

<sup>2</sup> Additional charges may be applied if damage is a result of using the product in a way that it is not typically intended to be used.

<sup>3</sup> Product may be replaced by a fully functional refurbished product.

<sup>4</sup> Genetec is responsible for shipping charges for both sending the replacement product to the customer and returning the defective product back to Genetec.

<sup>5</sup> Product standard warranty lengths and maximum extended warranty lengths can be found in Appendix B.

### 4.4 Exclusive Extended Warranty Remedy

See Section 2.2.5: Exclusive Warranty Remedy

### 4.5 Extended Warranty Exclusions

See Section 2.2.6: Warranty Exclusions

## 5 Pricing & Ordering

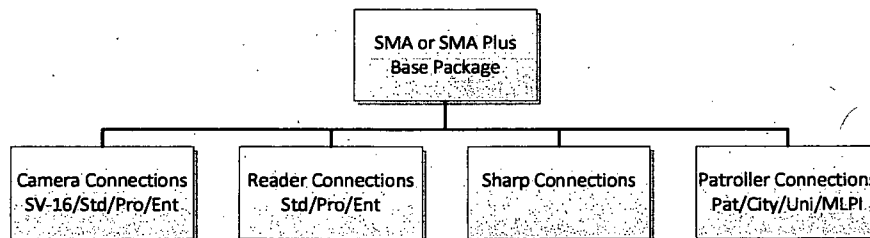
### 5.1 SMAs

#### 5.1.1 SMA Pricing Structure

SMAs are assembled in a similar fashion to Genetec software licenses, meaning that it's composed of a base package (for either an SMA or an SMA Plus) and a number of options depending on the system(s) covered by the SMA in question.

It is important to note that not all software license options have a corresponding SMA line item; in fact very few license options have that. If we take the example of Omnicast, only camera connection licenses are counted when pricing an SMA, all other license options/connections are SMA-free. It is therefore very simple to quickly assemble an SMA quote with just a few line items.

Since the difference between the SMA and the SMA Plus is taken into account in the SMA base package, all other line items that form the SMA are the same regardless what type of SMA has been selected.



#### 5.1.2 SMA Multi-Year Discount

Genetec offers multi-year SMA terms in the form of a 2-year, 3-year, 4-year or 5-year agreement. All SMA line items have their respective multi-year counterparts that are used for ordering a multi-year SMA.

Since these multi-year SMAs represent a long term commitment to Genetec, an additional discount is factored in all multi-year SMA line items. In order to benefit from this multi-year discount, the full amount for a multi-year SMA must be paid in full at the time of purchase or renewal.

#### 5.1.3 Multi System/Site SMA

An SMA can cover multiple System IDs, therefore an **end-user** with multiple system can consolidate all his systems under a single SMA for added simplicity. Since there's effectively only one SMA in this scenario, the end-user will only pay for the SMA base package once for the entire SMA and **NOT** once for every System ID covered by the SMA, therefore benefiting from a volume discount for placing all of his Genetec systems under a unique SMA.

It is important to note that a reseller **CANNOT** place multiple System IDs from multiple end-users under a single SMA.

#### 5.1.4 SMAs for License Add-ons

An SMA is mandatory for all add-ons done to an existing system that is currently under SMA. However, this applies only to software options for which Genetec charges an SMA for (Cameras, Readers, Sharps and Patrollers).

When adding a software license option that has a corresponding SMA line item, the SMA price for that add-on must be pro-rated to co-terminate with the SMA's anniversary date. This is accomplished by using a series of "1 day" SMA part numbers that are created solely to facilitate the pro-rating calculation.

In order to compute the price, simply take the appropriate SMA 1 day part number associated to the license option that is being added to the system, multiply that by the quantity of license options ordered and then multiply that again by the number of days remaining in the SMA term. Information on an SMA's anniversary date and remaining days in the agreement is readily accessible through the system management section of the GTAP.

#### 5.1.5 SMA Renewals

Renewal notices are automatically sent 90 days and 45 days prior to the anniversary date of the SMA, indicating that the SMA is about to expire. In the eventuality that the SMA is not renewed by the anniversary date, an additional notice is sent advising of the expiration of the SMA.

SMA coverage must be continuous. For example, if year two is skipped and an SMA is desired for year three, the cost of the SMA will be retroactive to include the year that was skipped, thus will cover both the second and third year.

All SMA renewals are priced according to the most recent price list in effect at the time of the renewal.

#### 5.1.6 SMA Ordering Information

SMAs must be purchased together with a new system sale or in conjunction with a system upgrade. If an SMA is purchased as an add-on to an existing system, it will be priced retroactively as if it was purchased at the same time as the system it will cover.

To order an SMA, the base package must be selected first for either an SMA or an SMA PLUS by using the following line items:

**SMA-BASE-XX or SMA-PLUS-XX**

Once the SMA base package has been selected, the other SMA line items are chosen based on the content of the licenses that the SMA covers. The format for all SMA part numbers follows the following standard:

**SMA-0000-E-XX or SMA-0000-XX**

Where:

**OOO:** License option reference: CAM (Camera Connection), RDR (Reader Connection), SHP (AutoVu Sharp Connection), PATR (AutoVu Patroller System), UNIV (AutoVu University System), CITY (AutoVu City System) and MLPI (AutoVu MLPI System)

**E:** Edition of the software if applicable: S (Standard), P (Pro), E (Enterprise)

**XX:** The term of the SMA: 1Y, 2Y, 3Y, 4Y, 5Y and 1D.

Complete SMA pricing information is found in the SMA price list.

### 5.1.7 SMA Quoting Examples

**a) Example 1: Unified Video/ACS SC5 System**

Customer purchases a unified Video/ACS SC5 system. He purchased the Enterprise version of Synergis with 50 Readers, the Pro version of Omnicast with 75 Camera, has 2 Sharp Cameras and requires a 3 year SMA.

The parts required to assemble this SMA would be as follows:

| Part No      | Description                                    | Qty |
|--------------|------------------------------------------------|-----|
| SMA-BASE-3Y  | SMA Base Package – 3 years                     | 1   |
| SMA-CAM-P-3Y | SMA for 1 Omnicast Pro Camera – 3 years        | 75  |
| SMA-RDR-E-3Y | SMA for 1 Synergis Enterprise Reader – 3 years | 50  |
| SMA-SHP-3Y   | SMA for 1 Sharp Camera – 3 years               | 2   |

**b) Example 2: Multiple Systems with a Single SMA**

Customer has an extensive multi-site deployment with federation, with both Video and ACS.

Customer requires a 1 year agreement with round the clock access to Technical Support and has the following sites to deploy:

| Site   | Video                        | Access Control                 |
|--------|------------------------------|--------------------------------|
| Site A | Omnicast Enterprise 350 cams | Synergis Enterprise 40 readers |
| Site B | Omnicast Enterprise 120 cams | Synergis Enterprise 25 readers |
| Site C | Omnicast Pro 60 cams         | Synergis Enterprise 10 readers |
| Site D | Omnicast Standard 15cams     | Synergis Enterprise 5 readers  |
| Site E | Omnicast Standard 15cams     | Synergis Enterprise 5 readers  |

To summarize, the customer has 470 Omnicast Enterprise cameras, 60 Omnicast Pro cameras, 30 Omnicast Standard cameras and 85 Synergis Enterprise readers. The parts required to assemble this SMA would be as follows:

| Part No      | Description                                   | Qty |
|--------------|-----------------------------------------------|-----|
| SMA-PLUS-1Y  | SMA Plus Base Package – 1 year                | 1   |
| SMA-CAM-S-1Y | SMA for 1 Omnicast Standard Camera – 1 year   | 30  |
| SMA-CAM-P-1Y | SMA for 1 Omnicast Pro Camera – 1 year        | 60  |
| SMA-CAM-E-1Y | SMA for 1 Omnicast Enterprise Camera – 1 year | 470 |
| SMA-RDR-E-1Y | SMA for 1 Synergis Enterprise Reader – 1 year | 85  |

**c) Example 3: Single Year SMA Add-on**

Customer has an existing unified Video/ACS SC5 system. He purchased the Enterprise version of Synergis with 50 Readers, the Pro version of Omnicast with 75 Camera, has 2 Sharp Cameras and has an SMA Plus that ends on October 12<sup>th</sup> 2012. (Information available on the GTAP)

Customer adds an extra building to his system with an additional 25 Omnicast Pro cameras and 12 Synergis Enterprise readers on July 16<sup>th</sup> 2012, which means 89 days are left on his SMA. (Information available on the GTAP)

Since the customer is adding 25 cameras and 12 readers, this means that we must compute 25 x 89 Omnicast Pro Camera 1 Day SMA parts and 12 x 89 Synergis Enterprise Reader 1 Day SMA parts as shown below:

| Part No      | Description                                  | Qty   |
|--------------|----------------------------------------------|-------|
| SMA-CAM-P-1D | SMA for 1 Omnicast Pro Camera – 1 day        | 2,225 |
| SMA-RDR-E-1D | SMA for 1 Synergis Enterprise Reader – 1 day | 1,068 |

**d) Example 4 : Multi-year SMA Add-on**

Customer has an existing unified Video/LPR SC5 system. The system is composed of 500 Omnicast Enterprise Cameras, 20 AutoVu Sharp Cameras, 5 AutoVu Patrollers and has an SMA that ends on March 14<sup>th</sup> 2014. (Information is available on the GTAP)

Customer expands his fleet of AutoVu Patrollers by adding 5 extra vehicles on September 4<sup>th</sup> 2012, which means there are 557 days left in the SMA. (Information available on the GTAP)

Since the customer is adding 5 patrollers, this means that we must compute 5 x 557 Patroller 1 Day SMA parts as shown below:

| Part No     | Description                        | Qty   |
|-------------|------------------------------------|-------|
| SMA-PATR-1D | SMA for 1 AutoVu Patroller – 1 day | 2,785 |

## 5.2 Hardware Extended Warranties

### 5.2.1 Hardware Extended Warranty Availability

Extended warranties are only available for certain hardware products and kits. In order to determine for which product line is eligible for an extended warranty, please refer to "*Appendix B – Hardware Warranty Lengths*".

### 5.2.2 Hardware Extended Warranty Multi-Year Discount

Genetec offers multi-year Extended Warranty terms in the form of a 2 year, 3 year, 4 year or 5 year agreement; however the maximum length of an extended warranty will vary depending on the product it is purchased for. (See *Appendix B – Hardware Warranty Lengths*) All Extended Warranty line items have their respective multi-year counterparts that are used for ordering a multi-year Extended Warranty.

Since these multi-year agreements represent a long term commitment to Genetec, an additional discount is factored in to all multi-year Extended Warranty line items. In order to benefit from this long term commitment discount, the full amount for a multi-year Extended Warranty must be paid in full at the time of purchase or renewal.

### 5.2.3 Hardware Warranty Renewals

Hardware Warranty renewal notices are automatically sent 90 days and 45 days prior to the anniversary date, indicating that the Warranty is about to expire. In the eventuality that the Warranty is not renewed by the anniversary date, an additional notice is sent advising of the expiration of the Warranty.

Hardware Extended Warranty coverage must be **continuous**. If the warranty is not extended/renewed prior to its expiry, it will not be extendable any more.

All Hardware Extended Warranty renewals are priced according to the most recent price list in effect at the time of the renewal.

### 5.2.4 Hardware Extended Warranty Ordering Information

Genetec's hardware extended warranty prices can be found in Genetec's price book. Different product codes have been created for each product as well as their respective list of available extended warranty options. Please use the following rule to build the product code associated to the warranty options you have selected for the product you are purchasing.

AU-K-KKK-EWLL-YY or AU-S-EWLL-YY

Where:

**KKK:** Type of AutoVu kit, according to the part number of the kit that you ordered, the warranty applies to.

**LL:** Level of Warranty: RR for Return & Repair, AS for Advanced Replacement and AP for Advanced Replacement with 7x24 support

**YY:** Term of the Warranty (Y for year and P for prepaid): Y1, Y2, Y3, Y4, Y5, P2, P3, P4 and P5

When purchasing an extended warranty on a kit, only serialized items are covered by the extended warranty. Other items such as cables and mounting hardware are only covered by the standard hardware warranty.

### **5.3 “À la carte” upgrades and GTAC support**

#### **5.3.1 Software upgrade – Major Release**

Customers without an SMA may upgrade to the latest major software release, provided that their current system is only 1 major release back. For example, you may upgrade from version 4.2 to 5.0, but you cannot upgrade from version 3.5 to 5.0.

The upgrade cost is 35% of total system price based on the latest software price list and comes with a limited 90 day warranty as detailed in *section 2.1*.

#### **5.3.2 Software upgrade – Minor Release**

Customers without an SMA may upgrade to the latest minor software release provided that they are within the same major release. For example, you may upgrade from version 4.7 to 4.8, but you cannot upgrade from version 4.7 to 5.1.

The upgrade cost is 25% of total system price based on the latest software price list and comes with a limited 90 day warranty as detailed in *section 2.1*.

#### **5.3.3 GTAC Support**

Customers without an SMA may contact the GTAC but must pay a flat fee in order to open a support case, with the exception of all license related issues. Pricing information on support cases can be found in the SMA price list.

If the product is still under warranty when the support case is opened and that the investigation reveals that the root cause of the incident is a product defect, the full amount of the purchased support case will be refunded.

#### **5.3.4 On-Site Technical Support**

On-site Technical Support is available to all customers and subject to availability of the Genetec Field Engineering team. Pricing information on Genetec Field Services can be found in the Genetec Professional Services price list.

### 5.3.5 Technical Appointments

Customers with an SMA who have consumed all of their Technical Appointment hours or customers who do not have an SMA and that wish to purchase Technical Appointment hours may do so by purchasing a minimum block of 4 hours. Pricing information on Technical Appointment hours can be found in the Genetec SMA price list.

## 6 The Genetec Technical Assistance Center

### 6.1 Contacting the GTAC

#### 6.1.1 Via the Genetec Technical Assistance Portal (GTAP)

The GTAC can be contacted by opening a Support Case through the Case Management Section of the GTAP. All support cases whether opened or resolved, created through the GTAP or through other means can be consulted through the GTAP in order to get the latest status or to communicate with the GTAC Engineer assigned to the case.

GTAP URL: <http://gtap.genetec.com>

#### 6.1.2 Via Phone

The GTAC offers phone support from Monday to Friday 8am-8pm EST/EDT and is closed during Canadian Statuary Holidays. After-hour support is available to SMA and SMA Plus owners according to the terms stated in the agreement.

When calling the GTAC it is important to have the Genetec System ID and the SMA Contract number (if applicable) in order to speed up the entitlement process:

Direct Dial: 1-514-856-7100

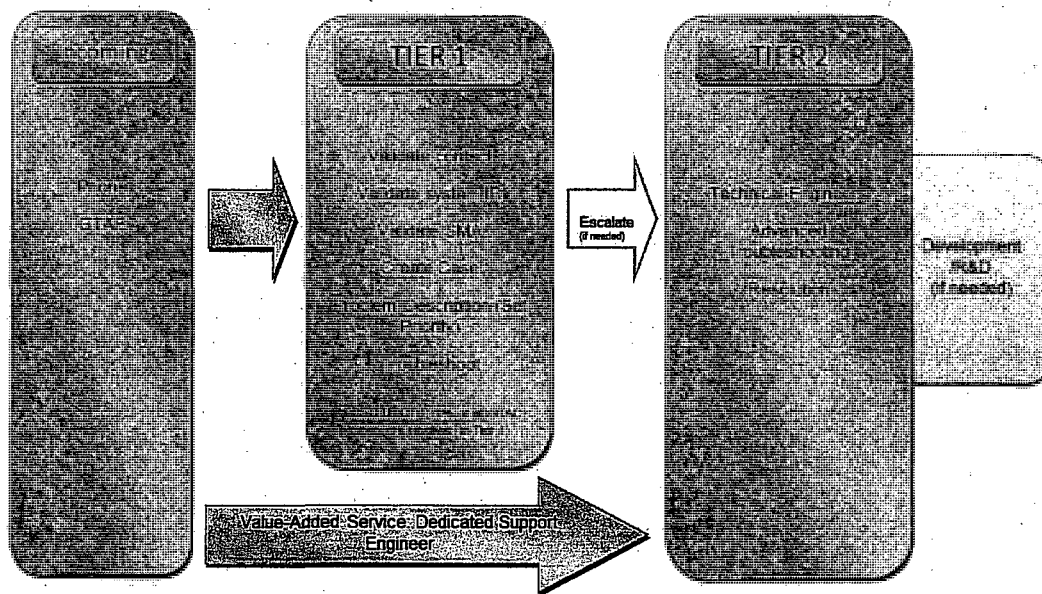
Toll Free: 1-866-338-2988 (Canada & USA) | +800 01818200 (Europe)

### 6.2 Escalation Process

In the event a support case needs immediate attention of the GTAC's leadership team, there is a quick and simple way to ensure this will be done. Cases can be escalated via the GTAP's case management section. Clicking the "escalate" button will send a notification email to all members of the GTAC Leadership team regarding the urgency of the issue. We guarantee that the owner of the case will be contacted by a member of the GTAP leadership team within 1 business day.



### 6.3 Support Case Life-cycle



# 7 GTAC Service Levels

## 7.1 Support Case Severity Levels

### 7.1.1 Description of Severity Levels

| Severity | Description                                                                             |
|----------|-----------------------------------------------------------------------------------------|
| Critical | Product is not functioning or functionality is significantly impaired.                  |
| High     | Major feature of product is not functioning or functionality is significantly impaired. |
| Medium   | Minor feature of product is not functioning or functionality is significantly impaired. |
| Low      | General question on functionality.                                                      |

The priority of a case may be escalated based on current customer situation or overall satisfaction level of the customer.

### 7.1.2 Severity Level Examples

| Severity | Examples                                                                                                                                                                                                                                         |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Critical | <ul style="list-style-type: none"> <li>Major Surveillance</li> <li>Entire system down and not operational</li> <li>Video is not being recorded</li> </ul>                                                                                        |
| High     | <ul style="list-style-type: none"> <li>Access control</li> <li>None of the credentials work</li> <li>None of the doors are opening</li> <li>Main doors don't open</li> </ul>                                                                     |
| Medium   | <ul style="list-style-type: none"> <li>License Plate recognition</li> <li>LPR System is not starting and able to read plates</li> <li>Crashing frequently</li> <li>Touch Screen is not working</li> <li>Automatic vehicle tag has not</li> </ul> |

|             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             | <ul style="list-style-type: none"> <li>✓ Right LPR / Tire camera is not working</li> <li>✓ Production database not accessible // not functional</li> <li>✓ Match process is not functional</li> <li>✓ IRWS is not functional // not able to connect to LPR Server(s)</li> <li>✓ Images are not displayed from IRWS</li> <li>✓ Not enough free space on the LPR Server(s)</li> <li>✓ LPR Server / Lane / IRWS computer is crashing frequently</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>High</p> | <p><u>General</u></p> <ul style="list-style-type: none"> <li>✓ Users unable to log in (AD)</li> <li>✓ Alarm Management not functioning</li> <li>✓ Services not being restarted by WD</li> <li>✓ Service crashes/restarts sporadically</li> <li>✓ Unable to launch client application</li> </ul> <p><u>Video Surveillance</u></p> <ul style="list-style-type: none"> <li>✓ Poor image quality</li> <li>✓ Video not recorded on a few cameras or large number of cameras not available</li> <li>✓ DFC not functioning</li> </ul> <p><u>Access Control</u></p> <ul style="list-style-type: none"> <li>✓ Secondary door does not open/lock</li> <li>✓ Synchronization problem</li> </ul> <p><u>License Plate Recognition</u></p> <ul style="list-style-type: none"> <li>✓ Hotlist not updated</li> <li>✓ Not able to offload</li> <li>✓ No wireless connection</li> <li>✓ GPS problem</li> <li>✓ Left LPR / Tire camera is not working</li> <li>✓ Mobile LPR System is working but on occasion it is crashing</li> <li>✓ Back-Office software is crashing</li> <li>✓ System is missing plates (less than 90 % read rate)</li> <li>✓ System is reading plates poorly (less than 70% perfect read)</li> </ul> |

|               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|               | <p>rate)</p> <ul style="list-style-type: none"> <li>✓ Review Server is not functional</li> <li>✓ Archive database is not created</li> <li>✓ Archive / Backup job is not enabled</li> <li>✓ Custom Replication is not enabled in a multi LPR Server environment</li> <li>✓ Images not pushed from lane computer to the LPR Server(s)</li> <li>✓ Lane computer is missing license plates (less than 90 % read rate)</li> <li>✓ Lane computer is reading license plates poorly (less than 70% perfect read rate)</li> <li>✓ Lane computer is not functional / able to capture license plates</li> <li>✓ Lane computer is not able to send transactions to the LPR Server(s).</li> <li>✓ Back-Office application is not functional on the IIS server</li> <li>✓ Back-Office application is unable to show open/closed transactions or to show images, with or without ActiveX control</li> <li>✓ Back-Office application unable to export to client / IIS computer</li> <li>✓ Lane computer is not able to send reviews</li> </ul> |
| <p>Medium</p> | <p><u>General</u></p> <ul style="list-style-type: none"> <li>✓ Licensing</li> <li>✓ PTZ functionality</li> <li>✓ USB Joystick functionality</li> <li>✓ Macros/plugin not functioning</li> <li>✓ DB problem</li> <li>✓ Unit occasionally not available</li> <li>✓ Cosmetic problems</li> <li>✓ Problem with some credential</li> </ul> <p><u>Access Control</u></p> <ul style="list-style-type: none"> <li>✓ Some controllers are offline</li> <li>✓ Badge designer issue</li> </ul> <p><u>License Plate Recognition</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <ul style="list-style-type: none"> <li>✓ System is missing patches more than 90% rear date</li> <li>✓ System is running in date locality more than 100% per day</li> <li>✓ Hardware broken but systems still can read dates</li> <li>✓ Missing functionality/Upgrade request</li> <li>✓ Lane computer is missing dates between 80% and 95% read date</li> <li>✓ Lane computer is missing dates locality between 80% and 90% per day</li> </ul> |
| Low | <ul style="list-style-type: none"> <li>✓ Feature requests</li> <li>✓ General question</li> </ul>                                                                                                                                                                                                                                                                                                                                               |

## 7.2 Response Times

### 7.2.1 First Response

GTAC will respond to all new calls placed within the following time frames:

| Call Entry Point | Response Time             |
|------------------|---------------------------|
| Phone call       | 15 minutes <sup>1/2</sup> |
| GTAP             | 1 business day            |

<sup>1</sup>: Phone calls placed outside the scope of the customer's support agreement will be returned first thing on Genetec's next business day.  
<sup>2</sup>: GTAC objectives are 3 minutes average speed to answer and to answer 90% of calls within 10 minutes.

### 7.2.2 Status Updates

GTAC will provide continuous updates on the status of the troubleshooting based on the severity and priority of the case as detailed in the table below.

|          | In Progress (hours) <sup>1</sup> | Customer Action Required (days) <sup>1</sup> |
|----------|----------------------------------|----------------------------------------------|
| Critical | 4                                | 1                                            |
| High     | 24                               | 1                                            |
| Medium   | 48                               | 3                                            |
| Low      | 72                               | 5                                            |

<sup>1</sup>: Status updates are provided within regular GTAC business hours.

### 7.2.3 Three Strike Rule - Follow up

The GTAC will follow up with customers for cases in the Customer Response Pending (CRP) state according to the table above in order to ensure timely resolution of issues.

For low and medium severity cases, the GTAC will follow up 3 times at intervals of 3 business days. After 3 consecutive and unsuccessful attempts, the ticket will be automatically closed.

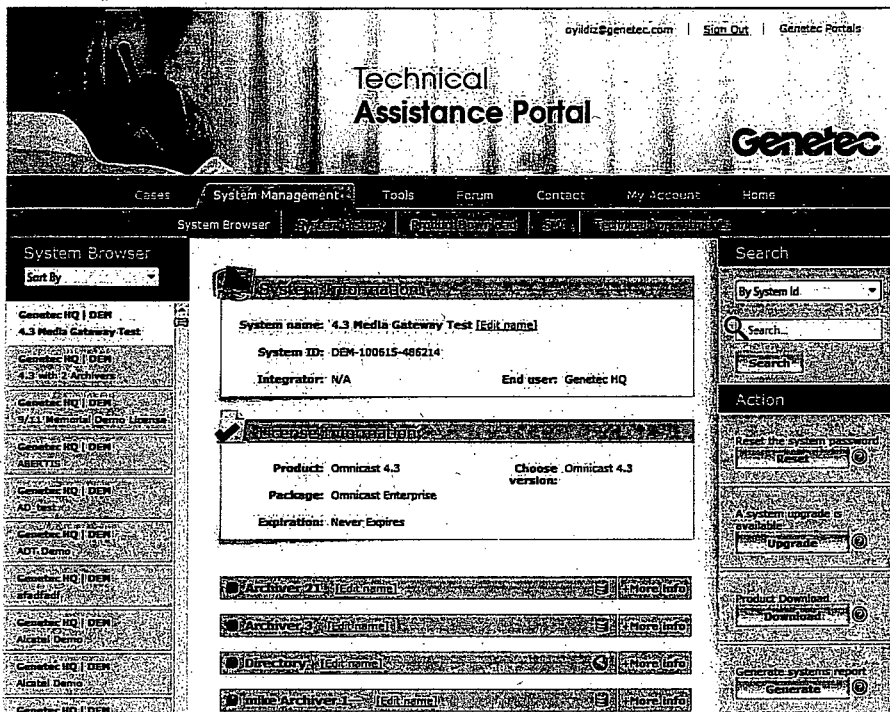
For high and critical severity cases, the GTAC will follow up 3 times at intervals of 1 business day. After 3 consecutive and unsuccessful attempts, the priority of the case will be lowered to medium severity and the cycle will start again as detailed above.

### 7.3 Resource Commitment

Genetec cannot guarantee a resolution time for issues but can guarantee resources committed to fixing the problem. The following table details the resource commitment based on the severity of the case.

| Severity | Resource Commitment                            |
|----------|------------------------------------------------|
| Critical | Full-time resource around the clock            |
| High     | Full-time resource within business hours       |
| Medium   | Based on availability with a priority over Low |
| Low      | No commitment                                  |

## 8 The Genetec Technical Assistance Portal



### 8.1 Accessing the GTAP

GTAP access is currently reserved to Genetec's customers and partners. In order to access the GTAP, you will need the following:

1. System ID and Password
  - This will only give access to the System Management (license) section of the portal for the provided System ID.
2. User Credential and Password
  - This will give full access to the Portal.
  - To Register use the following link: <https://gtap.genetec.com/Register.aspx>

## 8.2 Available Resources

### 8.2.1 System Management (Licenses)

The GTAP allows you to manage your system licenses without the intervention of a GTAC representative by:

- Resetting your system password
- Resetting your license
- Upgrading your system
- Downloading the newest product version
- Generating systems reports

### 8.2.2 GTAC Case Management

GTAP case management system allows you to manage your GTAC support cases by:

- Creating new support cases
- Browsing through opened and closed support cases
- Taking ownership of support cases in your organization
- Updating support cases and attaching files to them
- Escalating support cases to GTAC leadership
- Requesting call backs on support cases
- Closing/resolving open support cases

### 8.2.3 Documentation and Knowledge Base

The GTAP is also a repository for considerable amounts of documentation such as release notes, installations guides, user guides, tutorials, application notes, and much more. It is also a repository for a continuously updated knowledge base that contains hundreds of articles that will help you troubleshoot your system.

### 8.2.4 Video and Webinars

The GTAP is also a repository of other multimedia items such as videos. On the GTAP, you will find short tutorial videos (GTAC Tech Tube), monthly webinar archives (GTAC Tech Talk) and computer based training courses that will enable you to increase your knowledge on Genetec's products and solutions.



### **8.2.5 Community Forums**

GTAP users also form a community and share on the GTAP forums. A variety of topics regarding best practices, issues and installations are discussed on the community forums.

### **8.2.6 Arrange for Technical Appointments**

Planning for an upgrade and need the assistance of a GTAC representative? The GTAP allows you to arrange for technical appointments included in your SMA.

### **8.2.7 Supported Device Tool**

The GTAP's Support Devices tool gives you access to Genetec's comprehensive compatibility database that contains valuable information on which third party devices are supported on which version of Genetec software with which version of firmware. When available, the latest firmwares are published on this tool and available for download.

### **8.2.8 Known Issues**

On the GTAP, the known issues lists will provide you with insight on possible issues that may affect your system. From this list, you will know if there are any workarounds in knowledge base articles or hotfixes. You will also know in which version the known issue is fixed and you can also request a hotfix for your version.

### **8.2.9 GTAC Monthly Minute**

The GTAC Monthly Minute is your one-stop update on all that is happening in the GTAC. This monthly newsletter keeps you up to date with new product releases, GTAP updates and GTAC news. Subscribing to this newsletter is the best way to stay informed about what is new in the GTAC.

## 9 Appendix A – Software Warranty Lengths

| Product Family                   | Standard Warranty Length |
|----------------------------------|--------------------------|
| Omnicast                         | 1 year                   |
| Omnicast (Upgrade)               | 90 Days                  |
| Security Center                  | 1 years                  |
| Security Center (Upgrade)        | 90 days                  |
| Security Center Mobile           | 1 years                  |
| Security Center Mobile (Upgrade) | 90 days                  |
| Plan Manager                     | 1 year                   |
| Plan Manager (Upgrade)           | 90 days                  |
| SV-16                            | 2 years                  |
| SV-16 (Upgrade)                  | 90 Days                  |
| Custom Developed Software        | 60 Days                  |

## 10 Appendix B – Hardware Warranty Lengths

| Product Family | Standard Warranty Length | Maximum Extended Warranty Length (in addition to standard warranty) |
|----------------|--------------------------|---------------------------------------------------------------------|
| AutoVu Sharp   | 1 year                   | 4 years                                                             |
| SV-16          | 2 years                  | n/a                                                                 |
| HID VeriX      | 18 Months                | n/a                                                                 |
| HID Edge       | 18 Months                | n/a                                                                 |

**APPENDIX ~~G~~ H**

**EQUIPMENT ACCEPTANCE CERTIFICATE**

The undersigned purchaser hereby acknowledges receipt of the equipment order described below. After confirmation of order fulfillment, and on-site product testing, we are now accepting the equipment as satisfactory for all purposes in accordance with the Agreement.

| Quantity | Model Number | Equipment Description |
|----------|--------------|-----------------------|
|          |              |                       |

\_\_\_\_\_  
City of Berkeley Representative/Position

\_\_\_\_\_  
Date

END OF SECTION

**DEPARTMENT ORDER****ADMINISTRATIVE ORDER #001-2015****DATE ISSUED: 01/5/15****SUBJECT: AUTOMATED LICENSE PLATE READER USE****PURPOSE:**

This order establishes guidelines for the use of the Berkeley Police Department's Automated License Plate Reader (ALPR) technology and data. 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 unit). ALPRs may be used by the Berkeley Police Department Parking Enforcement and Traffic Units for official law enforcement purposes. This Administrative Order shall remain in effect until January 6, 2016, or when superseded by the issuance of a General Order governing ALPR use.

**ADMINISTRATION OF ALPR DATA:**

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain through the Parking Enforcement Unit. The Investigations Division Captain will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

**ALPR OPERATION:**

Use of an ALPR is described below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- a. An ALPR shall only be used for official and legitimate law enforcement business.
- b. Reasonable suspicion or probable cause is not required before using an ALPR.
- c. No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- d. No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.

**ALPR DATA COLLECTION AND RETENTION:**

All data and images gathered by an ALPR are for the official use of the Berkeley Police Department, and because such data may contain confidential CLETS information, are not open to public review. ALPR information gathered and

retained by this department may be used and shared with prosecutors or others only as permitted by law.

The Parking Enforcement Manager is responsible for ensuring proper collection and retention of ALPR data. Technical support and assistance shall be provided by City Department of Information Technology personnel.

All ALPR data shall be stored and purged as described below in this order and thereafter shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data shall be downloaded from the server onto portable media and booked into evidence.

**ACCOUNTABILITY AND SAFEGUARDS:**

All saved data will be closely safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data:

- a. Non-law enforcement requests for access to stored ALPR data shall be referred to the Public Safety Business Manager and processed in accordance with applicable law.
- b. Non-law enforcement requests for information regarding a specific vehicle's license plate shall be honored when the requestor is the registered owner of the vehicle in question. The requestor in such cases must provide acceptable proof of their identity and of their ownership of the vehicle in question.
- c. ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- d. Berkeley Police personnel approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- e. ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes only in connection with specific criminal investigations.
- f. Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state, or federal agency or entity without the express written consent of the City Manager.
- g. For purposes of a City of Berkeley Parking Enforcement analysis effort, ALPR data may be provided a City of Berkeley consultant on an as-needed basis, upon the specific approval of the Chief of Police or his/her designee.
- h. ALPR system audits should be conducted by personnel assigned to the Professional Standards Bureau on a regular basis, at least biennially.

- i. ALPR "read" data retention periods may vary, depending on the system using the ALPR. Regardless of system use, all ALPR "read" data shall be retained for no longer than 365 days, after which point it shall be automatically purged from the server or storage device.

**CURRENT ALPR DEPLOYMENT-SCOFFLAW ENFORCEMENT:**

The Berkeley Police Department uses ALPR technology in the Parking Enforcement Unit for Scofflaw Enforcement. The Scofflaw Enforcement program (often referred to as the "booting" program) utilizes an ALPR to scan license plates, and checks scanned "reads" against a file of vehicles which have five or more outstanding citations. Typically, upon a confirmed "hit," the vehicle is immobilized with a "boot", or towed, and the owner has to pay the outstanding citations and fees in order to release the boot and/or recover their car. This allows the city to recover outstanding citation fees and penalties.

ALPR equipment is installed in the Parking Enforcement Unit's Scofflaw Enforcement vehicle and a marked Traffic Enforcement vehicle, allowing for scofflaw enforcement using both vehicles.

The contracted vendor for the City's Scofflaw Enforcement program is Paylock. Paylock stores data on a secure server, and provides access to authorized personnel Paylock's "Bootview" secure website, as described below:

- a. All data captured by the ALPR is stored on the laptop for 30 days, and is only accessible during that period via the ALPR proprietary software. This includes reads, hits, and photographs associated with each.

When a car is booted and/or towed, the read, hit, and photographic data relating to the booting and/or towing of scofflaw vehicles is uploaded to Paylock's secure server. No other data is uploaded to Paylock's secure server.



Michael K. Meehan  
Chief of Police

cc: All BPD Personnel



City of Berkeley  
Abstract of Bid Worksheet

Finance Department  
General Services Division

FOR: Equipment for Automated Parking  
Data Collection + Enforcement

Spec. # 14-10825-C

Bid Date: 8/21/14

|    | Bidders               | Base Bid | Nuc Free | Work Force Comp | Opp. States | Living Wage | EBO | Bid Bond | Addenda |
|----|-----------------------|----------|----------|-----------------|-------------|-------------|-----|----------|---------|
| 1  | PCS Mobile            |          |          |                 |             |             |     |          |         |
| 2  | Tannery Creek Systems |          | X        | X               | X           | X           | X   |          |         |
| 3  |                       |          |          |                 |             |             |     |          |         |
| 4  |                       |          |          |                 |             |             |     |          |         |
| 5  |                       |          |          |                 |             |             |     |          |         |
| 6  |                       |          |          |                 |             |             |     |          |         |
| 7  |                       |          |          |                 |             |             |     |          |         |
| 8  |                       |          |          |                 |             |             |     |          |         |
| 9  |                       |          |          |                 |             |             |     |          |         |
| 10 |                       |          |          |                 |             |             |     |          |         |

Bid Recorder: Shelley Goss 8/21

Bid Opener: STB 8/21/14

Project Manager: [Signature] 8/25/14

2180 McKia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903 Fax: 510.981.7390  
E-mail: [finance@ci.berkeley.ca.us](mailto:finance@ci.berkeley.ca.us)



**NON-DISCRIMINATION/WORKFORCE COMPOSITION** FOR ALL CONTRACTS: 5 OR MORE EMPLOYEES

To assist the City of Berkeley in implementing its Non-Discrimination policy, you're requested to furnish information regarding your personnel, as indicated below, and return this form to the City Department handling your contract.

**ORGANIZATION** Portable Computer Systems, Inc dba PCS Mobile  
**ADDRESS** 1200 W. Mississippi Ave, Denver, CO 80223  
**BUSINESS LICENSE #** \_\_\_\_\_

You may complete this online & make entries in these cells, they will be automatically totaled at the bottom; or print the form & complete by hand/typewriter.

| Occupational Category<br>(see page 2 for definitions) | ALL EMPLOYEES |           | WHITE     |          | BLACK    |          | ASIAN    |          | HISPANIC |          | OTHER (specify)** |          |
|-------------------------------------------------------|---------------|-----------|-----------|----------|----------|----------|----------|----------|----------|----------|-------------------|----------|
|                                                       | Male          | Female    | Male      | Female   | Male     | Female   | Male     | Female   | Male     | Female   | Male              | Female   |
| Officials/Administrators                              | 1             | 1         | 1         | 1        |          |          |          |          |          |          |                   |          |
| Professionals                                         | 2             | 0         | 0         | 0        |          |          |          |          |          |          |                   |          |
| Technicians                                           | 15            | 0         | 6         | 0        | 1        |          | 2        | 0        | 6        | 0        | 0                 | 0        |
| Protective Service Workers                            | 0             | 0         |           |          |          |          |          |          |          |          |                   |          |
| Para-professionals                                    | 0             | 0         |           |          |          |          |          |          |          |          |                   |          |
| Office/Clerical                                       | 0             | 0         |           |          | 3        |          |          |          |          |          | 3                 |          |
| Skilled Craft Workers                                 | 0             | 0         |           |          |          |          |          |          |          |          |                   |          |
| Service/Maintenance                                   | 0             | 0         |           |          |          |          |          |          |          |          |                   |          |
| Other Occupation: Specify*                            | 8             | 3         | 7         | 3        |          |          |          |          |          |          | 1                 |          |
| <b>Totals</b>                                         | <b>24</b>     | <b>10</b> | <b>14</b> | <b>7</b> | <b>1</b> | <b>0</b> | <b>2</b> | <b>0</b> | <b>7</b> | <b>3</b> | <b>0</b>          | <b>0</b> |

\*Specify other occupation: FRST / MS-CALL MGMT @ SALES WORKERS  
 \*\*Specify other ethnicity: \_\_\_\_\_

Is your business MBE/WBE/DBE certified?  YES If Yes, by what agency? The Supplier Clearinghouse for the Utility Supplier Diversity Program  
 Do you have a policy of non-discrimination?  YES If Yes, please specify: WBE of the California Public Utilities Commission or ethnic identification: \_\_\_\_\_

Signature Steven McKay Date 4.2.15  
 Print/Type Name of Signer Steven McKay  
 Verified by \_\_\_\_\_ Date \_\_\_\_\_  
 City of Berkeley Contract Administrator

**CITY OF BERKELEY**  
**Nuclear Free Zone Disclosure Form**

I (we) certify that:

1. I am (we are) fully cognizant of any and all contracts held, products made or otherwise handled by this business entity, and of any such that are anticipated to be entered into, produced or handled for the duration of its contract(s) with the City of Berkeley. (To this end, more than one individual may sign this disclosure form, if a description of which type of contracts each individual is cognizant is attached.)
2. I (we) understand that Section 12.90.070 of the Nuclear Free Berkeley Act (Berkeley Municipal Code Ch. 12.90; Ordinance No. 5784-N.S.) prohibits the City of Berkeley from contracting with any person or business that knowingly engages in work for nuclear weapons.
3. I (we) understand the meaning of the following terms as set forth in Berkeley Municipal Code Section 12.90.130:  
  
 "Work for nuclear weapons" is any work the purpose of which is the development, testing, production, maintenance or storage of nuclear weapons or the components of nuclear weapons; or any secret or classified research or evaluation of nuclear weapons; or any operation, management or administration of such work.  
  
 "Nuclear weapon" is any device, the intended explosion of which results from the energy released by reactions involving atomic nuclei, either fission or fusion or both. This definition of nuclear weapons includes the means of transporting, guiding, propelling or triggering the weapon if and only if such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapon.  
  
 "Component of a nuclear weapon" is any device, radioactive or non-radioactive, the primary intended function of which is to contribute to the operation of a nuclear weapon (or be a part of a nuclear weapon).
4. Neither this business entity nor its parent nor any of its subsidiaries engages in work for nuclear weapons or anticipates entering into such work for the duration of its contract(s) with the City of Berkeley.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: Steven McKay Title: Treasurer

Signature: *Steven McKay* Date: 4.2.2015

Business Entity: Portable Computer Systems, Inc dba PCS Mobile

Contract Description/Specification No. License Plate Recognition System & Services  
Attachment C

**CITY OF BERKELEY**  
**Oppressive States Compliance Statement for Personal Services**

The undersigned, an authorized agent of Portable Computer Systems, Inc dba PCS Mobile (hereafter "Vendor"), has had an opportunity to review the requirements of Berkeley City Council Resolution No. 59,853-N.S. (hereafter "Resolution"). Vendor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with those Business Entities which maintain business relationships with morally repugnant regimes. Vendor understands the meaning of the following terms used in the Resolution:

"Business Entity" means "any individual, firm, partnership, corporation, association or any other commercial organization, including parent-entities and wholly-owned subsidiaries" (to the extent that their operations are related to the purpose of the contract with the City).

"Oppressive State" means: **Tibet Autonomous Region and the Provinces of Abo, Kham, and U-Tsang,**

"Personal Services" means "the performance of any work or labor and shall also include acting as an independent contractor or providing any consulting advice or assistance, or otherwise acting as an agent pursuant to a contractual relationship."

Contractor understands that it is not eligible to receive or retain a City contract if at the time the contract is executed, or at any time during the term of the contract it provides Personal Services to:

- a. The governing regime in any Oppressive State.
- b. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- c. Any person for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

Vendor further understands and agrees that Vendor's failure to comply with the Resolution shall constitute a default of the contract and the City Manager may terminate the contract and bar Vendor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

The undersigned is familiar with, or has made a reasonable effort to become familiar with, Vendor's business structure and the geographic extent of its operations. By executing the Statement, Vendor certifies that it complies with the requirements of the Resolution and that if any time during the term of the contract it ceases to comply, Vendor will promptly notify the City Manager in writing.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: Steven McKay Title: Treasurer

Signature: *Steven McKay* Date: 4-2-2015

Business Entity: Portable Computer Systems, Inc dba PCS Mobile

I am unable to execute this Statement; however, Vendor is exempt under Section VII of the Resolution. I have attached a separate statement explaining the reason(s) Vendor cannot comply and the basis for any requested exemption.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Contract Description/Specification No.: License Plate Recognition System & Services

Attachment D

**CITY OF BERKELEY**  
**Living Wage Certification for Providers of Personal Services**

**TO BE COMPLETED BY ALL PERSONS OR ENTITIES ENGAGING IN A CONTRACT FOR PERSONAL SERVICES WITH THE CITY OF BERKELEY.**

The Berkeley Municipal Code Chapter 13.27, Berkeley's Living Wage Ordinance (LWO), provides that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City in any twelve (12) month period of time shall comply with all provisions of this Ordinance. The LWO requires a City contractor to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those contracts where the contractor has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, subsequent contracts may be subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Contractor's employees change (i.e. additional employees are hired) so that Contractor falls within the scope of the Ordinance.

**Section I.**

**1. IF YOU ARE A FOR-PROFIT BUSINESS, PLEASE ANSWER THE FOLLOWING QUESTIONS**

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid, or proposal, with the City of Berkeley for a cumulative amount of \$25,000.00 or more?

YES  NO

If no, this contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 1(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES  NO

If you have answered, "YES" to questions 1(a) and 1(b) this contract IS subject to the LWO. If you responded "NO" to 1(b) this contract IS NOT subject to the LWO. Please continue to Section II.

**2. IF YOU ARE A NON-PROFIT BUSINESS, AS DEFINED BY SECTION 501(C) OF THE INTERNAL REVENUE CODE OF 1954, PLEASE ANSWER THE FOLLOWING QUESTIONS.**

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid or proposal, with the City of Berkeley for a cumulative amount of \$100,000.00 or more?

YES  NO

If no, this Contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 2(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES  NO

If you have answered, "YES" to questions 2(a) and 2(b) this contract IS subject to the LWO. If you responded "NO" to 2(b) this contract IS NOT subject to the LWO. Please continue to Section II.

**Section II**

**Please read, complete, and sign the following:**

THIS CONTRACT IS SUBJECT TO THE LIVING WAGE ORDINANCE.

THIS CONTRACT IS NOT SUBJECT TO THE LIVING WAGE ORDINANCE.

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of Berkeley's Living Wage Ordinance, and the applicability of the Living Wage Ordinance, and the applicability of the subject contract, as determined herein. The undersigned further agrees to be bound by all of the terms of the Living Wage Ordinance, as mandated in the Berkeley Municipal Code, Chapter 13.27. If, at any time during the term of the contract, the answers to the questions posed herein change so that Contractor would be subject to the LWO, Contractor will promptly notify the City Manager in writing. Contractor further understands and agrees that the failure to comply with the LWO, this certification, or the terms of the Contract as it applies to the LWO, shall constitute a default of the Contract and the City Manager may terminate the contract and bar Contractor from future contracts with the City for five (5) years from the effective date of the Contract termination. If the contractor is a for-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 25% or more of their compensated time engaged in work directly related to the contract with the City. If the contractor is a non-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 50% or more of their compensated time engaged in work directly related to the contract with the City.

These statements are made under penalty of perjury under the laws of the state of California.

Printed Name: Steven McKay Title: Treasurer

Signature: [Handwritten Signature] Date: 4.2.15

Business Entity: Portable Computer Systems, Inc dba PCS Mobile

Contract Description/Specification No: License Plate Recognition System and Services

Section III

• \*\* FOR ADMINISTRATIVE USE ONLY -- PLEASE PRINT CLEARLY \*\* •

I have reviewed this Living Wage Certification form, in addition to verifying Contractor's total dollar amount contract commitments with the City in the past twelve (12) months, and determined that this Contract IS / IS NOT (circle one) subject to Berkeley's Living Wage Ordinance.

Department Name

Department Representative

To be completed by Contractor/Vendor

Form EBO-1 CITY OF BERKELEY



CERTIFICATION OF COMPLIANCE WITH EQUAL BENEFITS ORDINANCE

If you are a contractor, return this form to the originating department/project manager. If you are a vendor (supplier of goods), return this form to the Purchasing Division of the Finance Dept.

SECTION 1. CONTRACTOR/VENDOR INFORMATION

Name: Portable Computer Systems, Inc dba PCS Mobile Vendor No.:
Address: 1200 W. Mississippi Ave City: Denver State: CO ZIP: 80223
Contact Person: Steve McKay Telephone: 303-346-2487
E-mail Address: stevem@pcsmobile.com Fax No.: 303-346-4274

SECTION 2. COMPLIANCE QUESTIONS

- A. The EBO is inapplicable to this contract because the contractor/vendor has no employees.
B. Does your company provide (or make available at the employees' expense) any employee benefits?
C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee?
D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee?
E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of the employee?

SECTION 3. PROVISIONAL COMPLIANCE

- A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:
B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent?

\* The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.

SECTION 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statements, etc.) to verify that you do not discriminate in the provision of benefits.

**SECTION 5. CERTIFICATION**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Berkeley Municipal Code and in the terms of the contract or purchase order with the City.

Executed this 2nd day of April, in the year 2015, at Denver, CO  
(City) (State)

Steven McKay  
Name (please print)

Steven McKay  
Signature

Treasurer  
Title

  
Federal ID or Social Security Number

**FOR CITY OF BERKELEY USE ONLY**

- Non-Compliant (The City may not do business with this contractor/vendor)
- One-Person Contractor/Vendor       Full Compliance       Reasonable Measures
- Provisional Compliance Category, Full Compliance by Date: \_\_\_\_\_

Staff Name (Sign and Print): \_\_\_\_\_ Date: \_\_\_\_\_



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/9/2015

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

|                                          |  |                                            |                       |
|------------------------------------------|--|--------------------------------------------|-----------------------|
| <b>PRODUCER</b>                          |  | <b>CONTACT NAME:</b> Joel Walker           |                       |
| Blue Sky Ins                             |  | <b>PHONE (A/C No. Ext):</b> (303) 647-5477 | <b>FAX (A/C No.):</b> |
| 9090 South Ridgeline Blvd.               |  | <b>E-MAIL ADDRESS:</b> jwalker@bskyins.com |                       |
| #206                                     |  |                                            |                       |
| Highlands Ranch CO 80129                 |  | <b>INSURER(S) AFFORDING COVERAGE</b>       |                       |
|                                          |  | INSURER A: Travelers Insurance Company     |                       |
| <b>INSURED</b>                           |  | <b>INSURER B:</b>                          |                       |
| PCS Mobile / Portable Computer Systems / |  | <b>INSURER C:</b>                          |                       |
| Western Sky, LLC                         |  | <b>INSURER D:</b>                          |                       |
| 1200 W. Mississippi                      |  | <b>INSURER E:</b>                          |                       |
| Denver CO 80223                          |  | <b>INSURER F:</b>                          |                       |

**COVERAGES** **CERTIFICATE NUMBER: CL1552507311** **REVISION NUMBER:**

**THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.**

| INSR LTR                                                                                                  | TYPE OF INSURANCE                                                                    | ADDL SUBR INSR WVD                                  | POLICY NUMBER           | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                   |
|-----------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|-----------------------------------------------------|-------------------------|-------------------------|-------------------------|------------------------------------------------------------------------------------------|
| A                                                                                                         | <b>GENERAL LIABILITY</b>                                                             |                                                     | 630-0C067499-TCT-15     | 6/1/2015                | 6/1/2016                | EACH OCCURRENCE \$ 1,000,000                                                             |
|                                                                                                           | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY                     |                                                     |                         |                         |                         | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000                                     |
|                                                                                                           | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR       |                                                     |                         |                         |                         | MED EXP (Any one person) \$ 10,000                                                       |
|                                                                                                           | <input checked="" type="checkbox"/> Per Project Aggregate                            |                                                     |                         |                         |                         | PERSONAL & ADV INJURY \$ 1,000,000                                                       |
| GEN'L AGGREGATE LIMIT APPLIES PER:                                                                        |                                                                                      |                                                     |                         |                         |                         | GENERAL AGGREGATE \$ 2,000,000                                                           |
| <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC |                                                                                      |                                                     |                         |                         |                         | PRODUCTS - COMP/OP AGG \$ 2,000,000                                                      |
| A                                                                                                         | <b>AUTOMOBILE LIABILITY</b>                                                          |                                                     | BA-0C067499-15-TEC      | 6/1/2015                | 6/1/2016                | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000                                         |
|                                                                                                           | <input checked="" type="checkbox"/> ANY AUTO                                         |                                                     |                         |                         |                         | BODILY INJURY (Per person) \$                                                            |
|                                                                                                           | <input type="checkbox"/> ALL OWNED AUTOS                                             | <input checked="" type="checkbox"/> SCHEDULED AUTOS |                         |                         |                         | BODILY INJURY (Per accident) \$                                                          |
|                                                                                                           | <input checked="" type="checkbox"/> HIRED AUTOS                                      | <input checked="" type="checkbox"/> NON-OWNED AUTOS |                         |                         |                         | PROPERTY DAMAGE (Per accident) \$                                                        |
|                                                                                                           |                                                                                      |                                                     |                         |                         |                         | \$                                                                                       |
| A                                                                                                         | <input checked="" type="checkbox"/> UMBRELLA LIAB                                    | <input type="checkbox"/> OCCUR                      | HSM-CUP-0C067499-TIL-15 | 6/1/2015                | 6/1/2016                | EACH OCCURRENCE \$ 5,000,000                                                             |
|                                                                                                           | <input type="checkbox"/> EXCESS LIAB                                                 | <input type="checkbox"/> CLAIMS-MADE                |                         |                         |                         | AGGREGATE \$ 5,000,000                                                                   |
|                                                                                                           | <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000 |                                                     |                         |                         |                         | \$                                                                                       |
| A                                                                                                         | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>                                 |                                                     | JB0C067499              | 06/01/2015              | 06/01/2016              | <input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER |
|                                                                                                           | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)          | Y/N <input type="checkbox"/>                        |                         |                         |                         | E.L. EACH ACCIDENT \$ 1,000,000                                                          |
|                                                                                                           | If yes, describe under DESCRIPTION OF OPERATIONS below                               | N/A                                                 |                         |                         |                         | E.L. DISEASE - EA EMPLOYEE \$ 1,000,000                                                  |
|                                                                                                           |                                                                                      |                                                     |                         |                         |                         |                                                                                          |
| A                                                                                                         | <b>Prof/E&amp;O/incl Technology</b>                                                  |                                                     | ZPL-14R69260-14-15      | 6/1/2015                | 6/1/2016                | \$1,000,000                                                                              |
| A                                                                                                         | <b>Crime</b>                                                                         |                                                     | 106281355               | 04/13/2015              | 04/13/2016              | \$1,000,000                                                                              |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)**  
City of Pasadena, its City Council, officers, officials, agents, employees, and volunteers are named as additional insured's with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished with such work or operations. A waiver of subrogation applies. Coverages are primary and non-contributory. 30 Days notice of cancellation applies (10 days for non-payment).

**CERTIFICATE HOLDER**

City of Pasadena  
Liability Division  
100 North Garfield  
PO Box 7115  
Pasadena, CA 91109

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Joel Walker/ADMIN *[Signature]*





**WORKERS COMPENSATION  
AND  
EMPLOYERS LIABILITY POLICY**

**ENDORSEMENT WC 00 03 13 (00)**

POLICY NUMBER: UB0CO67499

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

**SCHEDULE**

**DESIGNATED PERSON:**

**DESIGNATED ORGANIZATION:** City of Pasadena, its City Council, officers, officials, agents, employees, and volunteers.

DATE OF ISSUE: 6/9/2015

ST ASSIGN: California, Colorado

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **TECHNOLOGY XTEND ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>A. Reasonable Force Property Damage – Exception To Expected Or Intended Injury Exclusion</li> <li>B. Non-Owned Watercraft Less Than 75 Feet</li> <li>C. Aircraft Chartered With Pilot</li> <li>D. Damage To Premises Rented To You</li> <li>E. Increased Supplementary Payments</li> <li>F. Who Is An Insured – Employees And Volunteer Workers – First Aid</li> <li>G. Who Is An Insured – Employees – Supervisory Positions</li> <li>H. Who Is An Insured – Newly Acquired Or Formed Organizations</li> <li>I. Blanket Additional Insured – Owners, Managers Or Lessors Of Premises</li> </ul> | <ul style="list-style-type: none"> <li>J. Blanket Additional Insured – Lessors Of Leased Equipment</li> <li>K. Blanket Additional Insured – Persons Or Organizations For Your Ongoing Operations As Required By Written Contract Or Agreement</li> <li>L. Blanket Additional Insured – Broad Form Vendors</li> <li>M. Who Is An Insured – Unnamed Subsidiaries</li> <li>N. Who Is An Insured – Liability For Conduct Of Unnamed Partnerships Or Joint Ventures</li> <li>O. Contractual Liability – Railroads</li> <li>P. Knowledge And Notice Of Occurrence Or Offense</li> <li>Q. Unintentional Omission</li> <li>R. Blanket Waiver Of Subrogation</li> </ul> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### **PROVISIONS**

#### **A. REASONABLE FORCE PROPERTY DAMAGE – EXCEPTION TO EXPECTED OR INTENDED INJURY EXCLUSION**

The following replaces Exclusion a., **Expected Or Intended Injury**, in Paragraph 2., of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

##### **a. Expected Or Intended Injury Or Damage**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect any person or property.

#### **B. NON-OWNED WATERCRAFT LESS THAN 75 FEET**

The following replaces Paragraph (2) of Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2.

#### **of SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

(2) A watercraft you do not own that is:

- (a) Less than 75 feet long; and
- (b) Not being used to carry any person or property for a charge.

#### **C. AIRCRAFT CHARTERED WITH PILOT**

The following is added to Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

This exclusion does not apply to an aircraft that is:

- (a) Chartered with a pilot to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

## COMMERCIAL GENERAL LIABILITY

or volunteer doctor, in providing or failing to provide first aid or "Good Samaritan services" to a person.

2. The following is added to Paragraph 2.a.(1) of **SECTION II – WHO IS AN INSURED:**

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any of your "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following is added to Paragraph 5. of **SECTION III – LIMITS OF INSURANCE:**

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed by any of your "employees" or "volunteer workers" in providing or failing to provide first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following is added to the **DEFINITIONS** Section:

"Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

**G. WHO IS AN INSURED – EMPLOYEES – SUPERVISORY POSITIONS**

The following is added to Paragraph 2.a.(1) of **SECTION II – WHO IS AN INSURED:**

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" or "personal injury" to a co-"employee" in the course of the co-"employee's" employment by you arising out of work by any of your "employees" who hold a supervisory position.

**H. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS**

The following replaces Paragraph 4. of **SECTION II – WHO IS AN INSURED:**

4. Any organization you newly acquire or form, other than a partnership or joint venture, of which you are the sole owner

or in which you maintain the majority ownership interest, will qualify as a Named Insured if there is no other insurance which provides similar coverage to that organization. However:

- a. Coverage under this provision is afforded only:

(1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

(2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it, and we agree in writing that it will continue to be a Named Insured until the end of the policy period;

- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

- c. Coverage B does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

**I. BLANKET ADDITIONAL INSURED – OWNERS, MANAGERS OR LESSORS OF PREMISES**

The following is added to **SECTION II – WHO IS AN INSURED:**

Any person or organization that is a premises owner, manager or lessor is an insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of any premises leased to you.

The insurance provided to such premises owner, manager or lessor does not apply to:

- a. Any "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or "advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or

dient, part or container entering into, accompanying or containing such products; or

- b. Any vendor for which coverage as an additional insured specifically is scheduled by endorsement.

**M. WHO IS AN INSURED – UNNAMED SUBSIDIARIES**

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You maintain an ownership interest of more than 50% in such subsidiary on the first day of the policy period; and
- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal injury" or "advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

**N. WHO IS AN INSURED – LIABILITY FOR CONDUCT OF UNNAMED PARTNERSHIPS OR JOINT VENTURES**

The following replaces the last paragraph of **SECTION II – WHO IS AN INSURED**:

No person or organization is an insured with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations. This paragraph does not apply to any such partnership or joint venture that otherwise qualifies as an insured under Section II – Who Is An Insured.

**O. CONTRACTUAL LIABILITY – RAILROADS**

1. The following replaces Paragraph c. of the definition of "insured contract" in the **DEFINITIONS** Section:
  - c. Any easement or license agreement;
2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

**P. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE**

The following is added to Paragraph 2., **Duties In The Event of Occurrence, Offense, Claim or Suit**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

- e. The following provisions apply to Paragraph a. above, but only for the purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:

- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your trustees who is an individual (if you are a trust), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, limited liability company or trust) or any "employee" authorized by you to give notice of an "occurrence" or offense.
- (2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:
  - (a) Any individual who is:
    - (i) A partner or member of any partnership or joint venture;
    - (ii) A manager of any limited liability company;
    - (iii) A trustee of any trust; or
    - (iv) An executive officer or director of any other organization;

that is your partner, joint venture member, manager or trustee; or
  - (b) Any "employee" authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.

RESOLUTION NO. 66,917-N.S.

CONTRACT: PCS MOBILE FOR EQUIPMENT PROVIDER OF AUTOMATED DATA COLLECTION AND ENFORCEMENT SYSTEM

WHEREAS, Public Works determined that an equipment vendor would be needed to test an alternative method of parking data collection for the Automated Data Collection and Enforcement system to support the goBerkeley pilot program; and

WHEREAS, in July 2014, the City of Berkeley released a Request for Qualifications for Specification No. 14-10875-C for an equipment vendor for the Automated Data Collection and Enforcement System, and received two valid proposals by the posted deadline; and

WHEREAS, after a thorough review and scoring according to the RFQ's criteria, as well as an on-site test and evaluation, the submission from PCS Mobile received a high overall score; and

WHEREAS, funding for this contract is available in the FY 2015 budget in the Federal Highway Administration Value Pricing Pilot Program (VPPP) Grant Fund (Fund 674), goBerkeley/FHWA restricted revenue portion of the Parking Meter Fund (Fund 840), and the remaining contract balance will be recommended for appropriation through the AAO No. 2 in the goBerkeley/FHWA restricted revenue portion of the Parking Meter Fund (Fund 840); the contract has been entered in the contract management database with CMS No. XUHAL.

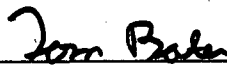
NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with PCS Mobile to provide equipment for the Automated Data Collection and Enforcement pilot portion of the goBerkeley program, for an amount not to exceed \$450,000 for the period March 1, 2015 through March 30, 2020. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.

The foregoing Resolution was adopted by the Berkeley City Council on January 27, 2015 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Droste, Maio, Moore, Wengraf, Worthington and Bates.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Tom Bates, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, City Clerk

**CONSULTANTS APPENDIX<sup>1</sup>**

**Designated Employees**

**Disclosure Categories**

**Consultants who make (not just recommend) governmental decisions, such as whether to approve a rate, rule, or regulation, whether to issue, deny, suspend, or revoke any permit, license, application, certificate or similar authorization, adopt or grant City approval to a plan, design, report, study, or adopt or grant City approval of policies, standards, or guidelines for the City or any subdivision thereof**

1

**Consultants who act in a staff capacity with the City, and in that capacity perform the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a designated position in the City's Conflict of Interest Code.**

Disclosure required at the same level as the comparable designated position identified elsewhere in this Code.

**Category 1**

Designated consultants assigned to this category shall disclose:

- (a) All business entities or non-profit corporations in which they are a director, officer, partner, trustee, employee or hold a position of management; interests in real property, investments; and income, including gifts, loans and travel payments.<sup>2</sup>
- (b) When the consultant is a corporation or partnership, only individuals from the firm that participate in City decisions or act in a staff capacity must file disclosure statements.

<sup>1</sup> Only consultants who make a governmental decision or act in a staff capacity as defined in 2 Cal. Code Regs. Section 18701, as amended from time to time, shall be subject to economic disclosure requirements.

<sup>2</sup> Consultants who make governmental decisions shall disclose pursuant to the broadest disclosure category in the Code subject to the following limitation:

The chief executive officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in the section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The chief executive officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

**EXHIBIT C**

G:\CLERK\CONFLICT CODE\Code Updates\2014 Code\Report\Exhibit C\Consult.doc  
09/14

[View assistance for Search Results](#)

# Search Results

**Current Search Terms: personal\* computer\* systems\***

|                                                                                                                                                                                                                      |                                        |                               |                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------|------------------------------|
| Your search for "Personal* Computer* Systems*" returned the following results...                                                                                                                                     |                                        |                               |                              |
| <small>Notice: This printed document represents only the first page of your SAM search results. More results may be available. To print your complete search results, you can download the PDF and print it.</small> |                                        |                               |                              |
| Entity                                                                                                                                                                                                               | <b>PERSONAL COMPUTER SYSTEMS, INC.</b> | Status: <b>Active</b>         | <a href="#">View Details</a> |
| DUNS: 965216914                                                                                                                                                                                                      | CAGE Code: 1GHM3                       |                               |                              |
| Has Active Exclusion?: No                                                                                                                                                                                            | DoDAAC:                                |                               |                              |
| Expiration Date: 12/09/2015                                                                                                                                                                                          | Delinquent Federal Debt? Yes           | <a href="#">What is this?</a> |                              |
| Purpose of Registration: All Awards                                                                                                                                                                                  |                                        |                               |                              |

### Glossary

#### Search Results

Entity

Exclusion

#### Search Filters

By Record Status

By Functional Area - Entity Management

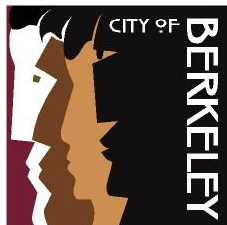
By Functional Area - Performance Information

SAM | System for Award Management 1.0

IBM v1.P.27.20150327-1711

**Note to all Users:** This is a Federal Government computer system. Use of this system constitutes consent to monitoring at all times.





Office of the City Manager

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** November 12, 2019

**Item Number:** 30

**Item Description:** Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers, GPS Trackers, and Body Worn Cameras

**Submitted by:** Dee Williams-Ridley, City Manager

Attached is the originally published staff report with updated attachments. The staff report that was published did not include the surveillance technology reports. The following has been incorporated into the attachments:

- Surveillance Technology Report for Body Worn Cameras incorporated into Attachment 2.
- Surveillance Technology Report for Global Positioning System Tracking Devices incorporated into Attachment 3.
- Surveillance Technology Report for Automated License Plate Readers incorporated into Attachment 4.





Office of the City Manager

ACTION CALENDAR  
November 12, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Andrew Greenwood, Chief of Police  
David White, Deputy City Manager

Subject: Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers, GPS Trackers, and Body Worn Cameras

RECOMMENDATION

Adopt a Resolution accepting the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers, GPS Trackers, and Body Worn Cameras submitted pursuant to Chapter 2.99 of the Berkeley Municipal Code.

FISCAL IMPACTS OF RECOMMENDATION

There are no 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 annual reporting requirements as outlined in sections 2.99.050 and 2.99.070. The attached Surveillance Technology Reports, Surveillance Acquisition Reports and Surveillance Use Policies for Automatic License Plate Readers, GPS Trackers, and Body Worn Cameras are for technologies that were acquired by the City prior to the adoption of the Ordinance.

Section 2.99.050 of the Ordinance required the City Manager to submit a Surveillance Acquisition Report and Surveillance Use Policy for each surveillance technology that has been possessed or used prior to the effective date of the Ordinance. The requirements of this section were not satisfied due to a multitude of factors, and the Police Department opted to submit the attached acquisition reports and use policies to the Police Review Commission prior to their review by the City Council. The Police Review Commission underwent an extensive engagement process and the full Commission discussed the attached use policies and reports at scheduled meetings from May to October 2019. In all cases, the Police Review Commission approved the attached acquisition reports and use policies and conveyed any concerns or suggested modifications to the Police Chief. In addition to the technologies covered by the attached resolution, City staff continues to evaluate whether or not there is any other technology that is used or possessed that is subject to the Ordinance.

Finally, Section 2.99.040 of the Ordinance allows the City Manager to borrow, acquire, or temporarily use surveillance technology in exigent circumstances without having to obtain the approval of City Council. Since the adoption of the ordinance, the City is reporting two instances in which the City Manager has made use of Section 2.99.040. In preparation for the potentially violent August 5, 2018 demonstration in downtown Berkeley, the City borrowed remote accessible cameras from the Northern California Regional Intelligence Center (NCRIC) in order to have the ability to remotely monitor intersections in real time. The cameras did not have face recognition technology. Signage was posted in the areas of the cameras, informing people that the area may be under video surveillance. Using cameras to monitor intersections is at times preferable to physically placing officers in those locations. In addition, as a mutual aid resource, the Police Department requested the Alameda County Sheriff's Office Small Unmanned Aerial System (sUAS) team as a mutual aid resource. The purpose of the request was to support the identification and apprehension of any felony suspects, should a felony occur. Following the felony vandalism of over ten City of Berkeley vehicles, the sUAS team deployed a drone, but no suspects were apprehended.

## 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. The Ordinance contains various reporting requirements including the following:

- Section 2.99.050, which requires that the City Manager shall submit a Surveillance Acquisition Report and a proposed Surveillance Use Policy for each technology governed by the Ordinance that had been possessed or used by the City prior to the effective date of the Ordinance; and

- Section 2.99.070 of the Ordinance, which 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.

For each of the three technologies, the Surveillance Technology Report, Surveillance Acquisition Report and Surveillance Use Policies were prepared to satisfy the specific, section-by-section requirements of the Ordinance, and are attached to this report. It should be noted that substantial policies already existed for Body Worn Cameras and License Plate Readers. Those policies—also reviewed by the Police Review Commission for purposes of this report—are also attached. The existing policies will continue to remain in effect upon Council’s approval. Henceforth, all new Surveillance Use Policies and Surveillance Acquisition Reports will be listed in Chapter 13 of the Berkeley Police Department Policy Manual, which is being created to provide easy access to all policies relating to BMC 2.99. All BPD policies are available to the public on BPD’s website.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

City Council is being asked 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 or could direct staff to revise the attached policies.

CONTACT PERSON

Andrew Greenwood, Chief of Police, (510) 981-7017  
David White, Deputy City Manager, (510) 981-7012

## ATTACHMENTS

### 1. Proposed Resolution

### 2. Body Worn Cameras

Surveillance Technology Report: Body Worn Cameras

Policy 1300 Body Worn Camera Use Policy

Policy 1300(a) Appendix: Body Worn Camera Acquisition Report

Policy 425 Body Worn Camera Policy (Existing Policy)

### 3. Global Positioning System Tracking Devices

Surveillance Technology Report

Policy 1301 Global Positioning System Tracking Devices Use Policy

Policy 1301(a) Appendix: Global Positioning System Tracking Devices Acquisition Report

### 4. Automated License Plate Readers

Surveillance Technology Report: Automated License Plate Readers

Policy 1302 Automated License Plate Reader Use Policy

Policy 1302(a) Appendix: Automated License Plate Reader Acquisition Report

Policy 422 Automated License Plate Reader (Latest version of existing Policy)

### 5. Police Review Commission Memorandum Regarding Automatic License Plate Readers

i:\surveillance ordinance\city council meeting -- 11-12-19\11-12-2019\_surveillance ordinance staff report and resolution (04).docx

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

A RESOLUTION ACCEPTING THE SURVEILLANCE TECHNOLOGY REPORT, SURVEILLANCE ACQUISITION REPORT, AND SURVEILLANCE USE POLICY FOR AUTOMATIC LICENSE PLATE READERS, GPS TRACKERS, AND BODY WORN 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 2.99.050 of the Ordinance requires that the City Manager shall submit a Surveillance Acquisition Report and a proposed Surveillance Use Policy for each piece of technology governed by the Ordinance that had been possessed or used by the City prior to the effective date of the 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 Acquisition Reports and Surveillance Use Policies for Automatic License Plate Readers, GPS Trackers, and Body Worn Cameras satisfy the requirements of the Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley:

Section 1. Pursuant to Section 2.99.060, as it pertains to the use of Automatic License Plate Readers, GPS Trackers, and Body Worn Cameras, the City Council hereby finds and determines the following:

- a. The benefits of using the technologies outweigh the costs;
- b. The policies attached to this resolution safeguard civil liberties; and
- c. No feasible alternatives exist with similar utility that will have a lesser impact on civil rights or liberties.

Section 2. The City Council hereby accepts the Surveillance Technology Reports, Surveillance Acquisition Reports, and Surveillance Use Policies for Automatic License Plate Readers, GPS Trackers, and Body Worn Cameras.

**ATTACHMENT 2:  
BODY WORN CAMERAS**

**Surveillance Technology Report: Body Worn Cameras**

**March 1, 2018 – Sept. 30, 2019**

| <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>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.</p> <p>Body Worn Camera 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 style="text-align: center;">Summary of Body Worn Camera Videos Uploaded<br/>March 1, 2018 to Sept. 30, 2019</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Total Number of Videos</td> <td style="text-align: right;">42,677</td> </tr> <tr> <td>Total Hours of Videos</td> <td style="text-align: right;">10,681.93</td> </tr> <tr> <td>Total GB of Videos</td> <td style="text-align: right;">20,669.11</td> </tr> </table> <p style="text-align: center;">Summary of All Evidence Created<br/>March 1, 2018 to Sept. 30, 2019</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th><u>Type</u></th> <th>Count of files</th> <th>Size (in Mb)</th> <th>GBs Storage</th> </tr> </thead> <tbody> <tr> <td>Audio</td> <td style="text-align: right;">2,315</td> <td style="text-align: right;">23,855.82</td> <td style="text-align: right;">23.86</td> </tr> <tr> <td>Document</td> <td style="text-align: right;">125</td> <td style="text-align: right;">17.56</td> <td style="text-align: right;">0.02</td> </tr> <tr> <td>Image</td> <td style="text-align: right;">64,931</td> <td style="text-align: right;">270,329.62</td> <td style="text-align: right;">270.33</td> </tr> <tr> <td>Other</td> <td style="text-align: right;">896</td> <td style="text-align: right;">118,080.19</td> <td style="text-align: right;">118.08</td> </tr> <tr> <td>Videos*</td> <td style="text-align: right;">70,670</td> <td style="text-align: right;">32,489,190.50</td> <td style="text-align: right;">32,489.19</td> </tr> <tr> <td><b>Grand Totals</b></td> <td style="text-align: right;"><b>138,937</b></td> <td style="text-align: right;"><b>32,901,473.69</b></td> <td style="text-align: right;"><b>32,901.47</b></td> </tr> </tbody> </table> <p>* Includes all uploaded BWC videos <i>and</i> all other videos booked into the evidence management system. Other videos include iPhone videos uploaded, security camera video, copies of BWC videos (for redaction, etc.), and any other videos.</p> | Total Number of Videos | 42,677           | Total Hours of Videos | 10,681.93 | Total GB of Videos | 20,669.11 | <u>Type</u> | Count of files | Size (in Mb) | GBs Storage | Audio | 2,315 | 23,855.82 | 23.86 | Document | 125 | 17.56 | 0.02 | Image | 64,931 | 270,329.62 | 270.33 | Other | 896 | 118,080.19 | 118.08 | Videos* | 70,670 | 32,489,190.50 | 32,489.19 | <b>Grand Totals</b> | <b>138,937</b> | <b>32,901,473.69</b> | <b>32,901.47</b> |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------------|-----------------------|-----------|--------------------|-----------|-------------|----------------|--------------|-------------|-------|-------|-----------|-------|----------|-----|-------|------|-------|--------|------------|--------|-------|-----|------------|--------|---------|--------|---------------|-----------|---------------------|----------------|----------------------|------------------|
| Total Number of Videos              | 42,677                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                        |                  |                       |           |                    |           |             |                |              |             |       |       |           |       |          |     |       |      |       |        |            |        |       |     |            |        |         |        |               |           |                     |                |                      |                  |
| Total Hours of Videos               | 10,681.93                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                        |                  |                       |           |                    |           |             |                |              |             |       |       |           |       |          |     |       |      |       |        |            |        |       |     |            |        |         |        |               |           |                     |                |                      |                  |
| Total GB of Videos                  | 20,669.11                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                        |                  |                       |           |                    |           |             |                |              |             |       |       |           |       |          |     |       |      |       |        |            |        |       |     |            |        |         |        |               |           |                     |                |                      |                  |
| <u>Type</u>                         | Count of files                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Size (in Mb)           | GBs Storage      |                       |           |                    |           |             |                |              |             |       |       |           |       |          |     |       |      |       |        |            |        |       |     |            |        |         |        |               |           |                     |                |                      |                  |
| Audio                               | 2,315                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 23,855.82              | 23.86            |                       |           |                    |           |             |                |              |             |       |       |           |       |          |     |       |      |       |        |            |        |       |     |            |        |         |        |               |           |                     |                |                      |                  |
| Document                            | 125                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 17.56                  | 0.02             |                       |           |                    |           |             |                |              |             |       |       |           |       |          |     |       |      |       |        |            |        |       |     |            |        |         |        |               |           |                     |                |                      |                  |
| Image                               | 64,931                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 270,329.62             | 270.33           |                       |           |                    |           |             |                |              |             |       |       |           |       |          |     |       |      |       |        |            |        |       |     |            |        |         |        |               |           |                     |                |                      |                  |
| Other                               | 896                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 118,080.19             | 118.08           |                       |           |                    |           |             |                |              |             |       |       |           |       |          |     |       |      |       |        |            |        |       |     |            |        |         |        |               |           |                     |                |                      |                  |
| Videos*                             | 70,670                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 32,489,190.50          | 32,489.19        |                       |           |                    |           |             |                |              |             |       |       |           |       |          |     |       |      |       |        |            |        |       |     |            |        |         |        |               |           |                     |                |                      |                  |
| <b>Grand Totals</b>                 | <b>138,937</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>32,901,473.69</b>   | <b>32,901.47</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; BWCs 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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |                  |                       |           |                    |           |             |                |              |             |       |       |           |       |          |     |       |      |       |        |            |        |       |     |            |        |         |        |               |           |                     |                |                      |                  |

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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>File meta-data are routinely reviewed by our BWC manager, to ensure required meta-data fields are completed. There have been no complaints with regards to violations of the 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 BWC data.</p>                                                                                                                                                                                                                                      |
| Effectiveness         | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>Body Worn Cameras have proven effective in supporting criminal prosecutions, as video footage is available for all criminal prosecutions.</p> <p>Body Worn Cameras have been effective for training purposes, as footage can be reviewed in incident de-briefs.</p> <p>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 approx. \$204,000 per year over a five-year, \$1,218,000 contract. The systems cost for the 19 month period of this initial report was \$385,700.</p> <p>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 Use Policy - Body Worn Cameras

### 1300.1 PURPOSE

This Surveillance Use Policy is issued in compliance with BMC 2.99, and incorporates by reference language from the Berkeley Police Department Body Worn Camera Policy #425 and adds elements as required by BMC 2.99.

The Berkeley Police Department recognizes that video recording of contacts between department personnel and the public provides an objective record of these events, and that the use of a recording system complements field personnel in the performance of their duties by providing a video record of enforcement and investigative field contacts, which can enhance criminal prosecutions, limit civil liability, increase transparency, and enhance professionalism in the delivery of police services to the community. A video recording of an event or contact also enables the delivery of timely, relevant, and appropriate training to maximize safety for both community members and BPD personnel. (Ref. policy 425.2)

### 1300.2 AUTHORIZED USE

This policy is not intended to describe every possible situation in which the BWC should be used. 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.

The BWC shall be activated in any of the following situations:

- (a) All in-person enforcement and investigative contacts including pedestrian stops and field interview (FI) situations.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- (c) Self-initiated field contacts in which a member would normally notify the Communications Center.
- (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.
- (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.
- (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.

---

At no time is a member expected to jeopardize his or her safety in order to activate a BWC. The BWC should be activated by members in anticipation of situations described above, and in any unanticipated, rapidly unfolding situation where activation becomes required, as soon as the member can do so safely.

Members should activate their BWC when conducting custodial interviews unless there are other recording devices being used. Members shall document and explain in their report the reason for not recording custodial interviews, should a BWC be de-activated while conducting a custodial interview or interrogation. (Ref. policy 425.7)

#### 1300.2.1 PROHIBITED USE

Members are prohibited from using a department-issued BWC for personal use and are prohibited from making personal copies of recordings created while on duty or while acting in their official capacity.

Members are prohibited from retaining BWC recordings. Members shall not duplicate or distribute such recordings, except for department business purposes. All such recordings shall be retained at the Department.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule. (Ref. policy 425.13)

#### 1300.3 DATA COLLECTION

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 recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded and is prohibited. (Ref. policy 425.3)

#### 1300.4 DATA ACCESS

Members are authorized to review their own BWC video files at any time in furtherance of official business. Such official business includes, but is not limited to, preparing written reports, prior to or while providing testimony in a case or being deposed. Members may review recordings as an evidentiary resource, except as stated in subsection 1300.4.1 below. Members shall not retain personal copies of recordings. Members shall not use the fact that a recording was made as a reason to write a less detailed report. (Ref. policy 425.17)

##### 1300.4.1 OFFICER INVOLVED INCIDENTS RESULTING IN GRAVE BODILY INJURY OR DEATH

- (a) In the event of a critical incident that results in grave bodily injury or death, including an officer-involved shooting or an in-custody death, the BWC of the involved member(s) shall be taken from him or her and secured by a supervisor, commander, or appropriate investigator, as necessary. The involved member(s) shall not access or obtain their footage of the incident until such time as the criminal investigator(s) have reviewed the video files.

- It will be the responsibility of the investigation team's supervisor to coordinate with the involved member's supervisor to obtain footage of the incident on behalf of the member.
- (b) Personnel uploading secured BWC video files shall not view the files unless authorized.
  - (c) No member involved in a critical incident may view any video recordings prior to an interview by the appropriate criminal investigative unit, and receiving command approval.
  - (d) Prior to the conclusion of the criminal interview process, the involved member and/ or the member's representative will have an opportunity to review the member's recording(s). The involved member may choose to provide additional information to supplement his or her statement by providing a supplemental statement or separate supplemental document. In no case shall a member alter a report made prior to reviewing the recording.
  - (e) The Department acknowledges that recordings taken during critical incidents obtained from BWCs do not necessarily reflect the full extent of the nature of the event or the experience, analysis, training, threat assessment or state of mind of the individual officer(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved officer. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved officer and that officers may see and hear events that are not captured by the camera.

Officers who are involved in any critical incident where video recordings exist depicting the involved officer, either as a subject officer or witness, shall be provided the following admonishment to the initial interview or submission of the initial written report:

"In this case, there is video evidence that you will have an opportunity to view. Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your statement explains your state of mind at the time of the incident." (Ref. policy 425.17.1)

#### 1300.4.2 SUPERVISORY REVIEW

With the exception of section 1300.4.1 above, supervisors are authorized to review relevant recordings any time they are reviewing and approving case reports from their subordinates. (Ref. policy 425.17.2)

#### 1300.4.3 INVESTIGATORY REVIEW

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct, or whenever such recordings support review of the member's performance. (Ref. policy 425.17.3)

- (a) Recorded files may also be reviewed:
  1. Upon approval by a supervisor, by any member of the Department who is participating

- 
- in conduct of an official investigation, such as a personnel complaint, an administrative investigation or a criminal investigation.
2. Pursuant to lawful process or by court or District Attorney personnel who are otherwise authorized to review evidence in a related case.
  3. By personnel assigned to investigatory units who are authorized to view any BWC video file associated to their active investigations, unless otherwise prohibited by policy.
  4. Upon approval by the Chief of Police, Internal Affairs investigators may review BWC video with a complainant.
- (b) Investigators conducting criminal or internal investigations shall:
1. Advise the coordinator to restrict access to the BWC file in criminal or internal investigations, as necessary.
  2. Review the file to determine whether the BWC file is of evidentiary value and process it in accordance with established protocols.
  3. Notify the coordinator to remove the access restriction when the criminal/internal investigation is closed.

#### 1300.4.4 TEACHING OR LEARNING TOOL

BWC files may also be reviewed by training staff regarding specific incidents where such files may serve as an internal learning or teaching tool. In the event that videos are intended to be used for training purposes, the involved officer(s) will first be consulted. If he/she objects to the use of the video, such objection shall be submitted to the person in charge of training who shall weigh the value of the video for training against the officer(s) objections and basis for the objection. Should the person in charge of training refuse to grant the request of the involved officer(s), the matter shall be heard by the Chief of Police, or his/her designee, prior to utilizing the video. (Ref. policy 425.17.4)

#### 1300.4.5 COB CIVIL CLAIMS AND LAWSUITS

BWC recordings may be reviewed and used by City of Berkeley defense counsel for the purposes of defending the city in civil claims and lawsuits, with the authorization of the Chief of Police, or his/her designee. (Ref. policy 425.17.5)

### 1300.5 DATA PROTECTION

To assist with identifying and preserving data and recordings, members shall tag and download recordings in accordance with procedure, and document the existence of the recording in the related case report. Transfers must occur at the end of the member's shift, and any time the member is aware that the storage capacity of the BWC is nearing its limit. In circumstances when the officer cannot complete this task, the officer's supervisor shall immediately take custody of the BWC and be responsible for uploading the data. Officers shall tag each file with the appropriate case/incident number, provide a descriptive title, and select an appropriate category for each recording, using the Axon View app or via the Evidence.com site.

Members are prohibited from intentionally erasing, altering, reusing, modifying or tampering with original audio video recordings. (Ref. policy 425.14)

---

**1300.6 CIVIL LIBERTIES AND RIGHTS PROTECTION:**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third Party Data Sharing) protect against the unauthorized use of BWC data. These policies will ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

**1300.7 DATA RETENTION**

The Department shall retain all recordings for a minimum of 60 days. Incidents involving consensual contacts, and aid to citizens will be retained for six months, and cold reports will be retained for one year. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Recordings created by equipment testing or accidental activation may be deleted after 60 days. (Ref. policy 425.15)

**1300.8 PUBLIC ACCESS**

Access to recorded files will be granted for the purposes of review in response to a public records request, as permitted under Government Code § 6254(f) and BPD General Order R-23 (Release of Public Records and Information). General Order R-23 does not authorize release of investigative files or documents that would constitute an unwarranted invasion of privacy. Circumstances where this might arise in video include footage taken inside a home, a medical facility, the scene of a medical emergency, or where an individual recorded has a "reasonable expectation of privacy."

Access to recorded files will be granted for the purposes of review to media personnel or the general public with permission of the Chief of Police, or his/her designee, subject to General Order R-23 and privacy protections indicated in this policy. (Ref. policy 425.18)

**1300.9 THIRD-PARTY DATA-SHARING****1300.9.1 CITY ATTORNEY**

All recordings should be reviewed by the Custodian of Records and the City Attorney's Office prior to public release, see General Order R-23 (Release of Public Records and Information).

---

In the event that the Police Department or City Department intends to release or publish for any purpose video recordings where officers are captured on video or the video depicts actions taken by them in the course of the performance of their official duties, those officers shall be given written notice of the intention to release or publish said video at least 48 hours prior to such release.

BPD may, without prior notice to involved officers, share video footage with law enforcement, national security, military, or other government agencies outside of Berkeley, when there is reasonable suspicion that criminal activity has occurred or is about to occur. (Ref. policy 425.18)

#### **1300.9.2 POLICE REVIEW COMMISSION (PRC)**

Access to recorded files will be granted for the purposes of review to the Police Review Commission Officer and/or Investigator investigating a specific complaint where BWC evidence files are available, and are not part of any ongoing criminal investigation. (Ref. policy 425.18.1)

- (a) The PRC Officer and PRC Investigator will be provided user account access to evidence files through the evidence management system for their use during a complaint investigation and to facilitate viewing by Board of Inquiry members during a Board of Inquiry.
- (b) The PRC Officer and PRC investigator shall not make or create a copy of any evidence file, nor make or allow to be made any audio or video recording of any evidence file while it is being streamed and viewed from the evidence management system.
- (c) The PRC Officer and PRC Investigator shall not allow any unauthorized individuals to view or access evidence files.
- (d) The evidence management system associates an audit trail record with each evidence file, thereby logging the date, time, user, activity, and client IP address occurring during each evidence file access.
- (e) The evidence management system shall only be accessed on City premises.
- (f) The Department retains custody and control of the recordings, and content of the video will be subject to applicable legal standards including, but not limited to the confidentiality requirements of the Public Safety Officers' Procedural Bill of Rights, (Government Code § 3300, et seq., Penal Code § 832.7, and the California Public Records Act; Government Code § 6250, et seq.)

#### **1300.10 TRAINING**

Training for the operation of BWC's shall be provided by BPD personnel. All BPD personnel who use BWC's shall be provided a copy of this Surveillance Use Policy.

#### **1300.11 AUDITING AND OVERSIGHT**

Division Captains for divisions utilizing BWC's shall ensure compliance with this Surveillance Use Policy.

#### **1300.12 MAINTENANCE**

The BWC system will be maintained by the Applications Programmer Analyst and assigned

---

Department of Information and Technology (IT) staff.

The Chief of Police, or his/her designee shall appoint a member of the Department to coordinate the use and maintenance of BWCs and the storage of recordings, including (Penal Code § 832.18) (Ref policy 425.4):

- (a) Establishing a system for uploading, storing and security of recordings.
- (b) Designating persons responsible for uploading recorded data.
- (c) Establishing a maintenance system to ensure availability of BWCs.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with the City Attorney's office to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining an audit trail record for all access to evidence files, wherein access information for each evidence file is logged through use of a secure log-in system. The Department's storage system associates an audit trail record with each evidence file, thereby logging the date, time, user name, activity and client IP address occurring during each evidence file access.
- (h) All recordings made by members acting in their official capacity shall remain the property of the Department. Subject to the provisions of this Policy, members shall have no expectation of privacy or ownership interest in the content of these recordings.

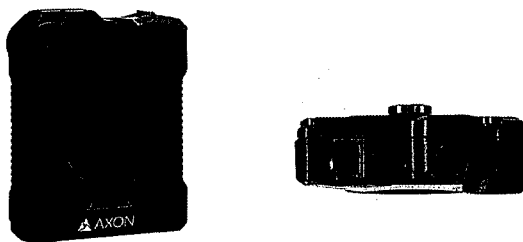
**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

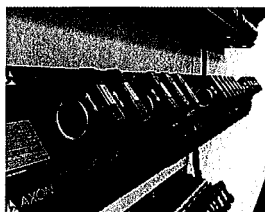
**BODY WORN CAMERAS (BWCs)****A. DESCRIPTION**

The BWC system consists of four main components: The camera, the docking station, and the Digital Information Management System (DIMS) and smartphone applications.

The first component, the Axon camera, is a system which incorporates an audio and video recording device. It is designed to record events in real time for secure storage, retrieval, and analysis. The camera is to be attached to an officer's uniform and is powered by an internal rechargeable battery. The camera features low-light performance, full-shift battery life, a capture rate of 30 frames per second with no dropped frames, HD video, pre-event buffering, multi-camera playback, and the ability to automatically categorize video using the police department's computer aided dispatch system. An officer can start and stop recording by pressing a button on the front of the camera. The camera does not contain a screen for footage review.



The second component of the system is the docking station. Once the Axon camera is placed in the docking station it recharges the camera's battery. The dock also triggers the uploading of data from the camera to a cloud based Digital Information Management System (DIMS) called Evidence.com. The dock does not directly provide functionality to view, modify or delete video data stored on Axon cameras.



The third component is the Digital Information Management System called Evidence.com. Evidence.com streamlines data management and sharing on one secure platform. The evidence management system is comprehensive, secure, and intuitive to use. The DIMS is located in a cloud-based data center for security, scalability, and ease of administration. Users can add



**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

metadata to existing videos such as associated case numbers, incident type, incident dispositions, etc. to make the videos easier to find. However, the videos themselves cannot be altered by the user.

The fourth component of the system to be utilized are two Axon mobile applications, which allow officers to collect and review evidence in the field and more effectively use their BWCs. The applications use secure Bluetooth and Wi-Fi technology to access the BWC systems and footage. These applications are compliant with US Department of Justice evidentiary standards, meaning that they are both secure and are set up in a way that prohibits the altering or destruction of evidence. The applications are called Axon View and Axon Capture. Axon View allows users to change their camera settings, view live video, and review and tag recorded videos while they are stored on the BWC. Recorded videos remain in the BWC's memory, and cannot be manipulated or deleted. Axon Capture allows officers to use their city-issued smartphone's camera and microphone to take photographs, and record audio and video, and to upload this data directly to Evidence.com. These applications do not allow users to alter, manipulate, or edit any of the footage recorded by the BWC. These applications use secure technology to add value and efficiency to the BWC program.

**B. PURPOSE**

The primary objective of the BWC system is to document officer contacts, arrests, and critical incidents. Video footage collected by the BWCs will be used as evidence in both criminal and administrative investigations. Video footage not relevant to any investigation will be discarded after a defined retention period.

In instances where the officer might be expected to take law enforcement action of any kind, the officer is expected to record the encounter for the benefit of both the officer and the member of the public.

1. The BWC shall be activated in any of the following situations:
  - i. All in-person enforcement and investigative contacts including pedestrian stops and field interview (FI) situations.
  - ii. Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
  - iii. Self-initiated field contacts in which a member would normally notify the Communications Center.
  - iv. 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.

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

- v. 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.
- vi. 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.

At no time is an officer expected to jeopardize his or her safety in order to activate a BWC. The BWC should be activated in anticipation of situations described above, and in any unanticipated, rapidly unfolding situation where activation becomes required, as soon as the user can do so safely.

Officers should activate their BWC when conducting custodial interviews unless there are other recording devices being used. Officers shall document and explain in their report the reason for not recording custodial interviews, should a BWC be de-activated while conducting a custodial interview or interrogation.

2. Prohibited uses of the BWC system include:

- i. Officers shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police, or his/her designee.
- ii. Officers are prohibited from using a department-issued BWC for personal use and are prohibited from making personal copies of recordings created while on duty or while acting in their official capacity.
- iii. Officers are prohibited from retaining BWC recordings.
- iv. Officers shall not duplicate or distribute such recordings, except for department business purposes.

**C. LOCATION**

Officers may use BWCs anywhere where officers have jurisdiction to operate as sworn officers, in accordance with BPD policy #425.

**D. IMPACT**

With the introduction of BWCs, officers record all enforcement contacts with the public. To that end, an officer could find themselves engaged in their lawful duties in both public and private areas. Additionally, due to the nature of law enforcement work, an officer may be required to engage in sensitive conversations with individuals of all ages, including children.

The right to maintain someone's anonymity versus the need to gain information to maintain public safety is of paramount concern. The Department recognizes that all people have a right to privacy and is committed to protecting and safeguarding civil rights by adhering to the

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

strictest requirements of both state and federal law concerning release of audio/video recordings.

**E. MITIGATION**

In order to minimize violations of privacy, BWC policy provides that:

1. Officers should record any incident they feel would be appropriate or valuable to document. The BWC policy shall require officers to activate the BWC under the criteria listed above.
2. Officers should not activate the BWC and/or use caution when entering a public locker room, changing room, restroom, doctor's or attorney's office, or other place where individuals unrelated to the investigation are present and would have a heightened expectation of privacy unless the officer is investigating criminal activity or responding to a call for service.
3. 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.
4. BWC footage will be retained or released in accordance with applicable state and federal law. Criminal defendants will have access to relevant BWC footage via the court discovery process.
5. Officers are prohibited from retaining BWC recordings, Officers shall not duplicate or distribute such recordings, except for department business purposes. All such recordings shall be retained at the Department.
6. Officers are prohibited from intentionally erasing, altering, reusing, modifying or tampering with original audio video recordings. Officers may request restriction and subsequent deletion of an accidental recording according to the BWC policy.
7. Access to recorded files will be granted for the purposes of review in response to a public records request, as permitted by law and department policy. Department policy does not authorize release of investigative files or documents that would constitute an unwarranted invasions of privacy. Circumstances where this might arise in video include footage taken inside a home, a medical facility, the scene of a medical emergency, or where an individual recorded has a "reasonable expectation of privacy"

**F. DATA TYPES AND SOURCES**

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 litigations, and other proceedings protected by confidentiality laws and department policy.

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

The BWC collects video and audio recordings of events occurring in the user's presence. As each video is created, the system automatically stamps the video with the current date/time and the camera user's identity. The user has the option to add metadata manually to existing recordings after they are created. Such metadata may include but is not limited to:

1. Category of contact (from Department's defined list)
2. Disposition of contact (arrest, citation, etc.)
3. Associated case number

**G. DATA SECURITY**

To assist with identifying and preserving data and recordings, members shall tag and download recordings in accordance with procedure, and document the existence of the recording in the related case report. Transfers must occur at the end of the member's shift, and any time the member is aware that the storage capacity of the BWC is nearing its limit. In circumstances when the officer cannot complete this task, the officer's supervisor shall immediately take custody of the BWC and be responsible for transferring the data into the digital evidence management system. Officers shall tag each file with the appropriate case/incident number, provide a descriptive title, and select an appropriate category for each recording, using the Axon View app or via the Evidence.com site.

Members are prohibited from intentionally erasing, altering, reusing, modifying or tampering with original audio video recordings.

Improper use or release of BWC recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded and is prohibited. The Chief of Police, or his/her designee shall appoint a member of the Department to coordinate the use and maintenance of BWCs and the storage of recordings, including (Penal Code Section 832.18) (Ref. policy 425.14):

1. Establishing a system for uploading, storing and security of recordings.
2. Designating persons responsible for uploading recorded data.
3. Establishing a maintenance system to ensure availability of BWCs.
4. Establishing a system for tagging and categorizing data according to the type of incident captured.
5. Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
6. Working with the City Attorney's office to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
7. Maintaining an audit trail record for all access to evidence files, wherein access information for each evidence file is logged through use of a secure log-in system. The Department's storage system associates an audit trail record with each evidence file,

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

thereby logging the date, time, user name, activity and client IP address occurring during each evidence file access.

**H. FISCAL COST**

In 2017, the Berkeley City Council approved a resolution authorizing a contract between BPD and Axon. Axon was chosen after a competitive Request for Proposal (RFP) process. The contract will not exceed \$1,218,103 and includes the cost of 200 body worn cameras, charging stations, accessories, software licenses, training and unlimited storage for five years. The purchase also includes replacement cameras and charging stations during the third and fifth year of the contract.

There will be an annual cost of approximately \$250,000 to the police department's budget for a staff person to administer the body worn camera program beginning in FY 2019.

**I. THIRD PARTY DEPENDENCE AND ACCESS**

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.

**J. ALTERNATIVES**

Officers rely primarily on traditional policing techniques to gather evidence related to criminal investigations such as speaking to witnesses and suspects, gathering information from observations, and using standard data aggregation systems. These methods will continue to be employed as primary investigative tools that will be supplemented by use of BWCs to document police activity.

BWC technology provides video and audio documentation of policing activity in addition to the oral and written statements of officers, victims, and witnesses. Alternatives to the use of BWCs would be vehicle-based cameras and/or not utilizing BWCs. However, BPD sees the use of BWCs as an integral strategy to strengthen police transparency, prevent and resolve complaints against the police by civilians, document police-public interaction, and promote the perceived legitimacy and sense of procedural justice that communities have about their departments. There is a broad consensus – among community leaders, the ACLU, the Department of Justice, the Berkeley Police Department, and elected officials – that body-worn cameras can be an important tool for improving the high-quality public service expected of police officers.

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

**K. EXPERIENCE OF OTHER ENTITIES**

Numerous police agencies have adopted BWCs as a tool to help combat crime, to reduce citizen complaints and to reduce use of force situations. Many departments have developed their own usage policies which may include standards for required officer use, supervisory review, storage and data retention standards, and internal and public access.

A report for the U.S. Bureau of Justice Administration, [https://www.bja.gov/bwc/pdfs/14-005\\_Report\\_BODY\\_WORN\\_CAMERAS.pdf](https://www.bja.gov/bwc/pdfs/14-005_Report_BODY_WORN_CAMERAS.pdf) - pages 6-8, cites a 2013 Rialto, CA study that showed that the use of BWCs led to a 59 percent decrease in UOF and an 87.5 percent decrease in citizen complaints. Likewise, the Mesa, AZ report noted in "Impact" Section above also points to large decreases in UOF and citizen complaints.

The 2017 Police Body Worn Cameras: A Policy Scorecard, <https://www.bwcscorecard.org/>, provides an analysis of how scores of different police agencies have employed BWCs through a defined list of metrics.

## Body Worn Cameras

### 425.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable Body Worn Cameras (BWCs) by members of this department while in the performance of their duties.

This policy does not apply to non-BWC evidence, including other methods of audio or video recordings, interviews or interrogations conducted at any Berkeley Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### 425.2 POLICY

The Berkeley Police Department recognizes that video recording of contacts between department personnel and the public provides an objective record of these events, and that the use of a recording system complements field personnel in the performance of their duties by providing a video record of enforcement and investigative field contacts, which can enhance criminal prosecutions, limit civil liability, increase transparency, and enhance professionalism in the delivery of police services to the community. A video recording of an event or contact also enables the delivery of timely, relevant, and appropriate training to maximize safety for both community members and BPD personnel.

While recordings obtained from BWCs provide an objective record of events, it is understood that video recordings do not necessarily capture all events, activities and information, or reflect the full experience of the individual member(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events as perceived and recalled by the involved member. Specifically, it is understood that the BWC will capture information that may not have been seen and/or heard by the involved member and that the involved member may see and hear information that may not have been captured by the BWC.

### 425.3 CONFIDENTIALITY AND PROPER USE OF RECORDINGS

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 recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded and is prohibited.

### 425.4 COORDINATOR

The Chief of Police, or his/her designee shall appoint a member of the Department to coordinate the use and maintenance of BWCs and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for uploading, storing and security of recordings.
- (b) Designating persons responsible for uploading recorded data.

## Berkeley Police Department

Law Enforcement Services Manual

### *Body Worn Cameras*

---

- (c) Establishing a maintenance system to ensure availability of BWCs.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with the City Attorney's office to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining an audit trail record for all access to evidence files, wherein access information for each evidence file is logged through use of a secure log-in system. The Department's storage system associates an audit trail record with each evidence file, thereby logging the date, time, user name, activity and client IP address occurring during each evidence file access.

All recordings made by members acting in their official capacity shall remain the property of the Department. Subject to the provisions of this Policy, members shall have no expectation of privacy or ownership interest in the content of these recordings.

#### **425.5 MEMBER RESPONSIBILITIES**

Prior to going into service, each uniformed member who is assigned to wear a BWC will be responsible for making sure that he or she is equipped with a BWC issued by the Department, and that the BWC is in good working order. If the BWC is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor to permit the supervisor or other department employee to provide the member with a functioning BWC as soon as practicable. Uniformed members should wear the recorder in a conspicuous manner as prescribed by the Department, to provide a generally unobstructed camera view of contacts between members of the public and department members.

Members lawfully engaged in their duties as a police officer are not required to obtain consent from, or give notice to, members of the public, prior to recording with their BWC.

Upon the approval of the Chief of Police, or his/her designee, non-uniformed members lawfully engaged in their duties as a police officer may use an approved BWC.

Members are required to document the existence of a recording in any report or other official record of the contact, such as a CAD entry, including any instance where the member is aware that the BWC malfunctioned or the member deactivated the recording. In the event activity outlined in section 425.7 is not captured in whole or in part the member shall document this and explain in their report their understanding, if any, of why the footage was not captured in the recording.

#### **425.6 SUPERVISOR RESPONSIBILITIES**

At such time as the scene is considered secure and safe, the on-scene supervisor shall take immediate physical custody of involved officer's/officers' BWC when the device may have captured an incident involving an officer-involved shooting or use of force resulting in death or great bodily injury, and shall ensure the data is uploaded in a timely manner as prescribed by BPD policy



# Berkeley Police Department

## Law Enforcement Services Manual

### *Body Worn Cameras*

---

(Penal Code § 832.18). Supervisors may review relevant BWC video and audio files in the field in furtherance of their duties and responsibilities.

Supervisors shall also review relevant BWC recordings prior to submitting any administrative reports.

#### **425.7 ACTIVATION OF THE BODY WORN CAMERA**

This policy is not intended to describe every possible situation in which the BWC should be used. 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.

The BWC shall be activated in any of the following situations:

- (a) All in-person enforcement and investigative contacts including pedestrian stops and field interview (FI) situations.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- (c) Self-initiated field contacts in which a member would normally notify the Communications Center.
- (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.
- (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.
- (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.

At no time is a member expected to jeopardize his or her safety in order to activate a BWC. The BWC should be activated by members in anticipation of situations described above, and in any unanticipated, rapidly unfolding situation where activation becomes required, as soon as the member can do so safely.

Members should activate their BWC when conducting custodial interviews unless there are other recording devices being used. Members shall document and explain in their report the reason for not recording custodial interviews, should a BWC be de-activated while conducting a custodial interview or interrogation.

## Berkeley Police Department

### Law Enforcement Services Manual

#### *Body Worn Cameras*

---

#### **425.8 VICTIMS AND WITNESSES OF CRIMES; INFORMANTS**

In the event that an officer has the opportunity to record interviews of victims and witnesses of crimes, they shall consider the following:

- (a) **Witnesses:** In the event a crime witness or a member of the community wishes to report or discuss criminal activity anonymously, officers have the discretion to not record. Members may offer to avert their camera to capture only audio during the interview, when doing so would facilitate obtaining the witness's recorded statement. In cases where a witness requests they not be recorded, and the member agrees not to record, members should record their request prior to turning the camera off. When a member is already recording, the member shall record their explanation for turning the camera off prior to doing so.
- (b) **Victims:** Upon request by the victim, officers have the discretion to not record the interview. Members may offer to avert their camera to capture only audio during the interview, when doing so would facilitate obtaining the victim's recorded statement. In cases where a victim requests they not be recorded, and the member agrees not to record, members should record their request prior to turning the camera off. When a member is already recording, the member shall record their explanation for turning the camera off prior to doing so.
  - 1. **Domestic Violence Victims:** Members should attempt to record interviews of domestic violence victims to facilitate future prosecution efforts and discourage later recanting of statements. Members should also record interviews with children who witness domestic violence, when the child is willing.
  - 2. **Child Abuse and Sexual Assault Victims:** Members shall have the discretion to record, absent any request to not record the interview by victims, witnesses, or non-suspect parents of victims, during child abuse and/or sexual assault investigations.
- (c) **Informants:** Members shall not activate their recorders when conducting an interview or engaging in a conversation with a confidential informant, unless needed as evidence.

Members have no obligation to advise a victim or witness that he or she is being recorded, but may do so at their discretion. When a victim or witness requests they not be recorded, members may consider their request (See Penal Code 632).

Members shall remain sensitive to the dignity of all individuals being recorded and exercise discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy concerns may outweigh any legitimate law enforcement interest in recording. Recording should resume when privacy concerns are no longer at issue unless the member determines that the circumstances no longer fit the criteria for recording.

Informal community interactions differ from "consensual encounters" in which members make an effort to develop reasonable suspicion to detain or probable cause to arrest. To strengthen relationships between police and citizens, members may use discretion regarding the recording of informal, non-enforcement related interactions with members of the community.

# Berkeley Police Department

## Law Enforcement Services Manual

### *Body Worn Cameras*

---

#### **425.9 ACTIVATION IN CROWD CONTROL SITUATIONS**

During crowd control, protest or mass arrest incidents, members shall use their BWCs consistent with this policy, or when directed by the Incident Commander. The Incident Commander shall document his or her orders to activate in an appropriate report (e.g. Operations Plan or After Action Report).

The limitations outlined in the Intelligence Procedures for First Amendment Activities Policy governing intelligence-gathering procedures for First Amendment activities, apply to the use of BWCs and other recording devices.

Video recording of individuals who are picketing or engaged in peaceful protest will be avoided unless the officer believes a violation of criminal law is occurring, may occur, or if the officer interacts with a participant or third party to the event, or a participant or third party initiates contact with the member.

#### **425.10 SURREPTITIOUS USE OF THE BWC**

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police, or his/her designee.

Members are prohibited from using department-issued BWCs for non-work related personal activity. BWCs will not be activated in places where members have a reasonable expectation of privacy, such as workplace locker rooms, dressing rooms, members' private vehicles or restrooms.

#### **425.11 CESSATION OF RECORDING**

Once activated, the member may mute or deactivate their BWC at any time based on their discretion, in the following circumstances:

- (a) Discussion of tactical or confidential information with other law enforcement personnel.
- (b) Where members are on a perimeter or assigned to a static post where the member's direct participation in the incident is complete and they are not actively part of an investigation.
- (c) If it is necessary to discuss issues or concerns with an employee, supervisor, doctor, nurse, or paramedic in private.
- (d) In the member's judgment, a recording would interfere with his or her ability to conduct an investigation.

Decisions regarding the reason for muting or BWC deactivation shall be noted on the recording, or otherwise documented.

## Berkeley Police Department

### Law Enforcement Services Manual

#### *Body Worn Cameras*

---

Members shall cease audio/video recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation. This does not apply to conversations with paramedics or EMTs during their response at a scene, and during transport.

#### **425.12 EXPLOSIVE DEVICE**

Many portable recorders, including BWCs and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

Members believing that the use of a BWC may detonate an explosive device may deactivate their BWC in such cases.

#### **425.13 PROHIBITED USE OF BODY WORN CAMERAS**

Members are prohibited from using a department-issued BWC for personal use and are prohibited from making personal copies of recordings created while on duty or while acting in their official capacity.

Members are prohibited from retaining BWC recordings. Members shall not duplicate or distribute such recordings, except for department business purposes. All such recordings shall be retained at the Department.

Members may not use personally owned recorders (e.g. personal cell phone) to document contacts unless exigent circumstances exist to warrant the use of personally owned recording devices. Regardless, if a member is using a department-issued BWC, and/or another recording device, members shall comply with the provisions of this policy, including retention and release requirements. In every event where members use any recording device aside from or in addition to their department-issued BWC, the member shall document and explain the use and the exigent circumstance in their police report (e.g. the BWC failed and evidence needed to be captured at that moment in time).

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

#### **425.14 PROCESSING AND HANDLING OF RECORDINGS**

To assist with identifying and preserving data and recordings, members shall tag and download recordings in accordance with procedure, and document the existence of the recording in the related case report. Transfers must occur at the end of the member's shift, and any time the member is aware that the storage capacity of the BWC is nearing its limit. In circumstances when the officer cannot complete this task, the officer's supervisor shall immediately take custody of the BWC and be responsible for uploading the data. Officers shall tag each file with the appropriate case/incident number, provide a descriptive title, and select an appropriate category for each recording, using the Axon View app or via the Evidence.com site.

# Berkeley Police Department

## Law Enforcement Services Manual

### *Body Worn Cameras*

---

Members are prohibited from intentionally erasing, altering, reusing, modifying or tampering with original audio video recordings. Members may request restriction and subsequent deletion of an accidental recording as described under section 425.16 below.

#### **425.15 RETENTION REQUIREMENTS**

The Department shall retain all recordings for a minimum of 60 days. Incidents involving consensual contacts, and aid to citizens will be retained for six months, and cold reports will be retained for one year. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Recordings created by equipment testing or accidental activation may be deleted after 60 days.

#### **425.16 ACCIDENTAL RECORDING - REQUEST FOR RESTRICTION**

In the event of an accidental or sensitive personal recording of non-departmental business activity, where the resulting recording is of no investigative or evidentiary value, the recording employee may request that the file be restricted pending 60-day deletion by submitting an email request via their chain of command to the Professional Standards Division Captain. The Professional Standards Division Captain will approve or deny the restriction request. In cases where the request is denied, an appeal may be submitted to the Chief of Police, or his/her designee, for restriction authorization. In all cases of restriction requests, a determination should be made within seven calendar days.

#### **425.17 REVIEW OF RECORDINGS BY A MEMBER**

Members are authorized to review their own BWC video files at any time in furtherance of official business. Such official business includes, but is not limited to, preparing written reports, prior to or while providing testimony in a case or being deposed. Members may review recordings as an evidentiary resource, except as stated in subsection 425.17.1 below. Members shall not retain personal copies of recordings. Members shall not use the fact that a recording was made as a reason to write a less detailed report.

##### **425.17.1 OFFICER INVOLVED INCIDENTS RESULTING IN GRAVE BODILY INJURY OR DEATH**

- (a) In the event of a critical incident that results in grave bodily injury or death, including an officer-involved shooting or an in-custody death, the BWC of the involved member(s) shall be taken from him or her and secured by a supervisor, commander, or appropriate investigator, as necessary. The involved member(s) shall not access or obtain their footage of the incident until such time as the criminal investigator(s) have reviewed

## Berkeley Police Department

### Law Enforcement Services Manual

#### Body Worn Cameras

---

the video files. It will be the responsibility of the investigation team's supervisor to coordinate with the involved member's supervisor to obtain footage of the incident on behalf of the member.

- (b) Personnel uploading secured BWC video files shall not view the files unless authorized.
- (c) No member involved in a critical incident may view any video recordings prior to an interview by the appropriate criminal investigative unit, and receiving command approval.
- (d) Prior to the conclusion of the criminal interview process, the involved member and/or the member's representative will have an opportunity to review the member's recording(s). The involved member may choose to provide additional information to supplement his or her statement by providing a supplemental statement or separate supplemental document. In no case shall a member alter a report made prior to reviewing the recording.
- (e) The Department acknowledges that recordings taken during critical incidents obtained from BWCs do not necessarily reflect the full extent of the nature of the event or the experience, analysis, training, threat assessment or state of mind of the individual officer(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved officer. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved officer and that officers may see and hear events that are not captured by the camera.

Officers who are involved in any critical incident where video recordings exist depicting the involved officer, either as a subject officer or witness, shall be provided the following admonishment to the initial interview or submission of the initial written report:

"In this case, there is video evidence that you will have an opportunity to view. Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your statement explains your state of mind at the time of the incident."

#### 425.17.2 SUPERVISORY REVIEW

With the exception of section 425.17.1 above, supervisors are authorized to review relevant recordings any time they are reviewing and approving case reports from their subordinates.

## Berkeley Police Department

### Law Enforcement Services Manual

#### *Body Worn Cameras*

---

##### 425.17.3 INVESTIGATORY REVIEW

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct, or whenever such recordings support review of the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in conduct of an official investigation, such as a personnel complaint, an administrative investigation or a criminal investigation.
- (b) Pursuant to lawful process or by court or District Attorney personnel who are otherwise authorized to review evidence in a related case.
- (c) By personnel assigned to investigatory units who are authorized to view any BWC video file associated to their active investigations, unless otherwise prohibited by policy.
- (d) Upon approval by the Chief of Police, Internal Affairs investigators may review BWC video with a complainant.

Investigators conducting criminal or internal investigations shall:

1. Advise the coordinator to restrict access to the BWC file in criminal or internal investigations, as necessary.
2. Review the file to determine whether the BWC file is of evidentiary value and process it in accordance with established protocols.
3. Notify the coordinator to remove the access restriction when the criminal/internal investigation is closed.

##### 425.17.4 TEACHING OR LEARNING TOOL

BWC files may also be reviewed by training staff regarding specific incidents where such files may serve as an internal learning or teaching tool. In the event that videos are intended to be used for training purposes, the involved officer(s) will first be consulted. If he/she objects to the use of the video, such objection shall be submitted to the person in charge of training who shall weigh the value of the video for training against the officer(s) objections and basis for the objection. Should the person in charge of training refuse to grant the request of the involved officer(s), the matter shall be heard by the Chief of Police, or his/her designee, prior to utilizing the video.

##### 425.17.5 COB CIVIL CLAIMS AND LAWSUITS

BWC recordings may be reviewed and used by City of Berkeley defense counsel for the purposes of defending the city in civil claims and lawsuits, with the authorization of the Chief of Police, or his/her designee.

##### **425.18 RELEASE OF RECORDINGS**

All recordings should be reviewed by the Custodian of Records and the City Attorney's Office prior to public release, see General Order R-23 (Release of Public Records and Information).

## Berkeley Police Department

### Law Enforcement Services Manual

#### Body Worn Cameras

---

In the event that the Police Department or City Department intends to release or publish for any purpose video recordings where officers are captured on video or the video depicts actions taken by them in the course of the performance of their official duties, those officers shall be given written notice of the intention to release or publish said video at least 48 hours prior to such release.

BPD may, without prior notice to involved officers, share video footage with law enforcement, national security, military, or other government agencies outside of Berkeley, when there is reasonable suspicion that criminal activity has occurred or is about to occur.

#### 425.18.1 POLICE REVIEW COMMISSION (PRC)

Access to recorded files will be granted for the purposes of review to the Police Review Commission Officer and/or Investigator investigating a specific complaint where BWC evidence files are available, and are not part of any ongoing criminal investigation.

- (a) The PRC Officer and PRC Investigator will be provided user account access to evidence files through the evidence management system for their use during a complaint investigation and to facilitate viewing by Board of Inquiry members during a Board of Inquiry.
- (b) The PRC Officer and PRC investigator shall not make or create a copy of any evidence file, nor make or allow to be made any audio or video recording of any evidence file while it is being streamed and viewed from the evidence management system.
- (c) The PRC Officer and PRC Investigator shall not allow any unauthorized individuals to view or access evidence files.
- (d) The evidence management system associates an audit trail record with each evidence file, thereby logging the date, time, user, activity, and client IP address occurring during each evidence file access.
- (e) The evidence management system shall only be accessed on City premises.
- (f) The Department retains custody and control of the recordings, and content of the video will be subject to applicable legal standards including, but not limited to the confidentiality requirements of the Public Safety Officers' Procedural Bill of Rights, (Government Code § 3300, et seq., Penal Code § 832.7, and the California Public Records Act; Government Code § 6250, et seq.)

#### 425.18.2 PUBLIC RECORDS ACT (PRA) REQUEST

Access to recorded files will be granted for the purposes of review in response to a public records request, as permitted under Government Code § 6254(f) and BPD General Order R-23 (Release of Public Records and Information). General Order R-23 does not authorize release of investigative files or documents that would constitute an unwarranted invasion of privacy. Circumstances where this might arise in video include footage taken inside a home, a medical facility, the scene of a medical emergency, or where an individual recorded has a "reasonable expectation of privacy."



# Berkeley Police Department

## Law Enforcement Services Manual

### *Body Worn Cameras*

---

#### 425.18.3 MEDIA

Access to recorded files will be granted for the purposes of review to media personnel or the general public with permission of the Chief of Police, or his/her designee, subject to General Order R-23 and privacy protections indicated in this policy.

#### **425.19 COMPLIANCE WITH BMC 2.99 ACQUISITION AND USE OF SURVEILLANCE TECHNOLOGY**

This policy shall comply at all times with the requirement of BMC 2.99 Acquisition and Use of Surveillance Technology.

#### **425.20 TRAINING REQUIRED**

Officers who are assigned BWCs must complete department-approved training in the proper use and maintenance of the devices before deploying to the field.

As part of a continual improvement process, regular review should be conducted by BPD staff of the training on this policy and the related use of BWCs under this policy. Information resulting from the outcomes of this review shall be incorporated into the City Manager's annual "Surveillance Technology Report" as required under BMC 2.99 Acquisition and Use of Surveillance Technology.

The Department, Police Review Commission and other City Departments shall maintain the confidentiality of Department sworn employee personnel records as required by state and local law. Failure to maintain the confidentiality of Department sworn employee personnel records, whether or not intentional, may subject individuals to civil penalties and discipline, up to and including termination of employment.

**ATTACHMENT 3:**  
**Global Positioning System Tracking Devices**

## Surveillance Technology Report: Global Positioning System Tracking Devices

**March 1, 2018 – Sept. 30, 2019**

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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>Global Positioning System Trackers are used to track the movements of vehicles, bicycles, other items, and/or individuals for the purpose of investigating criminal activity.</p> <p>Global Positioning System (GPS) “Electronic Stake Out” (ESO) devices were deployed on “bait” bicycles eighty-five (85) times during this reporting period, resulting in forty-nine (49) arrests.</p> <p>GPS “Slap-N-Track” (SNT) devices were used in two investigations during this reporting period: (1) a robbery and laptop snatch series involving multiple cases and suspects in Berkeley and in the region, with all suspects ultimately arrested; and (2) a currently-active case involving a series of auto burglaries in Berkeley and in the region.</p> <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 investigations; 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>GPS ESO-equipped bikes were deployed primarily in commercial districts across the city where bikes are frequently stolen.</p> <p>GPS SNT 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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

|                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Effectiveness</p> | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>GPS Trackers continue to be very effective in apprehending bicycle thieves, many of whom are repeat offenders who've committed not only bike thefts, but other crimes as well. SNT trackers are effective in that they provide invaluable information on suspect vehicle location during the investigation of complex cases where suspects may be moving around the Bay Area and beyond.</p> <p>GPS Trackers greatly reduce costs associated with surveillance operations. A bike may be left for days. Surveillance operations generally involve four 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. Using both types of GPS trackers eliminates the need for officers' immediate presence until officers are ready to apprehend the suspect(s).</p>       |
| <p>Costs</p>         | <p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual cost for the GPS Trackers' data service is \$1,920; the total cost for the 19 month period of this initial report was \$3,040. Further information regarding costs is contained in Policy 1301a, the Surveillance Acquisition Report.</p> <p>There are staff time costs associated with preparing and placing SNT 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.</p> <p>There are staff time costs associated with preparing ESO trackers and placing ESO tracker-equipped bikes for bait bike operations. These are on the order of two-four hours per operation. The total number of hours is extremely small, given the large number of operations, and resulting arrests.</p> |

## Surveillance Use Policy - GPS Tracking Devices

### 1301.1 PURPOSE

Global Positioning System (GPS) tracking devices track the movements of vehicles, bicycles, cargo, machinery, other items, and/or individuals. GPS trackers electronically relay their precise location in real time, and thereby assist BPD in the recovery of evidence and arrest of suspects.

### 1301.2 AUTHORIZED USE

GPS trackers shall only be used during active criminal investigations. GPS trackers shall only be used pursuant to a lawfully issued search warrant, or with consent of the owner of the object to which the GPS tracker is attached.

GPS trackers shall only be utilized for law enforcement purposes.

### 1301.3 DATA COLLECTION

Location data may be obtained through the use of a GPS Tracker.

### 1301.4 DATA ACCESS

Access to GPS tracker data shall be limited to Berkeley Police Department (BPD) personnel utilizing the GPS Tracker(s) for active criminal investigations. Information may be shared in accordance with 1301.9 below.

In support of active criminal investigations, BPD personnel may receive GPS tracker data from probation or parole agencies which utilize GPS trackers (e.g. ankle monitors) as a condition of probation or parole.

### 1301.5 DATA PROTECTION

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.

### 1301.6 CIVIL LIBERTIES AND RIGHTS PROTECTION:

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. Provisions of this policy, including 1301.4 Data Access, 1301.5 Data Protection, 1301.7 Data Retention, 1301.8 Public Access and 1301.9 Third Party Data Sharing serve to protect against any unauthorized use of GPS tracker data. These procedures ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

### 1301.7 DATA RETENTION

A GPS Tracker data record consists of date, time, latitude, longitude, map address, and tracker

identification label. This data is stored indefinitely by the vendor. The data does not contain any images, names of subjects, vehicle information, etc.

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.

#### **1301.8 PUBLIC ACCESS**

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law.

#### **1301.9 THIRD-PARTY DATA-SHARING**

Data collected from the GPS trackers may be shared with the following:

- (a) The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- (b) Other law enforcement personnel as part of an active criminal investigation;
- (c) Other third parties, pursuant to a Court Order.

#### **1301.10 TRAINING**

Training for the operation of the GPS trackers shall be provided by BPD personnel. All BPD personnel shall be provided with this Surveillance Use Policy.

#### **1301.11 AUDITING AND OVERSIGHT**

Division Captains or their designee shall ensure compliance with this Surveillance Use Policy.

#### **1301.12 MAINTENANCE**

GPS trackers shall only be obtained with the permission of the Investigations Division Captain or his/her designee. The Investigations Division Captain or his/her designee will ensure the trackers are returned when the mission/investigation is completed.

**1301 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - GPS TRACKING DEVICES**

---

**GPS TRACKING DEVICES****A. DESCRIPTION**

Global Positioning System (GPS) tracking devices track the movements of vehicles, bicycles, cargo, machinery, other items, and/or individuals.

The Berkeley Police Department currently uses two types of GPS Tracking Devices to track the movements of vehicles, bicycles, or other kinds of property. The manufacturer, 3SI Security Systems, describes them as follows:

1. The "Slap-n-Track" (SNT) tracker tracks vehicles, cargo, and other large assets for long deployments. Offers extended battery life, rugged and weatherproof housing, and optional magnets.
2. The "Electronic Stake Out" (ESO) tracker offers Law Enforcement miniaturized and covertly packaged GPS Tracking Solutions to target property crimes, especially pattern crimes, in their local jurisdictions.

**B. PURPOSE**

Global Positioning System (GPS) tracking devices provide precise, real-time location information during the conduct of active criminal investigations. GPS trackers are only used pursuant to a lawfully issued search warrant, or with consent of the owner of the object to which the GPS tracker is attached.

**C. LOCATION**

GPS tracking devices shall be deployed in locations consistent with the authority granted by consent or a lawfully issued search warrant or court order.

**D. IMPACT**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. GPS Trackers are used in place of expensive, resource-intensive surveillance operations which typically involve multiple officers, often over long periods of time. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures utilized with GPS trackers help to ensure no unauthorized use of of GPS tracker data occurs. BPD Policy 1301 Surveillance Use Policy – GPS Tracking Devices ensure the use of GPS trackers and the resulting data are not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

**1301 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - GPS TRACKING DEVICES**

---

**E. MITIGATION**

Data from a GPS tracker is encrypted from the vendor. Data shall be maintained in a secure, non-public location, such as locations requiring security access or badge access, thereby safeguarding the public from any impacts identified in subsection (D).

**F. DATA TYPES AND SOURCES**

A GPS tracker data record consists of date, time, latitude, longitude, map address (derived by using latitude, longitude and Google maps), and tracker identification label. The data does not contain any images, names of subjects, vehicle information, etc.

**G. DATA SECURITY**

Data from a GPS tracker is encrypted by the vendor on secure servers. The data is only accessible through a secure website to BPD personnel who have been granted security access. Captains whose Divisions utilize GPS trackers are responsible for ensuring compliance with the procedures for utilizing GPS Trackers.

**H. FISCAL COST**

The initial cost of the GPS trackers totaled \$4,335.

- Between 2015-present BPD purchased 5 GPS "ESO" trackers for \$2,250 (\$450 each).
- In 2017 BPD purchased 3 GPS "SNT" trackers for \$2,085 (\$695 each).

The annual cost for the GPS data service totals \$1,920.

- The annual data service for the five ESO trackers is \$1,020 (\$204 each).
- The annual data service for the three SNT trackers is \$900 (\$300 each).

Personnel costs are minimal in that the GPS trackers are used as a resource during normal working hours.

GPS trackers are funded through the Investigations Division's general budget.

**I. THIRD PARTY DEPENDENCE AND ACCESS**

Data collected from the GPS trackers may be shared with the following:

- a. The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- b. Other law enforcement offices as part of a criminal investigation;
- c. Other third parties, pursuant to a Court Order.



**1301 APPENDIX A**

**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - GPS TRACKING DEVICES**

---

**J. ALTERNATIVES**

An alternative to the use of GPS trackers is to conduct resource-intensive surveillance operations utilizing numerous personnel over extended periods of time.

**K. EXPERIENCE OF OTHER ENTITIES**

The use of GPS tracker technology is common amongst law enforcement agencies throughout the country.

**ATTACHMENT 4:**  
**Automated License Plate Readers**

**Surveillance Technology Report: Automated License Plate Readers**

**March 1, 2018 – Sept. 30, 2019**

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <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 and scofflaw enforcement. The City’s Transportation Division uses anonymized information for purposes of supporting the City’s GoBerkeley parking management program. ALPR use replaced the practice of physically “chalking” tires.</p> <p style="text-align: center;"><b>Summary of ALPR Time Zone Enforcement Data</b></p> <p style="text-align: center;">Read Data</p> <p style="text-align: center;">There were an average of 9,075 “Reads” per working day<br/>(Based on one month’s data: 9/9/19-10/9/19)</p> <p style="text-align: center;">Hit Data</p> <p style="text-align: center;">There were 69,738 “Hits”<br/>18,410 “Enforced Hits” resulted in citation issuance.<br/>51,328 “Not Enforced” Hits resulted in no citation issuance.<br/>(Based on one year’s data: 10/9/18-10/9/19)</p> <p>Genetec is the vendor for the ALPR Time Zone enforcement system. A “read” indicates the ALPR system successfully read a license plate. A “hit” indicates the ALPR system detected a possible violation, which prompts the Parking Enforcement Officer to further assess the vehicle. In many cases, hits are “rejected” or “not enforced” because the Parking Enforcement Officer determines the vehicle has an appropriate placard or permit, or there is other information which precludes citation.</p> <p style="text-align: center;"><b>Summary of ALPR Booting Scofflaw Enforcement Data</b></p> <p style="text-align: center;">255 vehicles booted from 9/1/18-6/30/19</p> <p>Paylock is the vendor for the ALPR Booting Scofflaw Enforcement Program. A single parking enforcement vehicle is equipped with the Paylock system ALPR. The Paylock ALPR system provides the operator a “hit” when a plate is recognized as having five or more unpaid parking tickets. The operator then further assesses the vehicle, confirms the citation data, and, if confirmed, creates a boot entry in Paylock, and boots the car.</p> <p>Paylock uploads and retains information to their secure server solely on <i>confirmed</i> boots or tows. Hits and reads are not retained in the Paylock server. Booting Scofflaw enforcement has been temporarily suspended due to the transition to a different citation management vendor.</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 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>                                                                                                                                                                                                                                                                                                                                                             |
| Geographic Deployment | <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 and scofflaw enforcement.</p>                                                                                                                                                                                                                                                                                               |
| Complaints            | <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 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>ALPRs have proven effective in supporting enforcement upon vehicles which have five or more unpaid citations. 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>                                                                                                                                |
| 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 \$47,000. This cost is borne by the Transportation Division, which also purchased the ALPR units used in Time Zone Enforcement.</p> <p>No Genetec LPR units were purchased during the period covered by this report.</p> <p>Genetec ALPR units are in use on 20 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> |

The cost of Paylock is \$140 per boot.

One Parking Enforcement Officer is assigned to scofflaw enforcement and abandoned auto enforcement on a full time basis. Assuming the Officer works approximately half their day on scofflaw enforcement, the annual personnel cost would be approximately one half a fulltime Parking Enforcement Officer's pay with benefits, or \$65,000.

## Surveillance Use Policy - ALPR

### 1302.1 PURPOSE

This Surveillance Use Policy is issued in compliance with BMC 2.99, and incorporates by reference language from the Berkeley Police Department ALPR Policy #422 and adds elements as required by BMC 2.99.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review. (Ref. policy 422.2)

### 1302.2 AUTHORIZED AND PROHIBITED USES USE

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53). (Ref. policy 422.4)

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used to support a patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

### 1302.3 DATA COLLECTION

All data and images gathered by an ALPR are for the official use of the Berkeley Police Department. Such data may contain confidential CLETS information and is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or other law enforcement agencies only as permitted by law. (Ref. policy 422.5)

### 1302.4 DATA ACCESS

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (c) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

---

### **1302.5 DATA PROTECTION**

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53) (Ref. policy 422.6):

- (a) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action and parking enforcement.
- (c) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
- (d) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.

### **1302.6 CIVIL LIBERTIES AND RIGHTS PROTECTION:**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third Party Data Sharing) protect against the unauthorized use of ALPR data. These policies ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

### **1302.7 DATA RETENTION**

The Investigations Division Captain, or his/her designee, is responsible for ensuring proper collection and retention of ALPR data. Technical support and assistance shall be provided by the City of Berkeley's Information Technology (IT) department and associated ALPR system providers/vendors as identified below. IT staff will not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT's role will be limited to providing initial infrastructure set-up, unless particular IT staff members have been cleared by DOJ background checks and authorized by the Chief of Police to receive ALPR records.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence. (Ref. policy 422.5)

- 
- (a) Collected images and metadata of hits will not be stored for more than 365 days. Metadata of reads will not be stored for more than 30 days. Images of reads will not be transferred to the server.

### **1302.8 PUBLIC ACCESS**

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law. (Ref. policy 422.6 (a))
- (b) Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question. (Ref. policy 422.6 (b))

### **1302.9 THIRD-PARTY DATA-SHARING**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law. ALPR data is subject to the provisions of BPD Policy 415, and hence may not be shared with federal immigration enforcement officials.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager. (Ref. policy 422.6 (e))

### **1302.10 TRAINING**

Training for the operation of ALPR Technology shall be provided by BPD personnel. All BPD employees who utilize ALPR Technology shall be provided a copy of this Surveillance Use Policy.

### **1302.11 AUDITING AND OVERSIGHT**

ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually. (Ref. policy 422.6 (g))

### **1302.12 MAINTENANCE**

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data. (Ref. policy 422.3)

#### **1302.12.1 ALPR ADMINISTRATOR**

The Investigations Division Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53) (Ref.



policy 422.3.1):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Ensuring this policy and related procedures are conspicuously posted on the City's website.

**1302 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - AUTOMATED LICENSE PLATE READER DEVICES**

---

**AUTOMATED LICENSE PLATE READER (ALPR) DEVICES****A. DESCRIPTION**

Automated License Plate Readers (ALPRs) are high-speed, computer controlled camera systems that are typically mounted on Berkeley Police Department Parking Enforcement Vehicles.

ALPRs capture license plate numbers which come into view, along with the location, date and time. The data, which includes a photo of the front or the back of the car displaying the license plate, is then uploaded to a central server.

**B. PURPOSE**

The Berkeley Police Department's Parking Enforcement Unit utilizes vehicles equipped with ALPRs to conduct enforcement of posted time limits in commercial areas and Residential Preferential Parking (RPP) permit areas. These ALPR's also access information in the California Law Enforcement Telecommunications System's (CLETS) Stolen Vehicle System (SVS) database, which provides information on matches for stolen and wanted vehicles.

The Berkeley Police Department's Scofflaw Enforcement program (often referred to as the "booting" program) utilizes an ALPR to scan license plates, and check the scanned "reads" against a list of vehicles which have five or more outstanding parking citations exceeding 30 days old. Typically, upon a confirmed "hit," the vehicle is immobilized with a "boot", or towed, and the owner has to pay the outstanding citations and fees in order to release the boot and/or recover their car from storage. This allows the City to recover outstanding parking citation fees.

**C. LOCATION**

Parking Enforcement vehicles travel throughout the city; using the ALPRs as described above.

**D. IMPACT**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures utilized with ALPR Units will help to ensure unauthorized use of its data. The procedures will ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

**1302 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - AUTOMATED LICENSE PLATE READER DEVICES**

---

**E. MITIGATION**

All saved data will be safeguarded and protected by both procedural and technological means which are implemented to safeguard the public from any impacts identified in subsection (D). See subsection (G) for further.

**F. DATA TYPES AND SOURCES**

Photographs of license plates and location data may be obtained through the use of ALPR Units.

**G. DATA SECURITY**

The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

1. All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
2. Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action and parking enforcement.
3. Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
4. Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.

**H. FISCAL COST**

In 2015, Public Works brought an ALPR Contract to City Council. Council approved a contract for Public Works to buy five Genetec ALPR Units with PCS Mobile communication, for a pilot program for \$450,000.

In 2017, after success with the program, City Council approved an amendment to the contract, allowing Public Works to purchase 15 more ALPR Units for Parking Enforcement vehicles, and to continue its use of PCS Mobile, for 1,200,000. The money was allocated from the goBerkeley/Federal Highway Administration Parking Meter Fund.

Yearly service for the ALPR Units includes warranties, hosting services, cellular connection, mobile computing, and training which varies. The costs through fiscal year 2022 are currently estimated at \$1,175,000.

**1302 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - AUTOMATED LICENSE PLATE READER DEVICES**

---

Personnel costs are minimal in that the ALPR Units are used as a resource during normal working hours.

**I. THIRD PARTY DEPENDENCE AND ACCESS**

1. Vendor Access-Scofflaw Enforcement: The contracted vendor for the City's Scofflaw Enforcement program is currently Paylock. Paylock stores data on a secure server, and provides access to authorized personnel via Paylock's "Bootview" secure website, as described below:
  - a. All data captured by the ALPR is stored on the booting vehicle's laptop for 30 days, and is only accessible during that period via the ALPR proprietary software. This includes reads, hits, and photographs associated with each.
  - b. When a car is booted and/or towed, the read, hit and photographic data relating to the booting and/or towing of scofflaw vehicles is uploaded to Paylock's secure server. No other data is uploaded to Paylock's secure server.
2. Vendor Access-General Parking Enforcement and goBerkeley Program: The contracted vendor for the City's Parking Enforcement ALPR is currently Genetec. The city uses Genetec ALPRs to support efficient enforcement of posted time limit parking and Residential Preferential Parking permits.
  - a. In addition, Genetec periodically provides reports to the City of Berkeley Transportation Division's "goBerkeley" parking management program so that the City's program can analyze data about parking demand. These reports do not contain any information about a vehicle's license plate number, the name of the registered owner, address of registered owner, or any other information gleaned from the license plate number associated with a particular vehicle. Rather, the reports consist of completely anonymized information, using identification numbers that are not associated with a particular license plate or registered owner.
  - b. The reports will provide only the date, time, location, approximate address, "goBerkeley" blockface ID, and Residential Permit Pass (RPP) area in which a vehicle was observed. If a citation was not issued for an RPP or other time limit violation, the report may also provide the reason a parking enforcement officer concluded there was no parking violation, e.g., RPP visitor pass, disabled placard or license plate, etc.
3. Department of Information Technology Access: Technical support and assistance for ALPR's is provided by the City of Berkeley's Department of Information Technology (IT) and associated ALPR system providers/vendors as identified herein. IT staff who

**1302 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - AUTOMATED LICENSE PLATE READER DEVICES**

---

do not have the proper clearance and training do not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT provides initial infrastructure set-up, and continued systems support as needed to ensure efficient and accurate performance of the ALPR hardware and software. Only IT staff members who have successfully undergone DOJ background checks and training are authorized by the Chief of Police to view specific ALPR records.

4. **Other Law Enforcement Agency Access:** ALPR data may only be shared with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55). Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
5. **Member Access:** No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training. No ALPR operator may access CLETS data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.
6. **Public Access:** Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law. Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.

**J. ALTERNATIVES**

None.

**K. EXPERIENCE OF OTHER ENTITIES**

The use of ALPR technology is common amongst law enforcement agencies throughout the country, in support of parking enforcement, and law enforcement criminal investigations.

## Automated License Plate Readers (ALPRs)

### 422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 422.2 POLICY

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### 422.3 ADMINISTRATION

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 422.3.1 ALPR ADMINISTRATOR

The Investigations Division Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Ensuring this policy and related procedures are conspicuously posted on the City's website.

### 422.4 USE OF THE ALPR

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use,

---

or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR may be used by Berkeley Police Department Parking Enforcement for parking and scofflaw enforcement.
- (b) An ALPR may be used to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped vehicles to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert

#### **422.5 .DATA COLLECTION AND RETENTION**

All data and images gathered by an ALPR are for the official use of the Berkeley Police Department. Such data may contain confidential CLETS information and is not open to public review.

The Investigations Division Captain, or his/her designee, is responsible for ensuring proper collection and retention of ALPR data.

Technical support and assistance shall be provided by the City of Berkeley's Information Technology (IT Department and associated ALPR system providers/vendors as identified below. IT staff will not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT's role will be limited to providing initial infrastructure set-up, unless particular IT staff members have been cleared by DOJ background checks and authorized by the Chief of Police to receive ALPR records.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

- (a) Collected images and metadata of reads showing violations will not be stored for more than 365 days.
- (b) Metadata of reads showing violations will be stored for up to 30 days. Images of reads not

---

showing violations will not be transferred to the server.

#### **422.6 ACCOUNTABILITY**

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.
- (c) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (d) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action or parking enforcement.
- (e) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
- (f) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (g) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **422.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  - 1. The name of the agency.
  - 2. The name of the person requesting.
  - 3. The intended purpose of obtaining the information.



- 
4. The related case number.
  - (b) The request is reviewed by the Investigations Division Captain, or his/her designee, and approved before the request is fulfilled.
  - (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

#### **422.8 SCOFFLAW ENFORCEMENT**

The Berkeley Police Department uses ALPR technology in the Parking Enforcement Unit for parking and scofflaw enforcement.

The Parking Enforcement Unit will utilize vehicles equipped with ALPR units to conduct enforcement of posted time limits in commercial areas and Residential Preferential Parking (RPP) permit areas. These ALPR's will also access information in the DMV's Stolen Vehicle System (SVS) database for wanted and stolen vehicles.

The Scofflaw Enforcement program (often referred to as the "booting" program) utilizes an ALPR to scan license plates and check the scanned "reads" against a list of vehicles which have five or more outstanding parking citations exceeding 30 days old. Typically, upon a confirmed "hit," the vehicle is immobilized with a "boot", or towed, and the owner has to pay the outstanding citations and fees in order to release the boot and/or recover their car from storage. This allows the City to recover outstanding citation fees.

The contracted vendor for the City's Scofflaw Enforcement program is currently Paylock. Paylock stores data on a secure server, and provides access to authorized personnel via Paylock's "Bootview" secure website.

When a car is booted and/or towed, the read, hit and photographic data relating to the booting and/or towing of scofflaw vehicles is uploaded to Paylock's secure server. No other data is uploaded to Paylock's secure server.

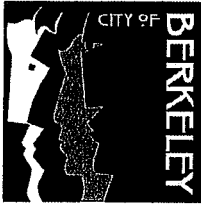
The City's Parking Enforcement ALPR vendor (currently Genetec) will periodically provide reports to the City of Berkeley Transportation Division's "goBerkeley" parking management program so that it can analyze data about parking demand. These reports will not contain any information about a vehicle's license plate number, the name of the registered owner, address of registered owner, or any other information gleaned from the license plate number associated with a particular vehicle. Rather, the reports will consist of 100 percent anonymized information using identification numbers that are not associated with a particular license plate or registered owner.

The reports will provide only the date, time, location, approximate address, "goBerkeley" blockface ID, and RPP area in which a vehicle was observed. If a citation was not issued for an RPP or other time limit violation, the report may also provide the reason a parking

---

enforcement officer concluded there was no parking violation, e.g., RPP visitor pass, disabled placard or license plate, etc.

**ATTACHMENT 5:**  
**Police Review Commission Communication**



Police Review Commission (PRC)

September 11, 2019

To: Honorable Mayor and Members of the City Council  
From: George Perezvelez, <sup>PRC 04/19</sup> Chairperson, Police Review Commission  
Re: Proposed Berkeley Police Department Policy 422, Automated License Plate Readers

Summary: This memo is to inform you of the Police Review Commission's qualified approval of the BPD's proposed policy for the use of Automated License Plate Readers (ALPRs).

Background: The BPD submitted the ALPR policy, Policy 422, to the PRC for review, along with the Surveillance Use Policy and the Surveillance Acquisition Report (Policy 1302 and Appendix A) for these devices. This process was undertaken in advance of BPD submitting these items to the City Council as required by the Surveillance Technology Use and Community Safety Ordinance (B.M.C. Ch. 2.99).

These policies were first considered by the full Commission, which then referred them to its Lexipol Policies Subcommittee. In response to feedback from the PRC and the Subcommittee, the BPD revised the proposed policy, which was reviewed by both bodies. At various stages, the PRC and the subcommittee had the opportunity to hear from and ask questions of Police Chief Greenwood and other members of the BPD, and Deputy City Attorney Chris Jensen. The PRC also heard input from representatives of Media Alliance and Oakland Privacy.

Final action: At its September 4, 2019 meeting, the PRC voted to approve for submission to the City Council for your review and discussion the version of Policy 422 that is attached here, with two caveats. First, there was concern among some commissioners that the ALPR was originally acquired for the purpose of parking enforcement and that this policy represents an expansion of that function. If this is not what the Council had in mind, then this policy should be modified accordingly. Second, Section 422.4(c) of the policy does not adequately define what constitutes a "crime scene."

Finally, the Commission wishes to remind the Council that they will see actual use of the ALPR technology under the reporting mechanism in place in the Surveillance Technology Use and Community Safety Ordinance.

Honorable Mayor and Members of the City Council  
Proposed Berkeley Police Department Policy 422, Automated License Plate Readers  
September 11, 2019  
p. 2

The above action was approved by the following vote: Moved/Seconded  
(Perezvelez/Mikiten) -- Ayes: Calavita, Chang, Leftwich, Mikiten, Perezvelez,  
Ramsey; Noes: Earnest, Mizell; Abstain: Allamby; Absent: None.

Attachment: Revised Policy 422

cc: Dee Williams-Ridley, City Manager  
Andrew Greenwood, Chief of Police  
David White, Deputy City Manager  
PRC Commissioners

## Automated License Plate Readers (ALPRs)

### 422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 422.2 POLICY

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### 422.3 ADMINISTRATION

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 422.3.1 ALPR ADMINISTRATOR

The Investigations Division Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Ensuring this policy and related procedures are conspicuously posted on the City's website.

### 422.4 USE OF THE ALPR

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use,

---

or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR may be used by Berkeley Police Department Parking Enforcement for parking and scofflaw enforcement.
- (b) An ALPR may be used to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped vehicles to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

#### **422.5 DATA COLLECTION AND RETENTION**

All data and images gathered by an ALPR are for the official use of the Berkeley Police Department. Such data may contain confidential CLETS information and is not open to public review. ~~ALPR information gathered and retained by this department may be used and shared with prosecutors or other law enforcement agencies only as permitted by law.~~

The Investigations Division Captain, or his/her designee, is responsible for ensuring proper collection and retention of ALPR data.

Technical support and assistance shall be provided by the City of Berkeley's Information Technology (IT Department and associated ALPR system providers/vendors as identified below. IT staff will not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT's role will be limited to providing initial infrastructure set-up, unless particular IT staff members have been cleared by DOJ background checks and authorized by the Chief of Police to receive ALPR records.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

- (a) Collected images and metadata of reads showing violations will not be stored for more than 365 days.

- 
- (b) Metadata of reads showing violations will be stored for up to 30 days. Images of reads not showing violations will not be transferred to the server.

#### **422.6 ACCOUNTABILITY**

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.
- (c) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (d) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action or parking enforcement.
- (e) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
- (f) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (g) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **422.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  1. The name of the agency.



- 
2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
  4. The related case number.
- (b) The request is reviewed by the Investigations Division Captain, or his/her designee, and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

#### **422.8 SCOFFLAW ENFORCEMENT**

The Berkeley Police Department uses ALPR technology in the Parking Enforcement Unit for parking and scofflaw enforcement.

The Parking Enforcement Unit will utilize vehicles equipped with ALPR units to conduct enforcement of posted time limits in commercial areas and Residential Preferential Parking (RPP) permit areas. These ALPR's will also access information in the DMV's Stolen Vehicle System (SVS) database for wanted and stolen vehicles.

The Scofflaw Enforcement program (often referred to as the "booting" program) utilizes an ALPR to scan license plates and check the scanned "reads" against a list of vehicles which have five or more outstanding parking citations exceeding 30 days old. Typically, upon a confirmed "hit," the vehicle is immobilized with a "boot", or towed, and the owner has to pay the outstanding citations and fees in order to release the boot and/or recover their car from storage. This allows the City to recover outstanding citation fees.

The contracted vendor for the City's Scofflaw Enforcement program is currently Paylock. Paylock stores data on a secure server, and provides access to authorized personnel via Paylock's "Bootview" secure website, as described below:

- (a) All data captured by the ALPR is stored on the laptop for 30 days, and is only accessible during that period via the ALPR proprietary software. This includes reads, hits, and photographs associated with each.

When a car is booted and/or towed, the read, hit and photographic data relating to the booting and/or towing of scofflaw vehicles is uploaded to Paylock's secure server. No other data is uploaded to Paylock's secure server.

The City's Parking Enforcement ALPR vendor (currently Genetec) will periodically provide reports to the City of Berkeley Transportation Division's "goBerkeley" parking management program so that it can analyze data about parking demand. These reports will not contain any information about a vehicle's license plate number, the name of the registered owner, address of registered owner, or any other information gleaned from the license plate number associated

with a particular vehicle. Rather, the reports will consist of 100 percent anonymized information using identification numbers that are not associated with a particular license plate or registered owner.

The reports will provide only the date, time, location, approximate address, "goBerkeley" blockface ID, and RPP area in which a vehicle was observed. If a citation was not issued for an RPP or other time limit violation, the report may also provide the reason a parking enforcement officer concluded there was no parking violation, e.g., RPP visitor pass, disabled placard or license plate, etc.



Office of the City Manager

ACTION CALENDAR

March 10, 2020

*(Continued from February 25, 2020)*

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Andrew Greenwood, Chief of Police  
David White, Deputy City Manager

Subject: Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras

RECOMMENDATION

Adopt a Resolution accepting the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras submitted pursuant to Chapter 2.99 of the Berkeley Municipal Code.

FISCAL IMPACTS OF RECOMMENDATION

There are no 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 annual reporting requirements as outlined in sections 2.99.050 and 2.99.070. The attached Surveillance Technology Reports, Surveillance Acquisition Reports and Surveillance Use Policies for Automatic License Plater Readers, GPS Trackers, and Body Worn Cameras are for technologies that were acquired by the City prior to the adoption of the Ordinance.

Section 2.99.050 of the Ordinance required the City Manager to submit a Surveillance Acquisition Report and Surveillance Use Policy for each surveillance technology that has

been possessed or used prior to the effective date of the Ordinance. The requirements of this section were not satisfied due to a multitude of factors, and the Police Department opted to submit the attached acquisition reports and use policies to the Police Review Commission prior to their review by the City Council. The Police Review Commission underwent an extensive engagement process and the full Commission discussed the attached use policies and reports at scheduled meetings from May to October 2019. In all cases, the Police Review Commission approved the attached acquisition reports and use policies and conveyed any concerns or suggested modifications to the Police Chief. In addition to the technologies covered by the attached resolution, City staff continues to evaluate whether or not there is any other technology that is used or possessed that is subject to the Ordinance.

Finally, Section 2.99.040 of the Ordinance allows the City Manager to borrow, acquire, or temporarily use surveillance technology in exigent circumstances without having to obtain the approval of City Council. Since the adoption of the ordinance, the City is reporting two instances in which the City Manager has made use of Section 2.99.040. In preparation for the potentially violent August 5, 2018 demonstration in downtown Berkeley, the City borrowed remote accessible cameras from the Northern California Regional Intelligence Center (NCRIC) in order to have the ability to remotely monitor intersections in real time. The cameras did not have face recognition technology. Signage was posted in the areas of the cameras, informing people that the area may be under video surveillance. Using cameras to monitor intersections is at times preferable to physically placing officers in those locations. In addition, as a mutual aid resource, the Police Department requested the Alameda County Sheriff's Office Small Unmanned Aerial System (sUAS) team as a mutual aid resource. The purpose of the request was to support the identification and apprehension of any felony suspects, should a felony occur. Following the felony vandalism of over ten City of Berkeley vehicles, the sUAS team deployed a drone, but no suspects were apprehended.

## 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. The Ordinance contains various reporting requirements including the following:

- Section 2.99.050, which requires that the City Manager shall submit a Surveillance Acquisition Report and a proposed Surveillance Use Policy for each technology governed by the Ordinance that had been possessed or used by the City prior to the effective date of the Ordinance; and

- Section 2.99.070 of the Ordinance, which 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.

For each of the three technologies, the Surveillance Technology Report, Surveillance Acquisition Report and Surveillance Use Policies were prepared to satisfy the specific, section-by-section requirements of the Ordinance, and are attached to this report. It should be noted that substantial policies already existed for Body Worn Cameras and License Plate Readers. Those policies—also reviewed by the Police Review Commission for purposes of this report—are also attached. The existing policies will continue to remain in effect upon Council’s approval. Henceforth, all new Surveillance Use Policies and Surveillance Acquisition Reports will be listed in Chapter 13 of the Berkeley Police Department Policy Manual, which is being created to provide easy access to all policies relating to BMC 2.99. All BPD policies are available to the public on BPD’s website.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

City Council is being asked 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 or could direct staff to revise the attached policies.

#### CONTACT PERSON

Andrew Greenwood, Chief of Police, (510) 981-7017  
David White, Deputy City Manager, (510) 981-7012

## ATTACHMENTS

### 1. Proposed Resolution

### 2. Body Worn Cameras

Surveillance Technology Report: Body Worn Cameras

Policy 1300 Body Worn Camera Use Policy

Policy 1300(a) Appendix: Body Worn Camera Acquisition Report

Policy 425 Body Worn Camera Policy (Existing Policy)

### 3. Global Positioning System Tracking Devices

Surveillance Technology Report

Policy 1301 Global Positioning System Tracking Devices Use Policy

Policy 1301(a) Appendix: Global Positioning System Tracking Devices Acquisition Report

### 4. Automated License Plate Readers

Surveillance Technology Report: Automated License Plate Readers

Policy 1302 Automated License Plate Reader Use Policy

Policy 1302(a) Appendix: Automated License Plate Reader Acquisition Report

Policy 422 Automated License Plate Reader (Latest version of existing Policy)

### 5. Police Review Commission Memorandum Regarding Automatic License Plate Readers

i:\surveillance ordinance\city council meeting -- 11-12-19\11-12-2019\_surveillance ordinance staff report and resolution (04).docx

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

A RESOLUTION ACCEPTING THE SURVEILLANCE TECHNOLOGY REPORT, SURVEILLANCE ACQUISITION REPORT, AND SURVEILLANCE USE POLICY FOR BODY WORN 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 2.99.050 of the Ordinance requires that the City Manager shall submit a Surveillance Acquisition Report and a proposed Surveillance Use Policy for each piece of technology governed by the Ordinance that had been possessed or used by the City prior to the effective date of the 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 Acquisition Report and Surveillance Use Policy for Body Worn Cameras satisfy the requirements of the Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley:

Section 1. Pursuant to Section 2.99.060, as it pertains to the use of Body Worn Cameras, the City Council hereby finds and determines the following:

- a. The benefits of using the technology outweigh the costs;
- b. The policy attached to this resolution safeguards civil liberties; and
- c. No feasible alternatives exist with similar utility that will have a lesser impact on civil rights or liberties.

Section 2. The City Council hereby accepts the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Body Worn Cameras.

**ATTACHMENT 2:  
BODY WORN CAMERAS**



**Surveillance Technology Report Body Worn Cameras  
To be provided as part of supplemental communications**

## Surveillance Use Policy - Body Worn Cameras

### 1300.1 PURPOSE

This Surveillance Use Policy is issued in compliance with BMC 2.99, and incorporates by reference language from the Berkeley Police Department Body Worn Camera Policy #425 and adds elements as required by BMC 2.99.

The Berkeley Police Department recognizes that video recording of contacts between department personnel and the public provides an objective record of these events, and that the use of a recording system complements field personnel in the performance of their duties by providing a video record of enforcement and investigative field contacts, which can enhance criminal prosecutions, limit civil liability, increase transparency, and enhance professionalism in the delivery of police services to the community. A video recording of an event or contact also enables the delivery of timely, relevant, and appropriate training to maximize safety for both community members and BPD personnel. (Ref. policy 425.2)

### 1300.2 AUTHORIZED USE

This policy is not intended to describe every possible situation in which the BWC should be used. 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.

The BWC shall be activated in any of the following situations:

- (a) All in-person enforcement and investigative contacts including pedestrian stops and field interview (FI) situations.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- (c) Self-initiated field contacts in which a member would normally notify the Communications Center.
- (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.
- (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.
- (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.

---

At no time is a member expected to jeopardize his or her safety in order to activate a BWC. The BWC should be activated by members in anticipation of situations described above, and in any unanticipated, rapidly unfolding situation where activation becomes required, as soon as the member can do so safely.

Members should activate their BWC when conducting custodial interviews unless there are other recording devices being used. Members shall document and explain in their report the reason for not recording custodial interviews, should a BWC be de-activated while conducting a custodial interview or interrogation. (Ref. policy 425.7)

#### 1300.2.1 PROHIBITED USE

Members are prohibited from using a department-issued BWC for personal use and are prohibited from making personal copies of recordings created while on duty or while acting in their official capacity.

Members are prohibited from retaining BWC recordings. Members shall not duplicate or distribute such recordings, except for department business purposes. All such recordings shall be retained at the Department.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule. (Ref. policy 425.13)

#### 1300.3 DATA COLLECTION

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 recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded and is prohibited. (Ref. policy 425.3)

#### 1300.4 DATA ACCESS

Members are authorized to review their own BWC video files at any time in furtherance of official business. Such official business includes, but is not limited to, preparing written reports, prior to or while providing testimony in a case or being deposed. Members may review recordings as an evidentiary resource, except as stated in subsection 1300.4.1 below. Members shall not retain personal copies of recordings. Members shall not use the fact that a recording was made as a reason to write a less detailed report. (Ref. policy 425.17)

##### 1300.4.1 OFFICER INVOLVED INCIDENTS RESULTING IN GRAVE BODILY INJURY OR DEATH

- (a) In the event of a critical incident that results in grave bodily injury or death, including an officer-involved shooting or an in-custody death, the BWC of the involved member(s) shall be taken from him or her and secured by a supervisor, commander, or appropriate investigator, as necessary. The involved member(s) shall not access or obtain their footage of the incident until such time as the criminal investigator(s) have reviewed the video files.

- 
- It will be the responsibility of the investigation team's supervisor to coordinate with the involved member's supervisor to obtain footage of the incident on behalf of the member.
- (b) Personnel uploading secured BWC video files shall not view the files unless authorized.
  - (c) No member involved in a critical incident may view any video recordings prior to an interview by the appropriate criminal investigative unit, and receiving command approval.
  - (d) Prior to the conclusion of the criminal interview process, the involved member and/ or the member's representative will have an opportunity to review the member's recording(s). The involved member may choose to provide additional information to supplement his or her statement by providing a supplemental statement or separate supplemental document. In no case shall a member alter a report made prior to reviewing the recording.
  - (e) The Department acknowledges that recordings taken during critical incidents obtained from BWCs do not necessarily reflect the full extent of the nature of the event or the experience, analysis, training, threat assessment or state of mind of the individual officers(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved officer. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved officer and that officers may see and hear events that are not captured by the camera.

Officers who are involved in any critical incident where video recordings exist depicting the involved officer, either as a subject officer or witness, shall be provided the following admonishment to the initial interview or submission of the initial written report:

"In this case, there is video evidence that you will have an opportunity to view. Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your statement explains your state of mind at the time of the incident." (Ref. policy 425.17.1)

#### 1300.4.2 SUPERVISORY REVIEW

With the exception of section 1300.4.1 above, supervisors are authorized to review relevant recordings any time they are reviewing and approving case reports from their subordinates. (Ref. policy 425.17.2)

#### 1300.4.3 INVESTIGATORY REVIEW

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct, or whenever such recordings support review of the member's performance. (Ref. policy 425.17.3)

- (a) Recorded files may also be reviewed:
  1. Upon approval by a supervisor, by any member of the Department who is participating

---

in conduct of an official investigation, such as a personnel complaint, an administrative investigation or a criminal investigation.

2. Pursuant to lawful process or by court or District Attorney personnel who are otherwise authorized to review evidence in a related case.
  3. By personnel assigned to investigatory units who are authorized to view any BWC video file associated to their active investigations, unless otherwise prohibited by policy.
  4. Upon approval by the Chief of Police, Internal Affairs investigators may review BWC video with a complainant.
- (b) Investigators conducting criminal or internal investigations shall:
1. Advise the coordinator to restrict access to the BWC file in criminal or internal investigations, as necessary.
  2. Review the file to determine whether the BWC file is of evidentiary value and process it in accordance with established protocols.
  3. Notify the coordinator to remove the access restriction when the criminal/internal investigation is closed.

#### 1300.4.4 TEACHING OR LEARNING TOOL

BWC files may also be reviewed by training staff regarding specific incidents where such files may serve as an internal learning or teaching tool. In the event that videos are intended to be used for training purposes, the involved officer(s) will first be consulted. If he/she objects to the use of the video, such objection shall be submitted to the person in charge of training who shall weigh the value of the video for training against the officer(s) objections and basis for the objection. Should the person in charge of training refuse to grant the request of the involved officer(s), the matter shall be heard by the Chief of Police, or his/her designee, prior to utilizing the video. (Ref. policy 425.17.4)

#### 1300.4.5 COB CIVIL CLAIMS AND LAWSUITS

BWC recordings may be reviewed and used by City of Berkeley defense counsel for the purposes of defending the city in civil claims and lawsuits, with the authorization of the Chief of Police, or his/her designee. (Ref. policy 425.17.5)

### 1300.5 DATA PROTECTION

To assist with identifying and preserving data and recordings, members shall tag and download recordings in accordance with procedure, and document the existence of the recording in the related case report. Transfers must occur at the end of the member's shift, and any time the member is aware that the storage capacity of the BWC is nearing its limit. In circumstances when the officer cannot complete this task, the officer's supervisor shall immediately take custody of the BWC and be responsible for uploading the data. Officers shall tag each file with the appropriate case/incident number, provide a descriptive title, and select an appropriate category for each recording, using the Axon View app or via the Evidence.com site.

Members are prohibited from intentionally erasing, altering, reusing, modifying or tampering with original audio video recordings. (Ref. policy 425.14)

---

### **1300.6 CIVIL LIBERTIES AND RIGHTS PROTECTION:**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third Party Data Sharing) protect against the unauthorized use of BWC data. These policies will ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

### **1300.7 DATA RETENTION**

The Department shall retain all recordings for a minimum of 60 days. Incidents involving consensual contacts, and aid to citizens will be retained for six months, and cold reports will be retained for one year. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Recordings created by equipment testing or accidental activation may be deleted after 60 days. (Ref. policy 425.15)

### **1300.8 PUBLIC ACCESS**

Access to recorded files will be granted for the purposes of review in response to a public records request, as permitted under Government Code § 6254(f) and BPD General Order R-23 (Release of Public Records and Information). General Order R-23 does not authorize release of investigative files or documents that would constitute an unwarranted invasion of privacy. Circumstances where this might arise in video include footage taken inside a home, a medical facility, the scene of a medical emergency, or where an individual recorded has a "reasonable expectation of privacy."

Access to recorded files will be granted for the purposes of review to media personnel or the general public with permission of the Chief of Police, or his/her designee, subject to General Order R-23 and privacy protections indicated in this policy. (Ref. policy 425.18)

### **1300.9 THIRD-PARTY DATA-SHARING**

#### **1300.9.1 CITY ATTORNEY**

All recordings should be reviewed by the Custodian of Records and the City Attorney's Office prior to public release, see General Order R-23 (Release of Public Records and Information).

---

In the event that the Police Department or City Department intends to release or publish for any purpose video recordings where officers are captured on video or the video depicts actions taken by them in the course of the performance of their official duties, those officers shall be given written notice of the intention to release or publish said video at least 48 hours prior to such release.

BPD may, without prior notice to involved officers, share video footage with law enforcement, national security, military, or other government agencies outside of Berkeley, when there is reasonable suspicion that criminal activity has occurred or is about to occur. (Ref. policy 425.18)

#### 1300.9.2 POLICE REVIEW COMMISSION (PRC)

Access to recorded files will be granted for the purposes of review to the Police Review Commission Officer and/or Investigator investigating a specific complaint where BWC evidence files are available, and are not part of any ongoing criminal investigation. (Ref. policy 425.18.1)

- (a) The PRC Officer and PRC Investigator will be provided user account access to evidence files through the evidence management system for their use during a complaint investigation and to facilitate viewing by Board of Inquiry members during a Board of Inquiry.
- (b) The PRC Officer and PRC investigator shall not make or create a copy of any evidence file, nor make or allow to be made any audio or video recording of any evidence file while it is being streamed and viewed from the evidence management system.
- (c) The PRC Officer and PRC Investigator shall not allow any unauthorized individuals to view or access evidence files.
- (d) The evidence management system associates an audit trail record with each evidence file, thereby logging the date, time, user, activity, and client IP address occurring during each evidence file access.
- (e) The evidence management system shall only be accessed on City premises.
- (f) The Department retains custody and control of the recordings, and content of the video will be subject to applicable legal standards including, but not limited to the confidentiality requirements of the Public Safety Officers' Procedural Bill of Rights, (Government Code § 3300, et seq., Penal Code § 832.7, and the California Public Records Act; Government Code § 6250, et seq.)

#### 1300.10 TRAINING

Training for the operation of BWC's shall be provided by BPD personnel. All BPD personnel who use BWC's shall be provided a copy of this Surveillance Use Policy.

#### 1300.11 AUDITING AND OVERSIGHT

Division Captains for divisions utilizing BWC's shall ensure compliance with this Surveillance Use Policy.

#### 1300.12 MAINTENANCE

The BWC system will be maintained by the Applications Programmer Analyst and assigned

---

Department of Information and Technology (IT) staff.

The Chief of Police, or his/her designee shall appoint a member of the Department to coordinate the use and maintenance of BWCs and the storage of recordings, including (Penal Code § 832.18) (Ref policy 425.4):

- (a) Establishing a system for uploading, storing and security of recordings.
- (b) Designating persons responsible for uploading recorded data.
- (c) Establishing a maintenance system to ensure availability of BWCs.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with the City Attorney's office to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining an audit trail record for all access to evidence files, wherein access information for each evidence file is logged through use of a secure log-in system. The Department's storage system associates an audit trail record with each evidence file, thereby logging the date, time, user name, activity and client IP address occurring during each evidence file access.
- (h) All recordings made by members acting in their official capacity shall remain the property of the Department. Subject to the provisions of this Policy, members shall have no expectation of privacy or ownership interest in the content of these recordings.



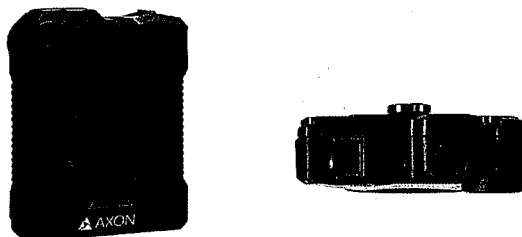
**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

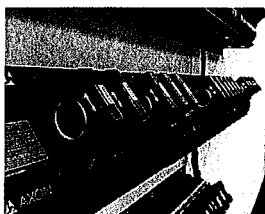
**BODY WORN CAMERAS (BWCs)****A. DESCRIPTION**

The BWC system consists of four main components: The camera, the docking station, and the Digital Information Management System (DIMS) and smartphone applications.

The first component, the Axon camera, is a system which incorporates an audio and video recording device. It is designed to record events in real time for secure storage, retrieval, and analysis. The camera is to be attached to an officer's uniform and is powered by an internal rechargeable battery. The camera features low-light performance, full-shift battery life, a capture rate of 30 frames per second with no dropped frames, HD video, pre-event buffering, multi-camera playback, and the ability to automatically categorize video using the police department's computer aided dispatch system. An officer can start and stop recording by pressing a button on the front of the camera. The camera does not contain a screen for footage review.



The second component of the system is the docking station. Once the Axon camera is placed in the docking station it recharges the camera's battery. The dock also triggers the uploading of data from the camera to a cloud based Digital Information Management System (DIMS) called Evidence.com. The dock does not directly provide functionality to view, modify or delete video data stored on Axon cameras.



The third component is the Digital Information Management System called Evidence.com. Evidence.com streamlines data management and sharing on one secure platform. The evidence management system is comprehensive, secure, and intuitive to use. The DIMS is located in a cloud-based data center for security, scalability, and ease of administration. Users can add

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

metadata to existing videos such as associated case numbers, incident type, incident dispositions, etc. to make the videos easier to find. However, the videos themselves cannot be altered by the user.

The fourth component of the system to be utilized are two Axon mobile applications, which allow officers to collect and review evidence in the field and more effectively use their BWCs. The applications use secure Bluetooth and Wi-Fi technology to access the BWC systems and footage. These applications are compliant with US Department of Justice evidentiary standards, meaning that they are both secure and are set up in a way that prohibits the altering or destruction of evidence. The applications are called Axon View and Axon Capture. Axon View allows users to change their camera settings, view live video, and review and tag recorded videos while they are stored on the BWC. Recorded videos remain in the BWC's memory, and cannot be manipulated or deleted. Axon Capture allows officers to use their city-issued smartphone's camera and microphone to take photographs, and record audio and video, and to upload this data directly to Evidence.com. These applications do not allow users to alter, manipulate, or edit any of the footage recorded by the BWC. These applications use secure technology to add value and efficiency to the BWC program.

**B. PURPOSE**

The primary objective of the BWC system is to document officer contacts, arrests, and critical incidents. Video footage collected by the BWCs will be used as evidence in both criminal and administrative investigations. Video footage not relevant to any investigation will be discarded after a defined retention period.

In instances where the officer might be expected to take law enforcement action of any kind, the officer is expected to record the encounter for the benefit of both the officer and the member of the public.

1. The BWC shall be activated in any of the following situations:
  - i. All in-person enforcement and investigative contacts including pedestrian stops and field interview (FI) situations.
  - ii. Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
  - iii. Self-initiated field contacts in which a member would normally notify the Communications Center.
  - iv. 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.

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

- v. 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.
- vi. 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.

At no time is an officer expected to jeopardize his or her safety in order to activate a BWC. The BWC should be activated in anticipation of situations described above, and in any unanticipated, rapidly unfolding situation where activation becomes required, as soon as the user can do so safely.

Officers should activate their BWC when conducting custodial interviews unless there are other recording devices being used. Officers shall document and explain in their report the reason for not recording custodial interviews, should a BWC be de-activated while conducting a custodial interview or interrogation.

2. Prohibited uses of the BWC system include:

- i. Officers shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police, or his/her designee.
- ii. Officers are prohibited from using a department-issued BWC for personal use and are prohibited from making personal copies of recordings created while on duty or while acting in their official capacity.
- iii. Officers are prohibited from retaining BWC recordings.
- iv. Officers shall not duplicate or distribute such recordings, except for department business purposes.

**C. LOCATION**

Officers may use BWCs anywhere where officers have jurisdiction to operate as sworn officers, in accordance with BPD policy #425.

**D. IMPACT**

With the introduction of BWCs, officers record all enforcement contacts with the public. To that end, an officer could find themselves engaged in their lawful duties in both public and private areas. Additionally, due to the nature of law enforcement work, an officer may be required to engage in sensitive conversations with individuals of all ages, including children.

The right to maintain someone's anonymity versus the need to gain information to maintain public safety is of paramount concern. The Department recognizes that all people have a right to privacy and is committed to protecting and safeguarding civil rights by adhering to the

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

strictest requirements of both state and federal law concerning release of audio/video recordings.

**E. MITIGATION**

In order to minimize violations of privacy, BWC policy provides that:

1. Officers should record any incident they feel would be appropriate or valuable to document. The BWC policy shall require officers to activate the BWC under the criteria listed above.
2. Officers should not activate the BWC and/or use caution when entering a public locker room, changing room, restroom, doctor's or attorney's office, or other place where individuals unrelated to the investigation are present and would have a heightened expectation of privacy unless the officer is investigating criminal activity or responding to a call for service.
3. 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.
4. BWC footage will be retained or released in accordance with applicable state and federal law. Criminal defendants will have access to relevant BWC footage via the court discovery process.
5. Officers are prohibited from retaining BWC recordings, Officers shall not duplicate or distribute such recordings, except for department business purposes. All such recordings shall be retained at the Department.
6. Officers are prohibited from intentionally erasing, altering, reusing, modifying or tampering with original audio video recordings. Officers may request restriction and subsequent deletion of an accidental recording according to the BWC policy.
7. Access to recorded files will be granted for the purposes of review in response to a public records request, as permitted by law and department policy. Department policy does not authorize release of investigative files or documents that would constitute an unwarranted invasions of privacy. Circumstances where this might arise in video include footage taken inside a home, a medical facility, the scene of a medical emergency, or where an individual recorded has a "reasonable expectation of privacy"

**F. DATA TYPES AND SOURCES**

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 litigations, and other proceedings protected by confidentiality laws and department policy.

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

The BWC collects video and audio recordings of events occurring in the user's presence. As each video is created, the system automatically stamps the video with the current date/time and the camera user's identity. The user has the option to add metadata manually to existing recordings after they are created. Such metadata may include but is not limited to:

1. Category of contact (from Department's defined list)
2. Disposition of contact (arrest, citation, etc.)
3. Associated case number

**G. DATA SECURITY**

To assist with identifying and preserving data and recordings, members shall tag and download recordings in accordance with procedure, and document the existence of the recording in the related case report. Transfers must occur at the end of the member's shift, and any time the member is aware that the storage capacity of the BWC is nearing its limit. In circumstances when the officer cannot complete this task, the officer's supervisor shall immediately take custody of the BWC and be responsible for transferring the data into the digital evidence management system. Officers shall tag each file with the appropriate case/incident number, provide a descriptive title, and select an appropriate category for each recording, using the Axon View app or via the Evidence.com site.

Members are prohibited from intentionally erasing, altering, reusing, modifying or tampering with original audio video recordings.

Improper use or release of BWC recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded and is prohibited. The Chief of Police, or his/her designee shall appoint a member of the Department to coordinate the use and maintenance of BWCs and the storage of recordings, including (Penal Code Section 832.18) (Ref. policy 425.14):

1. Establishing a system for uploading, storing and security of recordings.
2. Designating persons responsible for uploading recorded data.
3. Establishing a maintenance system to ensure availability of BWCs.
4. Establishing a system for tagging and categorizing data according to the type of incident captured.
5. Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
6. Working with the City Attorney's office to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
7. Maintaining an audit trail record for all access to evidence files, wherein access information for each evidence file is logged through use of a secure log-in system. The Department's storage system associates an audit trail record with each evidence file,

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

thereby logging the date, time, user name, activity and client IP address occurring during each evidence file access.

**H. FISCAL COST**

In 2017, the Berkeley City Council approved a resolution authorizing a contract between BPD and Axon. Axon was chosen after a competitive Request for Proposal (RFP) process. The contract will not exceed \$1,218,103 and includes the cost of 200 body worn cameras, charging stations, accessories, software licenses, training and unlimited storage for five years. The purchase also includes replacement cameras and charging stations during the third and fifth year of the contract.

There will be an annual cost of approximately \$250,000 to the police department's budget for a staff person to administer the body worn camera program beginning in FY 2019.

**I. THIRD PARTY DEPENDENCE AND ACCESS**

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.

**J. ALTERNATIVES**

Officers rely primarily on traditional policing techniques to gather evidence related to criminal investigations such as speaking to witnesses and suspects, gathering information from observations, and using standard data aggregation systems. These methods will continue to be employed as primary investigative tools that will be supplemented by use of BWCs to document police activity.

BWC technology provides video and audio documentation of policing activity in addition to the oral and written statements of officers, victims, and witnesses. Alternatives to the use of BWCs would be vehicle-based cameras and/or not utilizing BWCs. However, BPD sees the use of BWCs as an integral strategy to strengthen police transparency, prevent and resolve complaints against the police by civilians, document police-public interaction, and promote the perceived legitimacy and sense of procedural justice that communities have about their departments. There is a broad consensus – among community leaders, the ACLU, the Department of Justice, the Berkeley Police Department, and elected officials – that body-worn cameras can be an important tool for improving the high-quality public service expected of police officers.

**1300 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - BODY WORN CAMERAS**

---

**K. EXPERIENCE OF OTHER ENTITIES**

Numerous police agencies have adopted BWCs as a tool to help combat crime, to reduce citizen complaints and to reduce use of force situations. Many departments have developed their own usage policies which may include standards for required officer use, supervisory review, storage and data retention standards, and internal and public access.

A report for the U.S. Bureau of Justice Administration, [https://www.bja.gov/bwc/pdfs/14-005\\_Report\\_BODY\\_WORN\\_CAMERAS.pdf](https://www.bja.gov/bwc/pdfs/14-005_Report_BODY_WORN_CAMERAS.pdf) - pages 6-8, cites a 2013 Rialto, CA study that showed that the use of BWCs led to a 59 percent decrease in UOF and an 87.5 percent decrease in citizen complaints. Likewise, the Mesa, AZ report noted in "Impact" Section above also points to large decreases in UOF and citizen complaints.

The 2017 Police Body Worn Cameras: A Policy Scorecard, <https://www.bwccscorecard.org/>, provides an analysis of how scores of different police agencies have employed BWCs through a defined list of metrics.

---

## Body Worn Cameras

### 425.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable Body Worn Cameras (BWCs) by members of this department while in the performance of their duties.

This policy does not apply to non-BWC evidence, including other methods of audio or video recordings, interviews or interrogations conducted at any Berkeley Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### 425.2 POLICY

The Berkeley Police Department recognizes that video recording of contacts between department personnel and the public provides an objective record of these events, and that the use of a recording system complements field personnel in the performance of their duties by providing a video record of enforcement and investigative field contacts, which can enhance criminal prosecutions, limit civil liability, increase transparency, and enhance professionalism in the delivery of police services to the community. A video recording of an event or contact also enables the delivery of timely, relevant, and appropriate training to maximize safety for both community members and BPD personnel.

While recordings obtained from BWCs provide an objective record of events, it is understood that video recordings do not necessarily capture all events, activities and information, or reflect the full experience of the individual member(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events as perceived and recalled by the involved member. Specifically, it is understood that the BWC will capture information that may not have been seen and/or heard by the involved member and that the involved member may see and hear information that may not have been captured by the BWC.

### 425.3 CONFIDENTIALITY AND PROPER USE OF RECORDINGS

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 recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded and is prohibited.

### 425.4 COORDINATOR

The Chief of Police, or his/her designee shall appoint a member of the Department to coordinate the use and maintenance of BWCs and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for uploading, storing and security of recordings.
- (b) Designating persons responsible for uploading recorded data.



## Berkeley Police Department

Law Enforcement Services Manual

### Body Worn Cameras

---

- (c) Establishing a maintenance system to ensure availability of BWCs.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with the City Attorney's office to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining an audit trail record for all access to evidence files, wherein access information for each evidence file is logged through use of a secure log-in system. The Department's storage system associates an audit trail record with each evidence file, thereby logging the date, time, user name, activity and client IP address occurring during each evidence file access.

All recordings made by members acting in their official capacity shall remain the property of the Department. Subject to the provisions of this Policy, members shall have no expectation of privacy or ownership interest in the content of these recordings.

#### **425.5 MEMBER RESPONSIBILITIES**

Prior to going into service, each uniformed member who is assigned to wear a BWC will be responsible for making sure that he or she is equipped with a BWC issued by the Department, and that the BWC is in good working order. If the BWC is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor to permit the supervisor or other department employee to provide the member with a functioning BWC as soon as practicable. Uniformed members should wear the recorder in a conspicuous manner as prescribed by the Department, to provide a generally unobstructed camera view of contacts between members of the public and department members.

Members lawfully engaged in their duties as a police officer are not required to obtain consent from, or give notice to, members of the public, prior to recording with their BWC.

Upon the approval of the Chief of Police, or his/her designee, non-uniformed members lawfully engaged in their duties as a police officer may use an approved BWC.

Members are required to document the existence of a recording in any report or other official record of the contact, such as a CAD entry, including any instance where the member is aware that the BWC malfunctioned or the member deactivated the recording. In the event activity outlined in section 425.7 is not captured in whole or in part the member shall document this and explain in their report their understanding, if any, of why the footage was not captured in the recording.

#### **425.6 SUPERVISOR RESPONSIBILITIES**

At such time as the scene is considered secure and safe, the on-scene supervisor shall take immediate physical custody of involved officer's/officers' BWC when the device may have captured an incident involving an officer-involved shooting or use of force resulting in death or great bodily injury, and shall ensure the data is uploaded in a timely manner as prescribed by BPD policy

# Berkeley Police Department

## Law Enforcement Services Manual

### *Body Worn Cameras*

---

(Penal Code § 832.18). Supervisors may review relevant BWC video and audio files in the field in furtherance of their duties and responsibilities.

Supervisors shall also review relevant BWC recordings prior to submitting any administrative reports.

#### **425.7 ACTIVATION OF THE BODY WORN CAMERA**

This policy is not intended to describe every possible situation in which the BWC should be used. 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.

The BWC shall be activated in any of the following situations:

- (a) All in-person enforcement and investigative contacts including pedestrian stops and field interview (FI) situations.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- (c) Self-initiated field contacts in which a member would normally notify the Communications Center.
- (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.
- (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.
- (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.

At no time is a member expected to jeopardize his or her safety in order to activate a BWC. The BWC should be activated by members in anticipation of situations described above, and in any unanticipated, rapidly unfolding situation where activation becomes required, as soon as the member can do so safely.

Members should activate their BWC when conducting custodial interviews unless there are other recording devices being used. Members shall document and explain in their report the reason for not recording custodial interviews, should a BWC be de-activated while conducting a custodial interview or interrogation.

## Berkeley Police Department

### Law Enforcement Services Manual

#### Body Worn Cameras

#### 425.8 VICTIMS AND WITNESSES OF CRIMES; INFORMANTS

In the event that an officer has the opportunity to record interviews of victims and witnesses of crimes, they shall consider the following:

- (a) **Witnesses:** In the event a crime witness or a member of the community wishes to report or discuss criminal activity anonymously, officers have the discretion to not record. Members may offer to avert their camera to capture only audio during the interview, when doing so would facilitate obtaining the witness's recorded statement. In cases where a witness requests they not be recorded, and the member agrees not to record, members should record their request prior to turning the camera off. When a member is already recording, the member shall record their explanation for turning the camera off prior to doing so.
- (b) **Victims:** Upon request by the victim, officers have the discretion to not record the interview. Members may offer to avert their camera to capture only audio during the interview, when doing so would facilitate obtaining the victim's recorded statement. In cases where a victim requests they not be recorded, and the member agrees not to record, members should record their request prior to turning the camera off. When a member is already recording, the member shall record their explanation for turning the camera off prior to doing so.
  - 1. **Domestic Violence Victims:** Members should attempt to record interviews of domestic violence victims to facilitate future prosecution efforts and discourage later recanting of statements. Members should also record interviews with children who witness domestic violence, when the child is willing.
  - 2. **Child Abuse and Sexual Assault Victims:** Members shall have the discretion to record, absent any request to not record the interview by victims, witnesses, or non-suspect parents of victims, during child abuse and/or sexual assault investigations.
- (c) **Informants:** Members shall not activate their recorders when conducting an interview or engaging in a conversation with a confidential informant, unless needed as evidence.

Members have no obligation to advise a victim or witness that he or she is being recorded, but may do so at their discretion. When a victim or witness requests they not be recorded, members may consider their request (See Penal Code 632).

Members shall remain sensitive to the dignity of all individuals being recorded and exercise discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy concerns may outweigh any legitimate law enforcement interest in recording. Recording should resume when privacy concerns are no longer at issue unless the member determines that the circumstances no longer fit the criteria for recording.

Informal community interactions differ from "consensual encounters" in which members make an effort to develop reasonable suspicion to detain or probable cause to arrest. To strengthen relationships between police and citizens, members may use discretion regarding the recording of informal, non-enforcement related interactions with members of the community.

# Berkeley Police Department

## Law Enforcement Services Manual

### Body Worn Cameras

---

#### **425.9 ACTIVATION IN CROWD CONTROL SITUATIONS**

During crowd control, protest or mass arrest incidents, members shall use their BWCs consistent with this policy, or when directed by the Incident Commander. The Incident Commander shall document his or her orders to activate in an appropriate report (e.g. Operations Plan or After Action Report).

The limitations outlined in the Intelligence Procedures for First Amendment Activities Policy governing intelligence-gathering procedures for First Amendment activities, apply to the use of BWCs and other recording devices.

Video recording of individuals who are picketing or engaged in peaceful protest will be avoided unless the officer believes a violation of criminal law is occurring, may occur, or if the officer interacts with a participant or third party to the event, or a participant or third party initiates contact with the member.

#### **425.10 SURREPTITIOUS USE OF THE BWC**

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police, or his/her designee.

Members are prohibited from using department-issued BWCs for non-work related personal activity. BWCs will not be activated in places where members have a reasonable expectation of privacy, such as workplace locker rooms, dressing rooms, members' private vehicles or restrooms.

#### **425.11 CESSATION OF RECORDING**

Once activated, the member may mute or deactivate their BWC at any time based on their discretion, in the following circumstances:

- (a) Discussion of tactical or confidential information with other law enforcement personnel.
- (b) Where members are on a perimeter or assigned to a static post where the member's direct participation in the incident is complete and they are not actively part of an investigation.
- (c) If it is necessary to discuss issues or concerns with an employee, supervisor, doctor, nurse, or paramedic in private.
- (d) In the member's judgment, a recording would interfere with his or her ability to conduct an investigation.

Decisions regarding the reason for muting or BWC deactivation shall be noted on the recording, or otherwise documented.

## Berkeley Police Department

### Law Enforcement Services Manual

#### *Body Worn Cameras*

---

Members shall cease audio/video recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation. This does not apply to conversations with paramedics or EMTs during their response at a scene, and during transport.

#### **425.12 EXPLOSIVE DEVICE**

Many portable recorders, including BWCs and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

Members believing that the use of a BWC may detonate an explosive device may deactivate their BWC in such cases.

#### **425.13 PROHIBITED USE OF BODY WORN CAMERAS**

Members are prohibited from using a department-issued BWC for personal use and are prohibited from making personal copies of recordings created while on duty or while acting in their official capacity.

Members are prohibited from retaining BWC recordings. Members shall not duplicate or distribute such recordings, except for department business purposes. All such recordings shall be retained at the Department.

Members may not use personally owned recorders (e.g. personal cell phone) to document contacts unless exigent circumstances exist to warrant the use of personally owned recording devices. Regardless, if a member is using a department-issued BWC, and/or another recording device, members shall comply with the provisions of this policy, including retention and release requirements. In every event where members use any recording device aside from or in addition to their department-issued BWC, the member shall document and explain the use and the exigent circumstance in their police report (e.g. the BWC failed and evidence needed to be captured at that moment in time).

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

#### **425.14 PROCESSING AND HANDLING OF RECORDINGS**

To assist with identifying and preserving data and recordings, members shall tag and download recordings in accordance with procedure, and document the existence of the recording in the related case report. Transfers must occur at the end of the member's shift, and any time the member is aware that the storage capacity of the BWC is nearing its limit. In circumstances when the officer cannot complete this task, the officer's supervisor shall immediately take custody of the BWC and be responsible for uploading the data. Officers shall tag each file with the appropriate case/incident number, provide a descriptive title, and select an appropriate category for each recording, using the Axon View app or via the Evidence.com site.

# Berkeley Police Department

## Law Enforcement Services Manual

### *Body Worn Cameras*

---

Members are prohibited from intentionally erasing, altering, reusing, modifying or tampering with original audio video recordings. Members may request restriction and subsequent deletion of an accidental recording as described under section 425.16 below.

#### **425.15 RETENTION REQUIREMENTS**

The Department shall retain all recordings for a minimum of 60 days. Incidents involving consensual contacts, and aid to citizens will be retained for six months, and cold reports will be retained for one year. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Recordings created by equipment testing or accidental activation may be deleted after 60 days.

#### **425.16 ACCIDENTAL RECORDING - REQUEST FOR RESTRICTION**

In the event of an accidental or sensitive personal recording of non-departmental business activity, where the resulting recording is of no investigative or evidentiary value, the recording employee may request that the file be restricted pending 60-day deletion by submitting an email request via their chain of command to the Professional Standards Division Captain. The Professional Standards Division Captain will approve or deny the restriction request. In cases where the request is denied, an appeal may be submitted to the Chief of Police, or his/her designee, for restriction authorization. In all cases of restriction requests, a determination should be made within seven calendar days.

#### **425.17 REVIEW OF RECORDINGS BY A MEMBER**

Members are authorized to review their own BWC video files at any time in furtherance of official business. Such official business includes, but is not limited to, preparing written reports, prior to or while providing testimony in a case or being deposed. Members may review recordings as an evidentiary resource, except as stated in subsection 425.17.1 below. Members shall not retain personal copies of recordings. Members shall not use the fact that a recording was made as a reason to write a less detailed report.

##### **425.17.1 OFFICER INVOLVED INCIDENTS RESULTING IN GRAVE BODILY INJURY OR DEATH**

- (a) In the event of a critical incident that results in grave bodily injury or death, including an officer-involved shooting or an in-custody death, the BWC of the involved member(s) shall be taken from him or her and secured by a supervisor, commander, or appropriate investigator, as necessary. The involved member(s) shall not access or obtain their footage of the incident until such time as the criminal investigator(s) have reviewed

# Berkeley Police Department

## Law Enforcement Services Manual

### Body Worn Cameras

---

the video files. It will be the responsibility of the investigation team's supervisor to coordinate with the involved member's supervisor to obtain footage of the incident on behalf of the member.

- (b) Personnel uploading secured BWC video files shall not view the files unless authorized.
- (c) No member involved in a critical incident may view any video recordings prior to an interview by the appropriate criminal investigative unit, and receiving command approval.
- (d) Prior to the conclusion of the criminal interview process, the involved member and/or the member's representative will have an opportunity to review the member's recording(s). The involved member may choose to provide additional information to supplement his or her statement by providing a supplemental statement or separate supplemental document. In no case shall a member alter a report made prior to reviewing the recording.
- (e) The Department acknowledges that recordings taken during critical incidents obtained from BWCs do not necessarily reflect the full extent of the nature of the event or the experience, analysis, training, threat assessment or state of mind of the individual officers(s) in a given incident. Moreover, the recordings, especially video, have limitations and may depict events differently than the events recalled by the involved officer. Specifically, it is understood that the recording device will capture information that may not have been heard and/or observed by the involved officer and that officers may see and hear events that are not captured by the camera.

Officers who are involved in any critical incident where video recordings exist depicting the involved officer, either as a subject officer or witness, shall be provided the following admonishment to the initial interview or submission of the initial written report:

"In this case, there is video evidence that you will have an opportunity to view. Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your statement explains your state of mind at the time of the incident."

#### 425.17.2 SUPERVISORY REVIEW

With the exception of section 425.17.1 above, supervisors are authorized to review relevant recordings any time they are reviewing and approving case reports from their subordinates.

## Berkeley Police Department

### Law Enforcement Services Manual

#### Body Worn Cameras

---

##### 425.17.3 INVESTIGATORY REVIEW

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct, or whenever such recordings support review of the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in conduct of an official investigation, such as a personnel complaint, an administrative investigation or a criminal investigation.
- (b) Pursuant to lawful process or by court or District Attorney personnel who are otherwise authorized to review evidence in a related case.
- (c) By personnel assigned to investigatory units who are authorized to view any BWC video file associated to their active investigations, unless otherwise prohibited by policy.
- (d) Upon approval by the Chief of Police, Internal Affairs investigators may review BWC video with a complainant.

Investigators conducting criminal or internal investigations shall:

1. Advise the coordinator to restrict access to the BWC file in criminal or internal investigations, as necessary.
2. Review the file to determine whether the BWC file is of evidentiary value and process it in accordance with established protocols.
3. Notify the coordinator to remove the access restriction when the criminal/internal investigation is closed.

##### 425.17.4 TEACHING OR LEARNING TOOL

BWC files may also be reviewed by training staff regarding specific incidents where such files may serve as an internal learning or teaching tool. In the event that videos are intended to be used for training purposes, the involved officer(s) will first be consulted. If he/she objects to the use of the video, such objection shall be submitted to the person in charge of training who shall weigh the value of the video for training against the officer(s) objections and basis for the objection. Should the person in charge of training refuse to grant the request of the involved officer(s), the matter shall be heard by the Chief of Police, or his/her designee, prior to utilizing the video.

##### 425.17.5 COB CIVIL CLAIMS AND LAWSUITS

BWC recordings may be reviewed and used by City of Berkeley defense counsel for the purposes of defending the city in civil claims and lawsuits, with the authorization of the Chief of Police, or his/her designee.

##### 425.18 RELEASE OF RECORDINGS

All recordings should be reviewed by the Custodian of Records and the City Attorney's Office prior to public release, see General Order R-23 (Release of Public Records and Information).



## Berkeley Police Department

### Law Enforcement Services Manual

#### *Body Worn Cameras*

---

In the event that the Police Department or City Department intends to release or publish for any purpose video recordings where officers are captured on video or the video depicts actions taken by them in the course of the performance of their official duties, those officers shall be given written notice of the intention to release or publish said video at least 48 hours prior to such release.

BPD may, without prior notice to involved officers, share video footage with law enforcement, national security, military, or other government agencies outside of Berkeley, when there is reasonable suspicion that criminal activity has occurred or is about to occur.

#### 425.18.1 POLICE REVIEW COMMISSION (PRC)

Access to recorded files will be granted for the purposes of review to the Police Review Commission Officer and/or Investigator investigating a specific complaint where BWC evidence files are available, and are not part of any ongoing criminal investigation.

- (a) The PRC Officer and PRC Investigator will be provided user account access to evidence files through the evidence management system for their use during a complaint investigation and to facilitate viewing by Board of Inquiry members during a Board of Inquiry.
- (b) The PRC Officer and PRC investigator shall not make or create a copy of any evidence file, nor make or allow to be made any audio or video recording of any evidence file while it is being streamed and viewed from the evidence management system.
- (c) The PRC Officer and PRC Investigator shall not allow any unauthorized individuals to view or access evidence files.
- (d) The evidence management system associates an audit trail record with each evidence file, thereby logging the date, time, user, activity, and client IP address occurring during each evidence file access.
- (e) The evidence management system shall only be accessed on City premises.
- (f) The Department retains custody and control of the recordings, and content of the video will be subject to applicable legal standards including, but not limited to the confidentiality requirements of the Public Safety Officers' Procedural Bill of Rights, (Government Code § 3300, et seq., Penal Code § 832.7, and the California Public Records Act; Government Code § 6250, et seq.)

#### 425.18.2 PUBLIC RECORDS ACT (PRA) REQUEST

Access to recorded files will be granted for the purposes of review in response to a public records request, as permitted under Government Code § 6254(f) and BPD General Order R-23 (Release of Public Records and Information). General Order R-23 does not authorize release of investigative files or documents that would constitute an unwarranted invasion of privacy. Circumstances where this might arise in video include footage taken inside a home, a medical facility, the scene of a medical emergency, or where an individual recorded has a "reasonable expectation of privacy."

## Berkeley Police Department

### Law Enforcement Services Manual

#### *Body Worn Cameras*

---

#### 425.18.3 MEDIA

Access to recorded files will be granted for the purposes of review to media personnel or the general public with permission of the Chief of Police, or his/her designee, subject to General Order R-23 and privacy protections indicated in this policy.

#### **425.19 COMPLIANCE WITH BMC 2.99 ACQUISITION AND USE OF SURVEILLANCE TECHNOLOGY**

This policy shall comply at all times with the requirement of BMC 2.99 Acquisition and Use of Surveillance Technology.

#### **425.20 TRAINING REQUIRED**

Officers who are assigned BWCs must complete department-approved training in the proper use and maintenance of the devices before deploying to the field.

As part of a continual improvement process, regular review should be conducted by BPD staff of the training on this policy and the related use of BWCs under this policy. Information resulting from the outcomes of this review shall be incorporated into the City Manager's annual "Surveillance Technology Report" as required under BMC 2.99 Acquisition and Use of Surveillance Technology.

The Department, Police Review Commission and other City Departments shall maintain the confidentiality of Department sworn employee personnel records as required by state and local law. Failure to maintain the confidentiality of Department sworn employee personnel records, whether or not intentional, may subject individuals to civil penalties and discipline, up to and including termination of employment.

**ATTACHMENT 3:  
Global Positioning System Tracking Devices**

**Surveillance Technology Report GPS Tracker  
To be provided as part of supplemental communications**

---

## Surveillance Use Policy - GPS Tracking Devices

### 1301.1 PURPOSE

Global Positioning System (GPS) tracking devices track the movements of vehicles, bicycles, cargo, machinery, other items, and/or individuals. GPS trackers electronically relay their precise location in real time, and thereby assist BPD in the recovery of evidence and arrest of suspects.

### 1301.2 AUTHORIZED USE

GPS trackers shall only be used during active criminal investigations. GPS trackers shall only be used pursuant to a lawfully issued search warrant, or with consent of the owner of the object to which the GPS tracker is attached.

GPS trackers shall only be utilized for law enforcement purposes.

### 1301.3 DATA COLLECTION

Location data may be obtained through the use of a GPS Tracker.

### 1301.4 DATA ACCESS

Access to GPS tracker data shall be limited to Berkeley Police Department (BPD) personnel utilizing the GPS Tracker(s) for active criminal investigations. Information may be shared in accordance with 1301.9 below.

In support of active criminal investigations, BPD personnel may receive GPS tracker data from probation or parole agencies which utilize GPS trackers (e.g. ankle monitors) as a condition of probation or parole.

### 1301.5 DATA PROTECTION

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.

### 1301.6 CIVIL LIBERTIES AND RIGHTS PROTECTION:

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. Provisions of this policy, including 1301.4 Data Access, 1301.5 Data Protection, 1301.7 Data Retention, 1301.8 Public Access and 1301.9 Third Party Data Sharing serve to protect against any unauthorized use of GPS tracker data. These procedures ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

### 1301.7 DATA RETENTION

A GPS Tracker data record consists of date, time, latitude, longitude, map address, and tracker

---

identification label. This data is stored indefinitely by the vendor. The data does not contain any images, names of subjects, vehicle information, etc.

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.

**1301.8 PUBLIC ACCESS**

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law.

**1301.9 THIRD-PARTY DATA-SHARING**

Data collected from the GPS trackers may be shared with the following:

- (a) The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- (b) Other law enforcement personnel as part of an active criminal investigation;
- (c) Other third parties, pursuant to a Court Order.

**1301.10 TRAINING**

Training for the operation of the GPS trackers shall be provided by BPD personnel. All BPD personnel shall be provided with this Surveillance Use Policy.

**1301.11 AUDITING AND OVERSIGHT**

Division Captains or their designee shall ensure compliance with this Surveillance Use Policy.

**1301.12 MAINTENANCE**

GPS trackers shall only be obtained with the permission of the Investigations Division Captain or his/her designee. The Investigations Division Captain or his/her designee will ensure the trackers are returned when the mission/investigation is completed.

**1301 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - GPS TRACKING DEVICES**

---

**GPS TRACKING DEVICES****A. DESCRIPTION**

Global Positioning System (GPS) tracking devices track the movements of vehicles, bicycles, cargo, machinery, other items, and/or individuals.

The Berkeley Police Department currently uses two types of GPS Tracking Devices to track the movements of vehicles, bicycles, or other kinds of property. The manufacturer, 3SI Security Systems, describes them as follows:

1. The "Slap-n-Track" (SNT) tracker tracks vehicles, cargo, and other large assets for long deployments. Offers extended battery life, rugged and weatherproof housing, and optional magnets.
2. The "Electronic Stake Out" (ESO) tracker offers Law Enforcement miniaturized and covertly packaged GPS Tracking Solutions to target property crimes, especially pattern crimes, in their local jurisdictions.

**B. PURPOSE**

Global Positioning System (GPS) tracking devices provide precise, real-time location information during the conduct of active criminal investigations. GPS trackers are only used pursuant to a lawfully issued search warrant, or with consent of the owner of the object to which the GPS tracker is attached.

**C. LOCATION**

GPS tracking devices shall be deployed in locations consistent with the authority granted by consent or a lawfully issued search warrant or court order.

**D. IMPACT**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. GPS Trackers are used in place of expensive, resource-intensive surveillance operations which typically involve multiple officers, often over long periods of time. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures utilized with GPS trackers help to ensure no unauthorized use of of GPS tracker data occurs. BPD Policy 1301 Surveillance Use Policy – GPS Tracking Devices ensure the use of GPS trackers and the resulting data are not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

**1301 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - GPS TRACKING DEVICES**

---

**E. MITIGATION**

Data from a GPS tracker is encrypted from the vendor. Data shall be maintained in a secure, non-public location, such as locations requiring security access or badge access, thereby safeguarding the public from any impacts identified in subsection (D).

**F. DATA TYPES AND SOURCES**

A GPS tracker data record consists of date, time, latitude, longitude, map address (derived by using latitude, longitude and Google maps), and tracker identification label. The data does not contain any images, names of subjects, vehicle information, etc.

**G. DATA SECURITY**

Data from a GPS tracker is encrypted by the vendor on secure servers. The data is only accessible through a secure website to BPD personnel who have been granted security access. Captains whose Divisions utilize GPS trackers are responsible for ensuring compliance with the procedures for utilizing GPS Trackers.

**H. FISCAL COST**

The initial cost of the GPS trackers totaled \$4,335.

- Between 2015-present BPD purchased 5 GPS "ESO" trackers for \$2,250 (\$450 each).
- In 2017 BPD purchased 3 GPS "SNT" trackers for \$2,085 (\$695 each).

The annual cost for the GPS data service totals \$1,920.

- The annual data service for the five ESO trackers is \$1,020 (\$204 each).
- The annual data service for the three SNT trackers is \$900 (\$300 each).

Personnel costs are minimal in that the GPS trackers are used as a resource during normal working hours.

GPS trackers are funded through the Investigations Division's general budget.

**I. THIRD PARTY DEPENDENCE AND ACCESS**

Data collected from the GPS trackers may be shared with the following:

- a. The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- b. Other law enforcement offices as part of a criminal investigation;
- c. Other third parties, pursuant to a Court Order.



**1301 APPENDIX A**

**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - GPS TRACKING DEVICES**

---

**J. ALTERNATIVES**

An alternative to the use of GPS trackers is to conduct resource-intensive surveillance operations utilizing numerous personnel over extended periods of time.

**K. EXPERIENCE OF OTHER ENTITIES**

The use of GPS tracker technology is common amongst law enforcement agencies throughout the country.

**ATTACHMENT 4:  
Automated License Plate Readers**

**Surveillance Technology Report Automated License Plate Reader  
To be provided as part of supplemental communications**

## Surveillance Use Policy - ALPR

### 1302.1 PURPOSE

This Surveillance Use Policy is issued in compliance with BMC 2.99, and incorporates by reference language from the Berkeley Police Department ALPR Policy #422 and adds elements as required by BMC 2.99.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review. (Ref. policy 422.2)

### 1302.2 AUTHORIZED AND PROHIBITED USES USE

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53). (Ref. policy 422.4)

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used to support a patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

### 1302.3 DATA COLLECTION

All data and images gathered by an ALPR are for the official use of the Berkeley Police Department. Such data may contain confidential CLETS information and is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or other law enforcement agencies only as permitted by law. (Ref. policy 422.5)

### 1302.4 DATA ACCESS

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (c) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

---

### **1302.5 DATA PROTECTION**

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53) (Ref. policy 422.6):

- (a) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action and parking enforcement.
- (c) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
- (d) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.

### **1302.6 CIVIL LIBERTIES AND RIGHTS PROTECTION:**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third Party Data Sharing) protect against the unauthorized use of ALPR data. These policies ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

### **1302.7 DATA RETENTION**

The Investigations Division Captain, or his/her designee, is responsible for ensuring proper collection and retention of ALPR data. Technical support and assistance shall be provided by the City of Berkeley's Information Technology (IT) department and associated ALPR system providers/vendors as identified below. IT staff will not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT's role will be limited to providing initial infrastructure set-up, unless particular IT staff members have been cleared by DOJ background checks and authorized by the Chief of Police to receive ALPR records.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence. (Ref. policy 422.5)

- 
- (a) Collected images and metadata of hits will not be stored for more than 365 days. Metadata of reads will not be stored for more than 30 days. Images of reads will not be transferred to the server.

### **1302.8 PUBLIC ACCESS**

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law. (Ref. policy 422.6 (a))
- (b) Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question. (Ref. policy 422.6 (b))

### **1302.9 THIRD-PARTY DATA-SHARING**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law. ALPR data is subject to the provisions of BPD Policy 415, and hence may not be shared with federal immigration enforcement officials.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager. (Ref. policy 422.6 (e))

### **1302.10 TRAINING**

Training for the operation of ALPR Technology shall be provided by BPD personnel. All BPD employees who utilize ALPR Technology shall be provided a copy of this Surveillance Use Policy.

### **1302.11 AUDITING AND OVERSIGHT**

ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually. (Ref. policy 422.6 (g))

### **1302.12 MAINTENANCE**

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data. (Ref. policy 422.3)

#### **1302.12.1 ALPR ADMINISTRATOR**

The Investigations Division Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53) (Ref.

policy 422.3.1):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Ensuring this policy and related procedures are conspicuously posted on the City's website.

**1302 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - AUTOMATED LICENSE PLATE READER DEVICES**

---

**AUTOMATED LICENSE PLATE READER (ALPR) DEVICES****A. DESCRIPTION**

Automated License Plate Readers (ALPRs) are high-speed, computer controlled camera systems that are typically mounted on Berkeley Police Department Parking Enforcement Vehicles.

ALPRs capture license plate numbers which come into view, along with the location, date and time. The data, which includes a photo of the front or the back of the car displaying the license plate, is then uploaded to a central server.

**B. PURPOSE**

The Berkeley Police Department's Parking Enforcement Unit utilizes vehicles equipped with ALPRs to conduct enforcement of posted time limits in commercial areas and Residential Preferential Parking (RPP) permit areas. These ALPR's also access information in the California Law Enforcement Telecommunications System's (CLETS) Stolen Vehicle System (SVS) database, which provides information on matches for stolen and wanted vehicles.

The Berkeley Police Department's Scofflaw Enforcement program (often referred to as the "booting" program) utilizes an ALPR to scan license plates, and check the scanned "reads" against a list of vehicles which have five or more outstanding parking citations exceeding 30 days old. Typically, upon a confirmed "hit," the vehicle is immobilized with a "boot", or towed, and the owner has to pay the outstanding citations and fees in order to release the boot and/or recover their car from storage. This allows the City to recover outstanding parking citation fees.

**C. LOCATION**

Parking Enforcement vehicles travel throughout the city; using the ALPRs as described above.

**D. IMPACT**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures utilized with ALPR Units will help to ensure unauthorized use of its data. The procedures will ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.



**1302 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - AUTOMATED LICENSE PLATE READER DEVICES**

---

**E. MITIGATION**

All saved data will be safeguarded and protected by both procedural and technological means which are implemented to safeguard the public from any impacts identified in subsection (D). See subsection (G) for further.

**F. DATA TYPES AND SOURCES**

Photographs of license plates and location data may be obtained through the use of ALPR Units.

**G. DATA SECURITY**

The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

1. All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
2. Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action and parking enforcement.
3. Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
4. Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.

**H. FISCAL COST**

In 2015, Public Works brought an ALPR Contract to City Council. Council approved a contract for Public Works to buy five Genetec ALPR Units with PCS Mobile communication, for a pilot program for \$450,000.

In 2017, after success with the program, City Council approved an amendment to the contract, allowing Public Works to purchase 15 more ALPR Units for Parking Enforcement vehicles, and to continue its use of PCS Mobile, for 1,200,000. The money was allocated from the goBerkeley/Federal Highway Administration Parking Meter Fund.

Yearly service for the ALPR Units includes warranties, hosting services, cellular connection, mobile computing, and training which varies. The costs through fiscal year 2022 are currently estimated at \$1,175,000.

**1302 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - AUTOMATED LICENSE PLATE READER DEVICES**

---

Personnel costs are minimal in that the ALPR Units are used as a resource during normal working hours.

**I. THIRD PARTY DEPENDENCE AND ACCESS**

1. Vendor Access-Scofflaw Enforcement: The contracted vendor for the City's Scofflaw Enforcement program is currently Paylock. Paylock stores data on a secure server, and provides access to authorized personnel via Paylock's "Bootview" secure website, as described below:
  - a. All data captured by the ALPR is stored on the booting vehicle's laptop for 30 days, and is only accessible during that period via the ALPR proprietary software. This includes reads, hits, and photographs associated with each.
  - b. When a car is booted and/or towed, the read, hit and photographic data relating to the booting and/or towing of scofflaw vehicles is uploaded to Paylock's secure server. No other data is uploaded to Paylock's secure server.
2. Vendor Access-General Parking Enforcement and goBerkeley Program: The contracted vendor for the City's Parking Enforcement ALPR is currently Genetec. The city uses Genetec ALPRs to support efficient enforcement of posted time limit parking and Residential Preferential Parking permits.
  - a. In addition, Genetec periodically provides reports to the City of Berkeley Transportation Division's "goBerkeley" parking management program so that the City's program can analyze data about parking demand. These reports do not contain any information about a vehicle's license plate number, the name of the registered owner, address of registered owner, or any other information gleaned from the license plate number associated with a particular vehicle. Rather, the reports consist of completely anonymized information, using identification numbers that are not associated with a particular license plate or registered owner.
  - b. The reports will provide only the date, time, location, approximate address, "goBerkeley" blockface ID, and Residential Permit Pass (RPP) area in which a vehicle was observed. If a citation was not issued for an RPP or other time limit violation, the report may also provide the reason a parking enforcement officer concluded there was no parking violation, e.g., RPP visitor pass, disabled placard or license plate, etc.
3. Department of Information Technology Access: Technical support and assistance for ALPR's is provided by the City of Berkeley's Department of Information Technology (IT) and associated ALPR system providers/vendors as identified herein. IT staff who

**1302 APPENDIX A****BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT - AUTOMATED LICENSE PLATE READER DEVICES**

---

do not have the proper clearance and training do not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT provides initial infrastructure set-up, and continued systems support as needed to ensure efficient and accurate performance of the ALPR hardware and software. Only IT staff members who have successfully undergone DOJ background checks and training are authorized by the Chief of Police to view specific ALPR records.

4. **Other Law Enforcement Agency Access:** ALPR data may only be shared with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55). Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
5. **Member Access:** No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training. No ALPR operator may access CLETS data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.
6. **Public Access:** Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law. Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.

**J. ALTERNATIVES**

None.

**K. EXPERIENCE OF OTHER ENTITIES**

The use of ALPR technology is common amongst law enforcement agencies throughout the country, in support of parking enforcement, and law enforcement criminal investigations.

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

### **422.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### **422.2 POLICY**

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### **422.3 ADMINISTRATION**

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### **422.3.1 ALPR ADMINISTRATOR**

The Investigations Division Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Ensuring this policy and related procedures are conspicuously posted on the City's website.

### **422.4 USE OF THE ALPR**

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use,

---

or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR may be used by Berkeley Police Department Parking Enforcement for parking and scofflaw enforcement.
- (b) An ALPR may be used to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped vehicles to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert

#### **422.5 .DATA COLLECTION AND RETENTION**

All data and images gathered by an ALPR are for the official use of the Berkeley Police Department. Such data may contain confidential CLETS information and is not open to public review.

The Investigations Division Captain, or his/her designee, is responsible for ensuring proper collection and retention of ALPR data.

Technical support and assistance shall be provided by the City of Berkeley's Information Technology (IT Department and associated ALPR system providers/vendors as identified below. IT staff will not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT's role will be limited to providing initial infrastructure set-up, unless particular IT staff members have been cleared by DOJ background checks and authorized by the Chief of Police to receive ALPR records.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

- (a) Collected images and metadata of reads showing violations will not be stored for more than 365 days.
- (b) Metadata of reads showing violations will be stored for up to 30 days. Images of reads not

---

showing violations will not be transferred to the server.

#### **422.6 ACCOUNTABILITY**

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.
- (c) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (d) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action or parking enforcement.
- (e) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
- (f) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (g) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **422.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  - 1. The name of the agency.
  - 2. The name of the person requesting.
  - 3. The intended purpose of obtaining the information.

- 
4. The related case number.
  - (b) The request is reviewed by the Investigations Division Captain, or his/her designee, and approved before the request is fulfilled.
  - (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

#### **422.8 SCOFFLAW ENFORCEMENT**

The Berkeley Police Department uses ALPR technology in the Parking Enforcement Unit for parking and scofflaw enforcement.

The Parking Enforcement Unit will utilize vehicles equipped with ALPR units to conduct enforcement of posted time limits in commercial areas and Residential Preferential Parking (RPP) permit areas. These ALPR's will also access information in the DMV's Stolen Vehicle System (SVS) database for wanted and stolen vehicles.

The Scofflaw Enforcement program (often referred to as the "booting" program) utilizes an ALPR to scan license plates and check the scanned "reads" against a list of vehicles which have five or more outstanding parking citations exceeding 30 days old. Typically, upon a confirmed "hit," the vehicle is immobilized with a "boot", or towed, and the owner has to pay the outstanding citations and fees in order to release the boot and/or recover their car from storage. This allows the City to recover outstanding citation fees.

The contracted vendor for the City's Scofflaw Enforcement program is currently Paylock. Paylock stores data on a secure server, and provides access to authorized personnel via Paylock's "Bootview" secure website.

When a car is booted and/or towed, the read, hit and photographic data relating to the booting and/or towing of scofflaw vehicles is uploaded to Paylock's secure server. No other data is uploaded to Paylock's secure server.

The City's Parking Enforcement ALPR vendor (currently Genetec) will periodically provide reports to the City of Berkeley Transportation Division's "goBerkeley" parking management program so that it can analyze data about parking demand. These reports will not contain any information about a vehicle's license plate number, the name of the registered owner, address of registered owner, or any other information gleaned from the license plate number associated with a particular vehicle. Rather, the reports will consist of 100 percent anonymized information using identification numbers that are not associated with a particular license plate or registered owner.

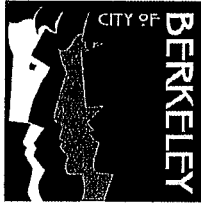
The reports will provide only the date, time, location, approximate address, "goBerkeley" blockface ID, and RPP area in which a vehicle was observed. If a citation was not issued for an RPP or other time limit violation, the report may also provide the reason a parking

---

enforcement officer concluded there was no parking violation, e.g., RPP visitor pass, disabled placard or license plate, etc.



**ATTACHMENT 5:  
Police Review Commission Communication**



Police Review Commission (PRC)

September 11, 2019

To: Honorable Mayor and Members of the City Council  
From: George Perezvelez, <sup>PRC Chair</sup> Chairperson, Police Review Commission  
Re: Proposed Berkeley Police Department Policy 422, Automated License Plate Readers

Summary: This memo is to inform you of the Police Review Commission's qualified approval of the BPD's proposed policy for the use of Automated License Plate Readers (ALPRs).

Background: The BPD submitted the ALPR policy, Policy 422, to the PRC for review, along with the Surveillance Use Policy and the Surveillance Acquisition Report (Policy 1302 and Appendix A) for these devices. This process was undertaken in advance of BPD submitting these items to the City Council as required by the Surveillance Technology Use and Community Safety Ordinance (B.M.C. Ch. 2.99).

These policies were first considered by the full Commission, which then referred them to its Lexipol Policies Subcommittee. In response to feedback from the PRC and the Subcommittee, the BPD revised the proposed policy, which was reviewed by both bodies. At various stages, the PRC and the subcommittee had the opportunity to hear from and ask questions of Police Chief Greenwood and other members of the BPD, and Deputy City Attorney Chris Jensen. The PRC also heard input from representatives of Media Alliance and Oakland Privacy.

Final action: At its September 4, 2019 meeting, the PRC voted to approve for submission to the City Council for your review and discussion the version of Policy 422 that is attached here, with two caveats. First, there was concern among some commissioners that the ALPR was originally acquired for the purpose of parking enforcement and that this policy represents an expansion of that function. If this is not what the Council had in mind, then this policy should be modified accordingly. Second, Section 422.4(c) of the policy does not adequately define what constitutes a "crime scene."

Finally, the Commission wishes to remind the Council that they will see actual use of the ALPR technology under the reporting mechanism in place in the Surveillance Technology Use and Community Safety Ordinance.

Honorable Mayor and Members of the City Council  
Proposed Berkeley Police Department Policy 422, Automated License Plate Readers  
September 11, 2019  
p. 2

The above action was approved by the following vote: Moved/Seconded  
(Perezvelez/Mikiten) -- Ayes: Calavita, Chang, Leftwich, Mikiten, Perezvelez,  
Ramsey; Noes: Earnest, Mizell; Abstain: Allamby; Absent: None.

Attachment: Revised Policy 422

cc: Dee Williams-Ridley, City Manager  
Andrew Greenwood, Chief of Police  
David White, Deputy City Manager  
PRC Commissioners

---

## Automated License Plate Readers (ALPRs)

### 422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 422.2 POLICY

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### 422.3 ADMINISTRATION

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 422.3.1 ALPR ADMINISTRATOR

The Investigations Division Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Ensuring this policy and related procedures are conspicuously posted on the City's website.

### 422.4 USE OF THE ALPR

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use,

---

or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR may be used by Berkeley Police Department Parking Enforcement for parking and scofflaw enforcement.
- (b) An ALPR may be used to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped vehicles to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

#### **422.5 DATA COLLECTION AND RETENTION**

All data and images gathered by an ALPR are for the official use of the Berkeley Police Department. Such data may contain confidential CLETS information and is not open to public review. ~~ALPR information gathered and retained by this department may be used and shared with prosecutors or other law enforcement agencies only as permitted by law.~~

The Investigations Division Captain, or his/her designee, is responsible for ensuring proper collection and retention of ALPR data.

Technical support and assistance shall be provided by the City of Berkeley's Information Technology (IT Department and associated ALPR system providers/vendors as identified below. IT staff will not have the ability to access or view individual records or reports, as they may contain CLETS information they are not authorized to receive. IT's role will be limited to providing initial infrastructure set-up, unless particular IT staff members have been cleared by DOJ background checks and authorized by the Chief of Police to receive ALPR records.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

- (a) Collected images and metadata of reads showing violations will not be stored for more than 365 days.

- 
- (b) Metadata of reads showing violations will be stored for up to 30 days. Images of reads not showing violations will not be transferred to the server.

#### **422.6 ACCOUNTABILITY**

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requestor in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.
- (c) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (d) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action or parking enforcement.
- (e) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.
- (f) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (g) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **422.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  1. The name of the agency.

- 
2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
  4. The related case number.
- (b) The request is reviewed by the Investigations Division Captain, or his/her designee, and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

#### **422.8 SCOFFLAW ENFORCEMENT**

The Berkeley Police Department uses ALPR technology in the Parking Enforcement Unit for parking and scofflaw enforcement.

The Parking Enforcement Unit will utilize vehicles equipped with ALPR units to conduct enforcement of posted time limits in commercial areas and Residential Preferential Parking (RPP) permit areas. These ALPR's will also access information in the DMV's Stolen Vehicle System (SVS) database for wanted and stolen vehicles.

The Scofflaw Enforcement program (often referred to as the "booting" program) utilizes an ALPR to scan license plates and check the scanned "reads" against a list of vehicles which have five or more outstanding parking citations exceeding 30 days old. Typically, upon a confirmed "hit," the vehicle is immobilized with a "boot", or towed, and the owner has to pay the outstanding citations and fees in order to release the boot and/or recover their car from storage. This allows the City to recover outstanding citation fees.

The contracted vendor for the City's Scofflaw Enforcement program is currently Paylock. Paylock stores data on a secure server, and provides access to authorized personnel via Paylock's "Bootview" secure website, as described below:

- (a) All data captured by the ALPR is stored on the laptop for 30 days, and is only accessible during that period via the ALPR proprietary software. This includes reads, hits, and photographs associated with each.

When a car is booted and/or towed, the read, hit and photographic data relating to the booting and/or towing of scofflaw vehicles is uploaded to Paylock's secure server. No other data is uploaded to Paylock's secure server.

The City's Parking Enforcement ALPR vendor (currently Genetec) will periodically provide reports to the City of Berkeley Transportation Division's "goBerkeley" parking management program so that it can analyze data about parking demand. These reports will not contain any information about a vehicle's license plate number, the name of the registered owner, address of registered owner, or any other information gleaned from the license plate number associated

with a particular vehicle. Rather, the reports will consist of 100 percent anonymized information using identification numbers that are not associated with a particular license plate or registered owner.

The reports will provide only the date, time, location, approximate address, "goBerkeley" blockface ID, and RPP area in which a vehicle was observed. If a citation was not issued for an RPP or other time limit violation, the report may also provide the reason a parking enforcement officer concluded there was no parking violation, e.g., RPP visitor pass, disabled placard or license plate, etc.







Office of the City Manager

INFORMATION CALENDAR

March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Eleanor Hollander, Acting Economic Development Manager

Subject: Berkeley Economic Dashboards and Demographic Profile Update

INTRODUCTION

The Office of Economic Development (OED) is pleased to present the Citywide Economic Dashboard update for December 2019 (Attachment 1), the updated Commercial District Dashboards (Attachment 2), and a Demographic and Economic Profile update (Attachment 3).

CURRENT SITUATION AND ITS EFFECTS

Over the past five years, Berkeley has experienced economic growth comparable with that of the Bay Area region. By a variety of indicators, Berkeley's economy continued to perform well through the start of 2019 and the final quarter of 2018. However, there are also some indicators of slowed or flattening growth, such as decreasing sales tax revenues. Key findings include:

- **Berkeley's unemployment rate remains extremely low.** Berkeley's average unemployment rate for 2019 is 2.4% as compared with 2.8% in 2018. In comparison, Alameda County's average unemployment rate in 2019 is 3.1%, while California's is 4.2%.
- **Berkeley's sales tax performance was essentially flat from FY2018 to 2019.** The year-end cumulative total sales tax revenues increased by 0.7% from Q2 2018 to Q2 2019. This trends behind both the 9-county region (which increased by 2.5%) and the state (+2.5%). Quarter over quarter, sales tax revenues in Q2 2019 were 1.3% lower than in Q2 2018, including decreases in sales tax generated by Retail activities (-2.2%) and by the Construction sector (-6.3%).
- **Office vacancy rates in Berkeley remain low.** Overall office availability in Berkeley increased six-tenths of a percent from Q2 2019 (4.2%) to Q3 2019 (4.8%). For context, the East Bay office market area average during this same period was 10.3%. Demand remains high in Berkeley while inventory continues to remain low; asking office rents in the City average \$3.30 per square foot.

- **The average citywide ground floor commercial vacancy rate was up slightly to 5.4% in Q3 2019 (from 5.0% in Q4 2018).** In particular, the Downtown Berkeley and West Berkeley districts have increased commercial vacancy, owing to a small number of large square footage vacancies (2,000-10,000 square feet). The newly vacant spaces are being actively marketed for tenants and new leases are currently under development. In each of the other seven districts tracked in the database, vacancy rates have stayed level or slightly decreased.
- **Retail in commercial districts, as a share of total square footage, continues to decline.** The percentage of ground floor commercial square footage occupied by retail uses has decreased from 42.8% in 2015 to 37.7% in 2019. As retail has declined, ground floor commercial spaces have been increasingly occupied by office uses, personal services, food and beverage services, and other non-retail uses (including non-conforming uses, spaces that are leased but inactive, and pending development projects).
- **Housing costs in Berkeley remain high for buyers and for renters, consistent with the Bay Area region overall.** In 2019 Berkeley's median home sale prices remain higher than its neighboring communities, driven by a strong overall economy and limited housing inventory. As of September 2019 the median sale price for a single family home was \$1.24 million. However, prices in Albany and Alameda increased by a third in the past year, while Berkeley's home prices have remained relatively stable.

## BACKGROUND

In a December 2015 information report to City Council, OED released a set of new publications, the Citywide Economic Dashboard and Commercial District Dashboards, which analyze a wide variety of economic trends and indicators in Berkeley. Attached to this report is an updated version of the Citywide Economic Dashboard and Commercial District Dashboard for December 2019 (Attachments 1 and 2). These dashboards are designed to make current economic and community data and information more accessible to Council, City staff, and community stakeholders. The reports provide updated information through Q3 2019. OED staff will continue to update these dashboards on a semi-annual basis, as staffing allows, and has posted the most recent version on the City's website at <http://www.ci.berkeley.ca.us/oed/reports/>.

Also included in this package of publications is an update to the Citywide Demographic and Economic Profile (Attachment 3) which provides information about Berkeley's population, business sectors and amenities. This information helps investors, business owners, and other stakeholders become more familiar with the Berkeley market.

To produce these publications, OED staff compiled and analyzed a wide variety of data sources including the American Community Survey (US Census Bureau), the Quarterly Census of Employment and Wages (Bureau of Labor Statistics), Monthly Labor Force

Data (California Employment Development Department), commercial real estate data (Newmark Cornish & Carey), housing market MLS data (Berkeley Rent Stabilization Board, Redfin) and sales tax data (MUNI Services/Avenu Insights). Staff also analyzed data from City databases including business licenses, building permits and planning permits, and City publications such as rent board reports and start up information from the Berkeley Startup Cluster, and those of Berkeley's startup incubators and accelerators. Finally, in the third quarter of 2019 OED staff updated its periodic occupancy survey of ground floor commercial spaces in commercial districts around the City (Attachment 2). Due to a lag in availability of some data, many of the findings presented in the attached publications are most relevant to beginning of 2019 or late 2018, but others reflect the third quarter of 2019. These publications support the City's Strategic Plan, advancing our goal *to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.*

#### ENVIRONMENTAL SUSTAINABILITY

Many of the City's environmental sustainability goals are inextricably tied to the overall health of the City's economy. Staff believes that the continued pursuit of sustainable economic goals, represents a strength for Berkeley and demonstrates a competitive advantage of the City and the region.

#### POSSIBLE FUTURE ACTION

OED staff will, as directed by Council through previous and future referral items, partner with other City departments and community partners to implement programs and policies that foster a dynamic, sustainable, and locally-based economy.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Actions that facilitate increased economic activity tend to boost revenues related to sales tax and property tax, and thus have positive fiscal impacts on the city.

#### CONTACT PERSON

Jordan Klein, Economic Development Manager, (510) 981-7534

Eleanor Hollander, Economic Development Project Coordinator, (510) 981-7536

#### Attachments:

- 1: Citywide Economic Dashboard
- 2: Commercial District Dashboards
- 3: Citywide Demographic and Economic Profile



city of

# BERKELEY



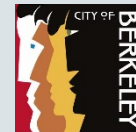
## Economic Dashboard

December 2019

Office of Economic Development

**Disclaimer:** The City of Berkeley makes no representations about the suitability of the information contained in this document for any purpose. The information is provided "as is" without warranty, either express or implied, of any kind. The published document may contain technical inaccuracies or typographical errors. Changes are periodically added to the information herein. The City of Berkeley may make improvements and/or changes to the document at any time.

# table of contents



## CITYWIDE ECONOMIC DASHBOARD

### EMPLOYMENT

3-4

- Labor Force & Employment Figures
- Job Growth by Industry Sector

### BUSINESS DEVELOPMENT

5-6

- Top Employers
- Innovation Sector
- Small Business Revolving Loan Fund

### COMMERCIAL ACTIVITY

7-10

- Office Trends & Transactions
- Commercial Trends & Transactions
- Commercial Districts & Vacancy Rates
- Sales Tax Revenues

### DEVELOPMENT & HOUSING

11-12

- Construction & Pipeline
- Housing Costs

# EMPLOYMENT:

## labor force & employment figures

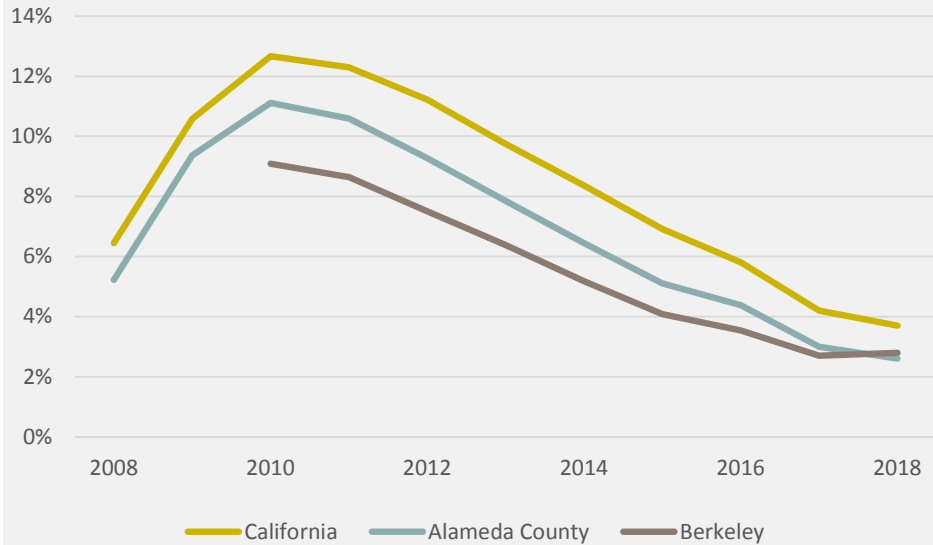


### City of Berkeley Averages, 2016-2018

| Year | Labor Force | Employed Residents | Unemployment Rate |
|------|-------------|--------------------|-------------------|
| 2016 | 62,166      | 60,000             | 3.5%              |
| 2017 | 63,700      | 61,900             | 2.7%              |
| 2018 | 64,700      | 62,900             | 2.8%              |

Source: CA Employment Development Department, Labor Market Information Division

### Unemployment Rates, Averages 2000-2018



Source: CA Employment Development Department (EDD), LMI Division, Reported Q4 2018

### Employment & Jobs: Fast Facts

- The East Bay (Oakland, Berkeley, Hayward) average unemployment rate for Q2 2019 is 3%.
- In comparison, Alameda County's average unemployment rate in Q2 2019 is 3.1%, while California's is 4.2%.
- Between July 2018 and July 2019, the total number of jobs in the East Bay increased by 21,600 jobs, or 1.8%.



Images clockwise from left: Nabolom Bakery, UC Berkeley, UCB, Slingfin.

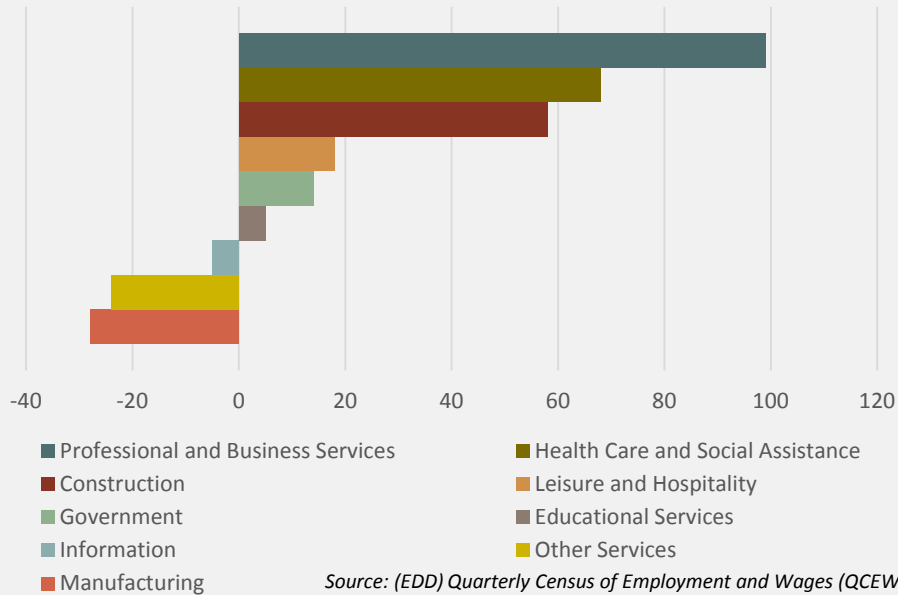


# EMPLOYMENT:

## growth by industry sector



Number of Jobs Added 2018-2019, By Sector



### Bayer Expanding in Berkeley

In May of 2019, Bayer broke ground on a new technology center, expanding their scientific research activities and their community-wide impact in Berkeley. Bayer plays an important role in the City, creating hundreds of jobs, fashioning training and mentorship programs with local students, and supporting local health and educational programs through their foundation.



Once opened, Bayer expects to have 100 new employees assigned to the facility.<sup>1</sup> Construction is expected to be completed in 2021.

Image: Bayer

<sup>1</sup> Bayer breaks ground on \$150m building to make biologic therapies, Berkeleyside, May 10, 2019

### Kaiser Brings Jobs and More Health Options

This year the Zoning Adjustment Board and City Council approved plans for a new medical office building to be completed in 2021. Kaiser's expansion will bring new medical services, mental health care, a pharmacy and other outpatient offerings to San Pablo Avenue.



Image: Gould Evans

| Sector                     | % Change in Employment 2018 | % Change in Employment 2019 |
|----------------------------|-----------------------------|-----------------------------|
| Construction               | 4.0%                        | 7.6%                        |
| Personal Care Services     | 4.2%                        | -3.1%                       |
| Food and Beverage          | 3.1%                        | 0.4%                        |
| Leisure and Hospitality    | 0.5%                        | 1.5%                        |
| Social Assistance Services | 3.4%                        | 4.3%                        |
| Health Care Services       | 2.2%                        | 4.0%                        |



## top employers & innovation sector

### Berkeley's Largest 25 Employers, by Number of Employees

|                                  |                                    |
|----------------------------------|------------------------------------|
| Ansys, Inc.                      | Lawrence Berkeley Laboratory       |
| Backroads Inc.                   | Lifelong Medical Care              |
| Bayer Healthcare LLC             | OC Jones & Sons                    |
| Berkeley Bowl Produce            | Recreational Equipment Inc. (REI)  |
| Berkeley Cement Inc.             | Rigetti Quantum Computing          |
| Berkeley City College            | Siemens Corporation                |
| Berkeley Marina Doubletree       | Solar Mosaic Inc.                  |
| Berkeley Repertory Theatre       | Sutter Bay Hospitals               |
| Berkeley Unified School District | Target Corporation                 |
| City of Berkeley                 | University of California, Berkeley |
| Genji Pacific                    | Whole Foods Market California Inc. |
| Kaiser Permanente                | YMCA of the Central Bay Area       |
| Meyer Sound Laboratories         | Source: EDD, QCEW Data Q4 2018     |

### Discovered in Berkeley: Home-Grown Success



**Wild Earth: Taking on factory farms, one bag of kibble at a time**

By Local sponsor, Dec. 5

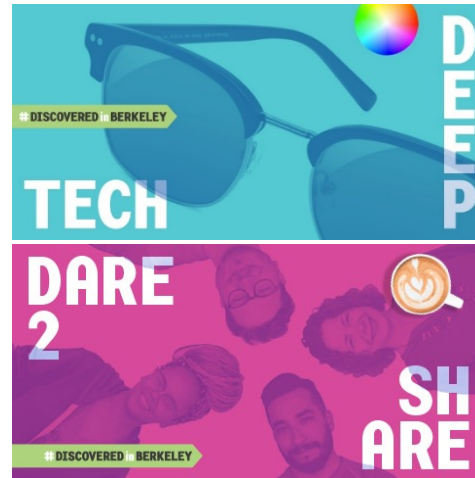
Image: *Berkleleyside.com*

From glasses for the colorblind, to craft beverages, to sustainable reuse companies, Berkeley businesses are developing exceptional products in our backyard and spreading their success throughout the world. This year, the City of Berkeley launched Discovered in Berkeley, designed to highlight, celebrate, and support the innovative ecosystem of Berkeley based startups, businesses, and manufacturers building businesses, economic success, and community. This initiative provides assistance to grow businesses, local employees, and personalized advice and support to ensure long-term success and impact. Throughout 2020, the Office of Economic Development will be featuring stories highlighting these companies in the local publication *Berkleleyside*, and the micro-site *DiscoveredinBerkeley.com* and on social media with the hashtag: #DiscoveredinBerkeley.

556



Images from the Discovered in Berkeley marketing campaign: ACCI Gallery (Above), Encroma Inc. (Right-Top) Bay Area Co-Roasters (Right-Bottom)



## small business revolving loan fund

The City of Berkeley's Revolving Loan Fund (RLF) is federally funded by the Economic Development Administration (EDA) and provides access to capital for businesses that don't qualify for traditional commercial loans.

| Portfolio Summary 2019      | Total Loans* | Active Loans |
|-----------------------------|--------------|--------------|
| Number of RLF Loans         | 42           | 9            |
| RLF \$ Loaned               | \$2,463,417  | \$910,000    |
| Total Non-RLF \$ Leveraged  | \$7,568,959  | \$2,414,543  |
| Private Sector Jobs Created | 206          | 39           |
| Private Sector Jobs Saved   | 96           | 71           |

\*Total Loans originated from RLF fund since inception (1980).

|                | Number of Loans | \$ Loaned          | Number of Jobs - Created and Saved |
|----------------|-----------------|--------------------|------------------------------------|
| Minority Owned | 17              | \$949,840          | 119                                |
| Women Owned    | 12              | \$565,300          | 108                                |
| <b>Totals</b>  | <b>26</b>       | <b>\$1,515,140</b> | <b>227</b>                         |

## Giving Worker Owned Co-Ops a Hand

Worker owned cooperatives are a vital part of Berkeley's local economy. These businesses are owned and run by employees, and often provide higher wages, benefits, professional development, job security, and upward mobility for low to moderate income people. Unfortunately, these businesses are at a disadvantage to conventional business ownership models when it comes to accessing startup capital or loans.

The City of Berkeley has recently developed policies and programs to support worker cooperatives, including increasing access to capital. Over the past year, OED staff and the Loan Administration Board have worked to consider modifications to the RLF to support worker owned cooperatives which were approved by Council in September 2019. The revised RLF Administrative Plan was approved by the EDA in November 2019.

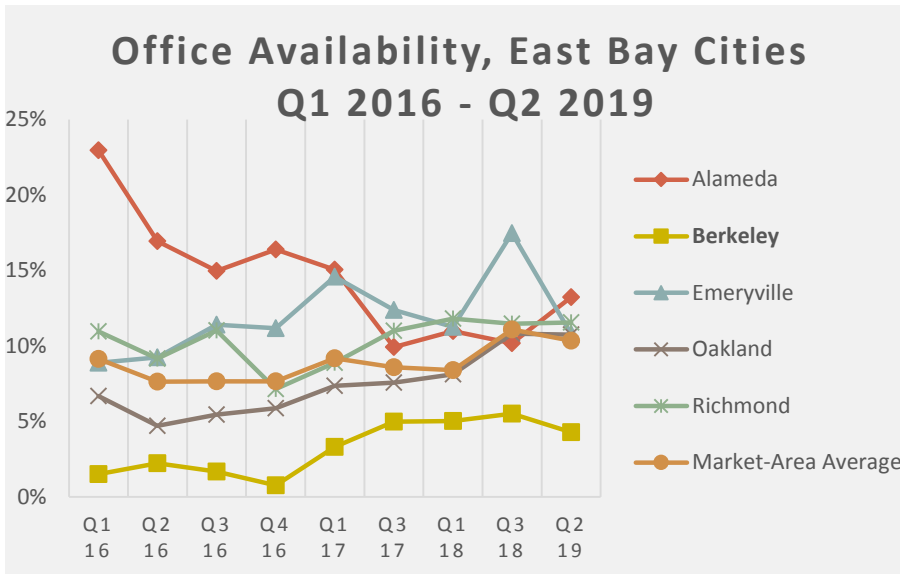


Images: Worker owned co-ops in Berkeley (L-R), Missing Link Bicycle Co-Op, Three Stone Hearth, The Cheese Board Collective, BioFuel Oasis

## office trends & transactions

| Q2 2019 Office Market, Berkeley | Indicators   |
|---------------------------------|--------------|
| Total Inventory                 | 3,407,669 SF |
| Under Construction              | 42,000 SF    |
| Availability Rate               | 4.27%        |
| Qtr Gross Absorption            | 45,171       |
| Qtr Net Absorption              | 27,000       |
| YTD Net Absorption              | -9,101       |
| Average Asking Rent             | \$3.25 / SF  |

Source: Newmark Cornish & Carey, 2Q19 East Bay Office Market Report



Source: Newmark Cornish & Carey, Q2 19 East Bay Office Market Report

## Office and Industrial Updates

**2105 Bancroft Way** is a historic resource that was originally built



Image: Loopnet

in 1905 as a Masonic Temple, recently completed a full renovation and is now available for lease to office tenants. This is a prime example of how adaptive reuse can add high quality commercial spaces in Downtown Berkeley and beyond.



Image: Devi Dutta Architecture

**2120 Berkeley Way** is the first new private office space to be built in Downtown Berkeley in 30 years. The old UC Press building was purchased in 2015 for \$4.8 million and will be converted into a six-story office building which is expected to open in 2020.

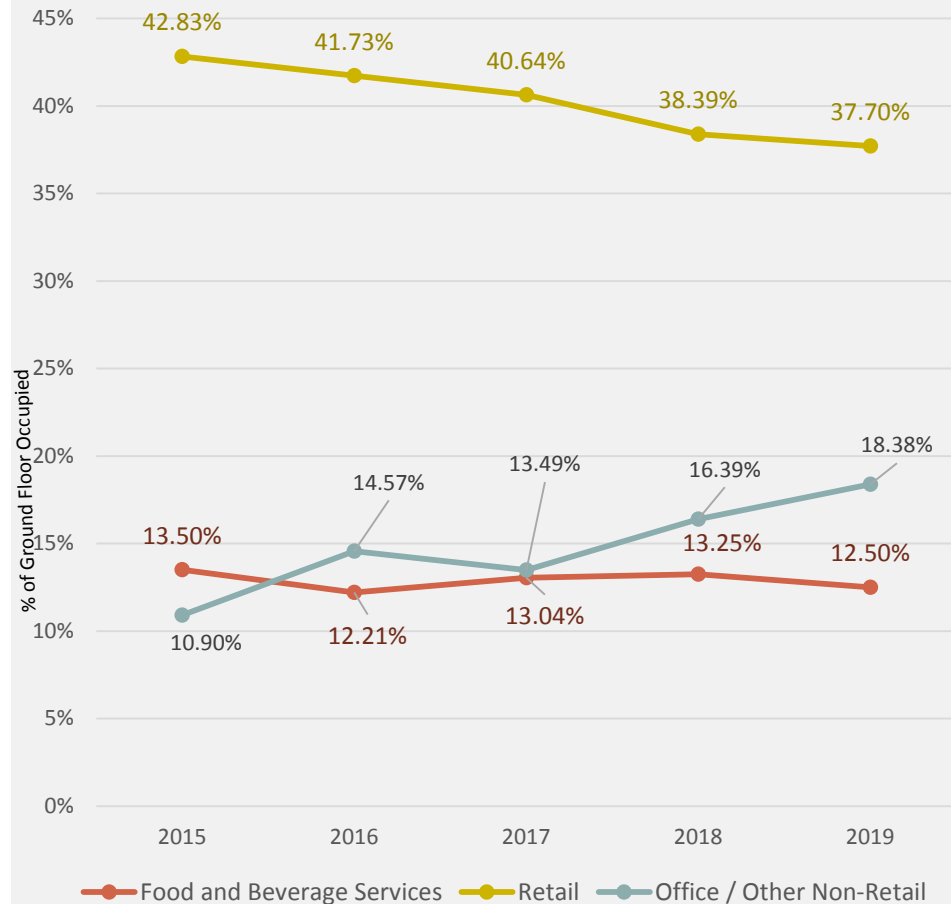
Source: Newmark Cornish & Carey, Q2 2019 East Bay Office Market Report **558**



## commercial trends & transactions



**Citywide Commercial Inventory, Select Categories, By Square Footage, 2014-2019**



Source: OED, Q3 2019

**Berkeley’s Legacy and Family Businesses are Thriving**  
**Berkeley’s Book Haven and Local Landmark**



Image Credit: ABE Books, 2017

Moe’s books has been a Berkeley staple since 1959. In it’s 60 years, this 4-story readers paradise has grown and thrived despite the ups and downs of the internet era and recessions. Recently, the [New York Times](#) wrote about Moe, the founder, and his daughter’s quest to continue his legacy.

**There’s Magic for All at Games of Berkeley**  
 Serving as a one-stop-shop for games, toys, activities and more for the past four decades, Games of Berkeley has a long history in Berkeley. Even with a recent move to Durant Ave, the shop is booming as it connects young and old to the joy of games, magic and fun.



**Amoeba Music is Jamming Along**

The world’s largest independent record store, Amoeba Music was founded in Berkeley in 1990. Despite the decline in CD sales since the 2000s, Amoeba is still at home on Telegraph and is flourishing and innovating, opening a cannabis dispensary “Hi-Fidelity” as part of their shop in 2018.

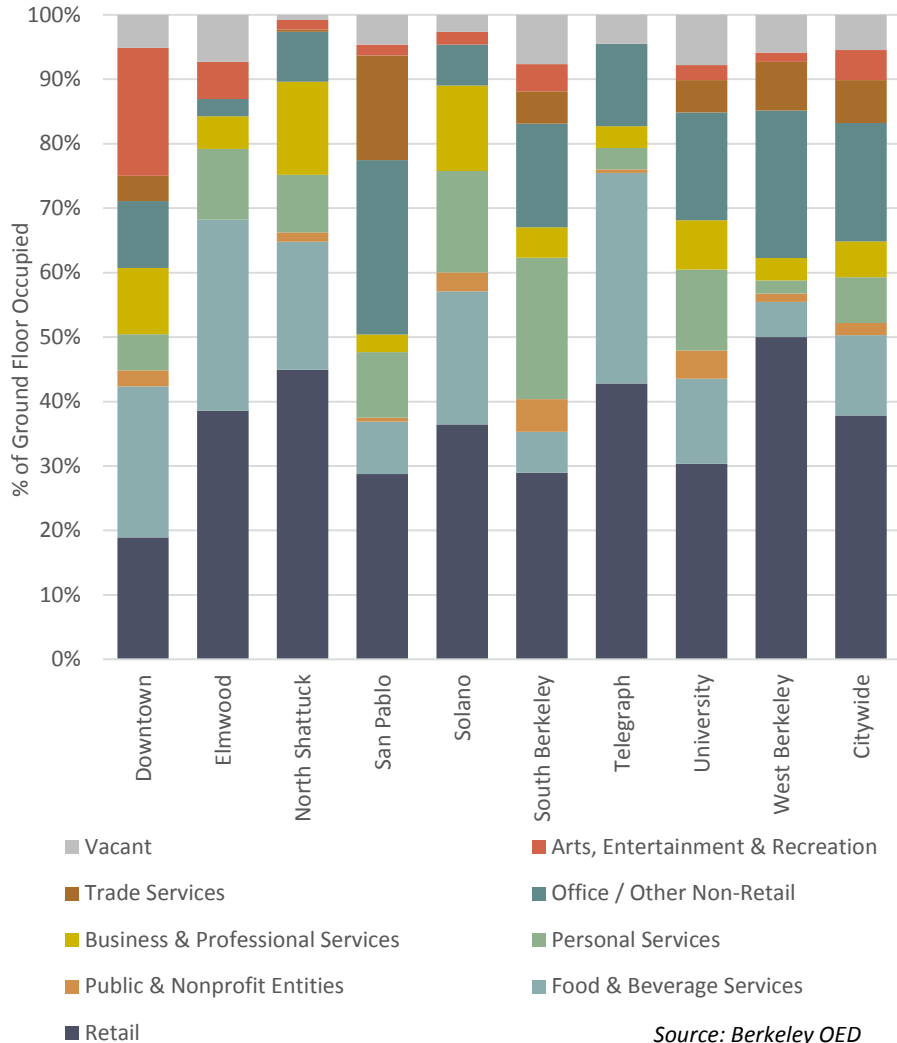


Image Credit: Janet LaFleur, 2015



## commercial districts & vacancy rates

**Ground Floor Commercial Occupancy By Category, 2019 Q3**



Source: Berkeley OED

Citywide, the ground floor commercial vacancy rate has increased to 5.4%, an increase of 0.4% since Q4 of 2018. By district, North Shattuck, Telegraph, and Solano districts have experienced decreases in their vacancy rates since 2018. Downtown and West Berkeley saw slight increases due to turnover in a few key large-floor plate sites.

**Vacancy Rates by District, Calculated by Square Footage, 2014 – Q3 2019**

| District             | 2014 Q4     | 2015 Q3     | 2016 Q3     | 2017 Q4     | 2018 Q4     | 2019 Q3     |
|----------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Downtown             | 11.2%       | 8.4%        | 4.7%        | 4.6%        | 3.1%        | 5.1%        |
| Elmwood              | 2.0%        | 2.0%        | 1.5%        | 5.4%        | 7.3%        | 7.3%        |
| North Shattuck       | 1.6%        | 2.1%        | 2.6%        | 0.4%        | 1.7%        | 0.7%        |
| San Pablo            | 5.9%        | 7.3%        | 5.9%        | 5.5%        | 4.9%        | 4.6%        |
| Solano               | 4.2%        | 3.5%        | 7.5%        | 4.8%        | 4.1%        | 2.6%        |
| South Berkeley       | 8.9%        | 7.9%        | 8.2%        | 9.6%        | 9.7%        | 7.6%        |
| Telegraph            | 12.7%       | 7.1%        | 5.1%        | 7.1%        | 7.9%        | 4.4%        |
| University           | 4.4%        | 9.4%        | 14.2%       | 12.0%       | 11.0%       | 7.8%        |
| West Berkeley        | 3.9%        | 3.3%        | 8.8%        | 1.9%        | 3.7%        | 5.8%        |
| <b>Citywide Avg.</b> | <b>6.6%</b> | <b>5.9%</b> | <b>6.5%</b> | <b>4.6%</b> | <b>5.0%</b> | <b>5.4%</b> |

Source: Berkeley OED

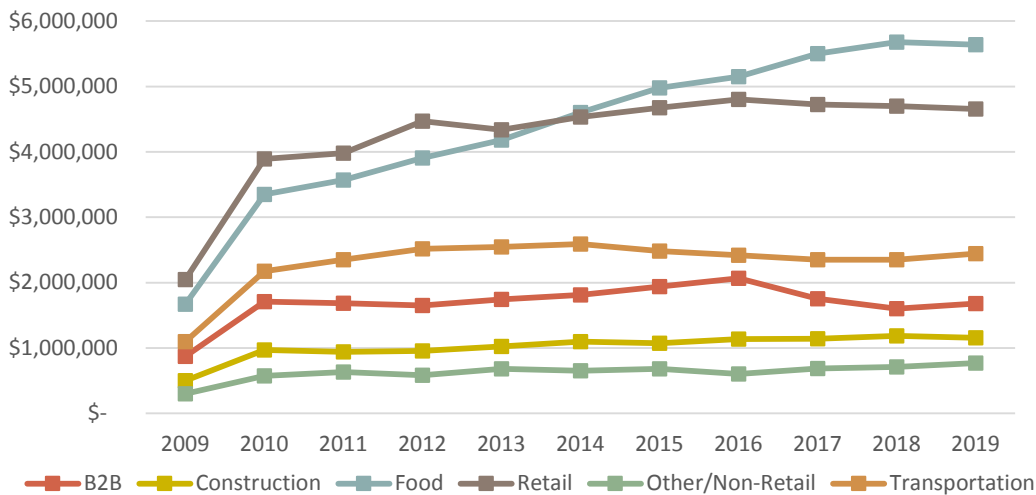
# COMMERCIAL ACTIVITY:



## sales tax revenues

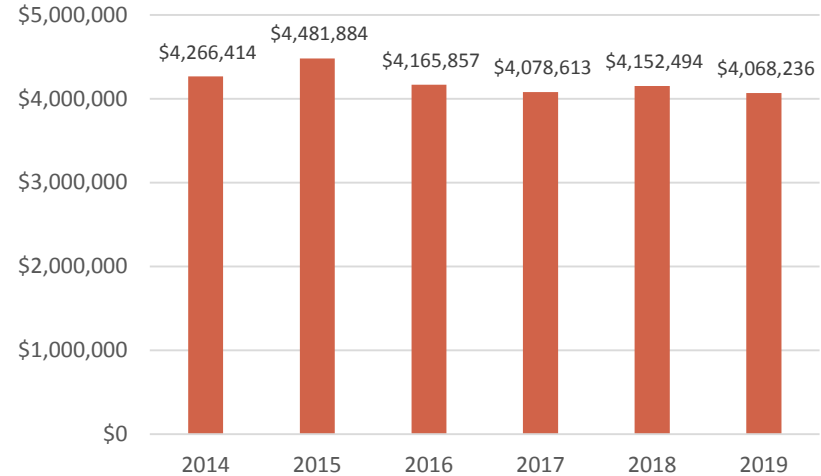
| Total Annual Sales Tax Revenue - Past 4 Quarters | Q3 2017- Q2 2018 | Q3 2018- Q2 2019 | Change |
|--------------------------------------------------|------------------|------------------|--------|
| City of Berkeley                                 | \$16,243,630     | \$16,360,621     | 0.7%   |
| SF Bay Area (Nine County Region)                 | \$1,291,825,554  | \$1,323,927,359  | 2.5%   |
| State of California                              | \$5,466,121,016  | \$5,603,174,227  | 2.5%   |

Annual Sales Tax by Business Category



Source: MuniServices/Avenu, Benchmark Year over Year from 2019 Q2

City of Berkeley  
Q2 Sales Tax Revenues, 2013-2019 (in 2019 \$)



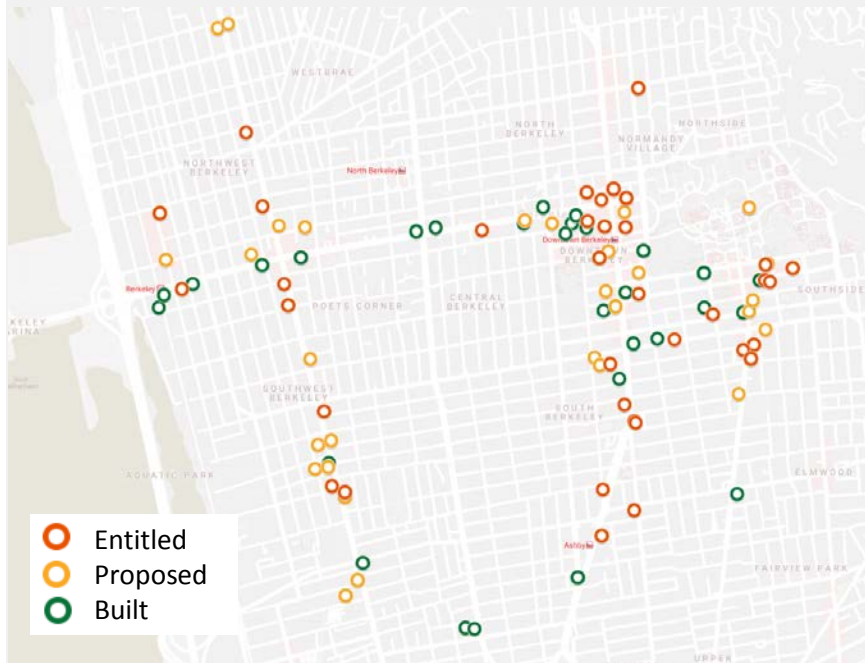
Source: MuniServices/Avenu (Figures Adjusted for 2019 \$)

Berkeley's total annual sales tax revenues (quarter over quarter) decreased by 1.3% from Q2 2018 to Q2 2019. This drop was due to the 2.2% decrease in *Retail* (General Retail) sales tax collected and a 6.3% decrease in sales tax collected from *Construction* sector (Building Material sales etc.). While previous increases in *Food and Beverage Sales Tax* helped to make up for these decreases in past years, *Food and Beverage Sales Tax* revenue in 2019 was flat, resulting in the slight Sales Tax revenue decrease overall. Still, as of Q2 2019, the *Food and Beverage* subsector continued to be the largest contributor to the city's sales tax revenue (34.5%), with *Retail* the next largest (28.0%).



## construction & pipeline

### Multi-Unit Projects (5+ Units), 2005 to Present



Data Source: City of Berkeley Planning Department (September 2019); Map: OED

As of September 2019, there are currently 36 housing developments of 5 or more units that are entitled for development or under construction, which will contain 2,458 net new units; this represents a small increase from the number of units that were entitled or under construction as of December 2018 (2,268). An additional 2,206 units (in 27 distinct projects) are proposed. The overall trend in the last two years has been one of increasing numbers of units in the development and construction pipeline.

### Pipeline Project Highlights



Images: Solomon Cordwell Buenz

**1951 Shattuck** is a 12-story, 156-unit project in Downtown Berkeley. The project was by the Berkeley Zoning Adjustments Board (ZAB) in July 2019. Featuring LEED Gold certification, the building will be exclusively powered by electricity rather than gas, and will use union workers throughout construction.

### Pre-Fab Building Constructed in Four Days

The first complex in the nation to use prefabricated steel modular units, this building at 2711 Shattuck Ave was assembled in four days. Hosting 22 apartment units, this accelerated construction time may be an innovative solution to housing shortages around the Bay.

Images: Panoramic Interests

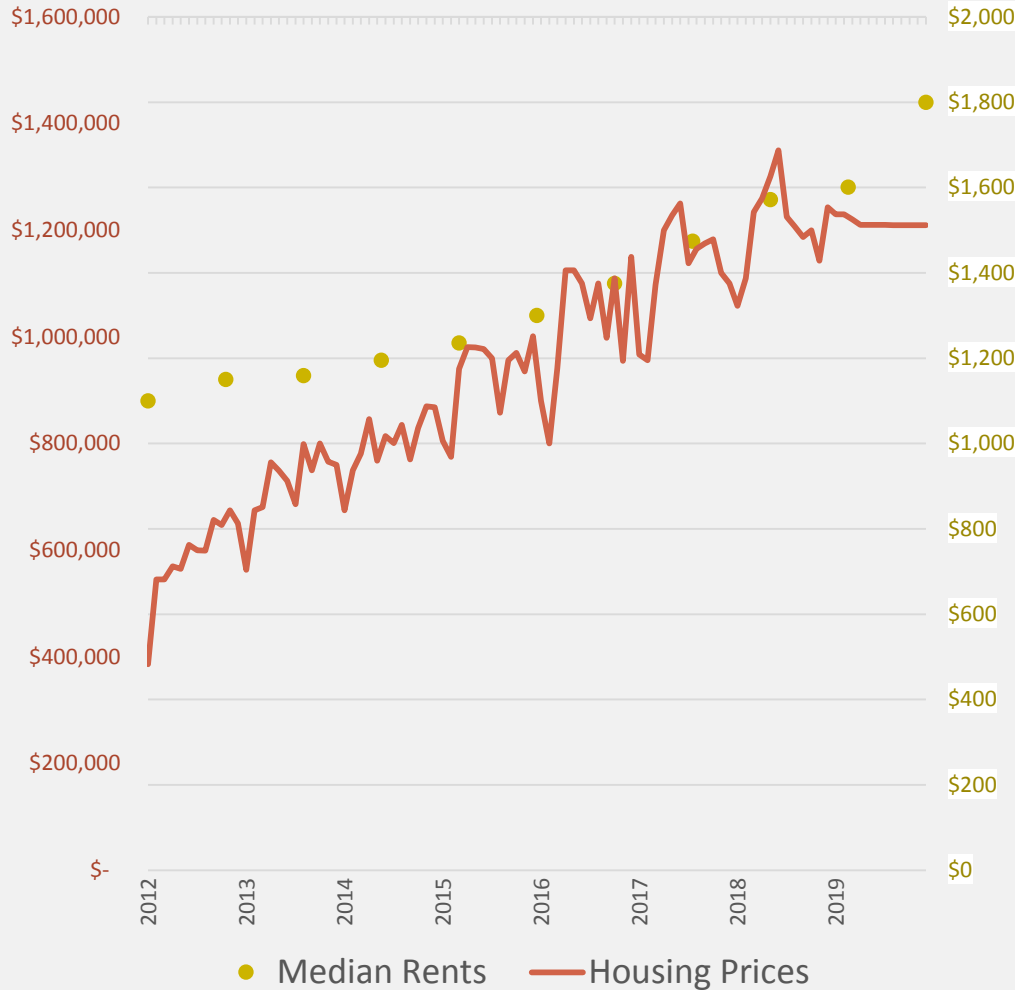


Images: Trachtenberg Architects

**Third New Complex Opens on Fourth St.** The Aquatic III, the third mixed-use complex spanning the block from 4<sup>th</sup> to 5<sup>th</sup> St. on University Ave, opened in August 2019. Together with the Aquatic I and II, the three buildings hold 258 apartments, 18,000 SF of retail space, 219 parking spots, and room for 98 bicycles.

## housing costs

### Housing Prices and Median Rents in Berkeley 2012-2019



Sources: MLS, Zillow, and City of Berkeley Rent Stabilization Board

### Median Sale Price, Single-Family Homes, Sept. '19

|                 |                    |
|-----------------|--------------------|
| Alameda         | \$923,000          |
| Albany          | \$970,400          |
| <b>Berkeley</b> | <b>\$1,240,000</b> |
| El Cerrito      | \$842,000          |
| El Sobrante     | \$492,300          |
| Emeryville      | \$518,300          |
| Oakland         | \$732,800          |
| Richmond        | \$444,700          |
| San Leandro     | \$645,800          |

Sources: Zillow (top), Curbed SF May 6, 2019 (bottom)

Berkeley home values have cooled slightly over the past year, snapping a 7 year upward trend in the market, and reflecting a small downward trend in housing prices nationally.

SF REAL ESTATE MARKET REPORTS

### Bay Area home prices (barely) drop for first time in seven years

"The chickens will be coming home to roost this spring"

By Adam Brinklow | May 2, 2019, 10:21am PDT

Photo by Sanfranman59

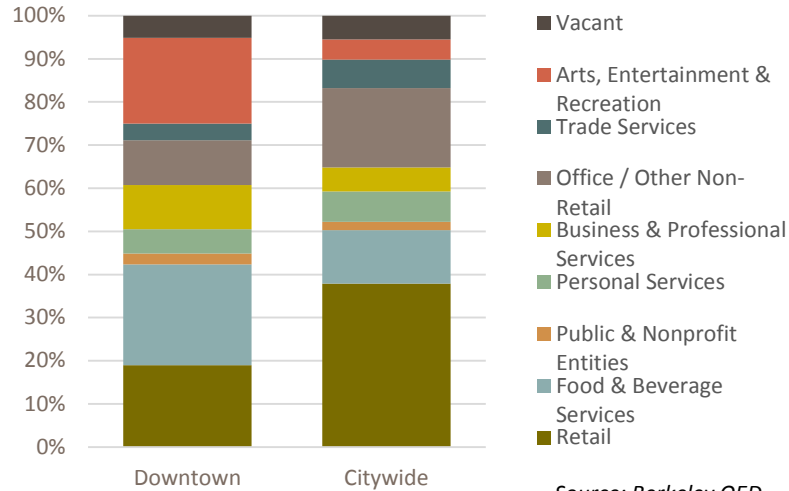




Downtown Berkeley serves as the City's core commercial district, meeting the daily needs of residents, students, workers, and visitors. The district benefits from a significant concentration of arts and entertainment uses, which occupy 19.8% of total ground floor commercial space in the district compared to 4.6% citywide. As of Q3 2019, the vacancy rate in Downtown is 5.1%, which has increased since 2018. Sales tax revenue generated in 2018 by Food & Beverage services continues to rise coming in over one million dollars in 2018 (\$1,112,586). Retail sales tax revenue has decreased slightly from 2017.

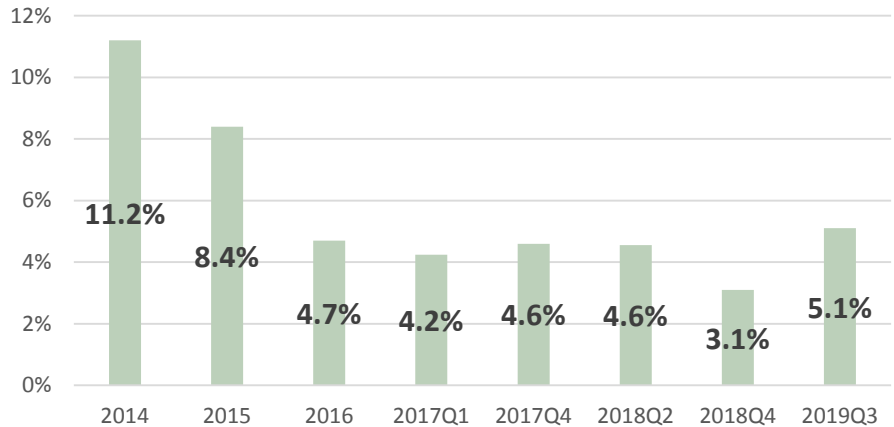


### Ground Floor Commercial Business Mix (by Square Footage), 2019 Q3



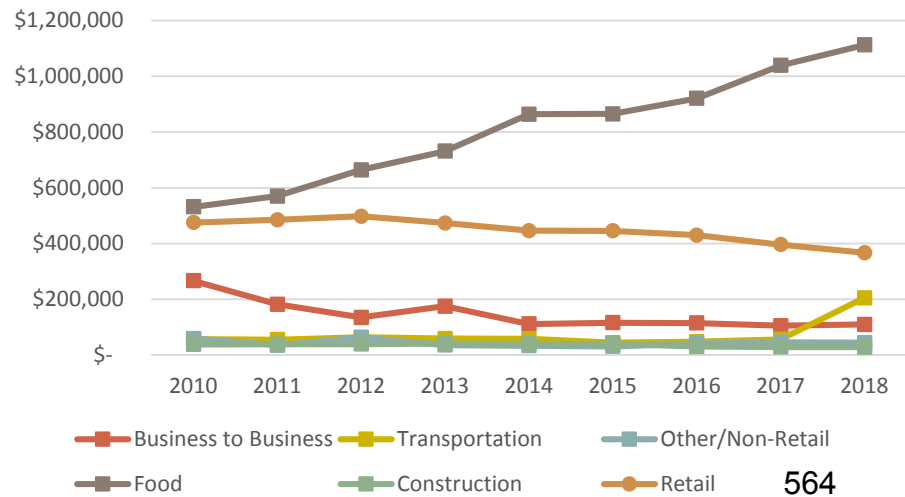
Source: Berkeley OED

### Ground Floor Commercial Vacancy Rate (by Square Footage), 2014-2019



Source: Berkeley OED

### Sales Tax Revenue by Sector, 2010-2018



564

Source: MuniServices

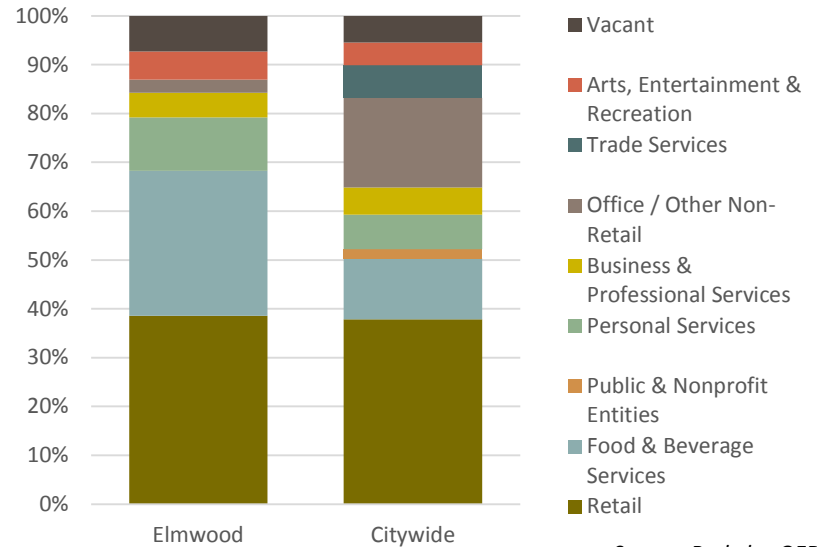


The Elmwood is a compact three block commercial district along College Avenue near the Berkeley-Oakland border and the neighboring Rockridge shopping district. The Elmwood district is characterized by a high concentration (29.6%) of Food & Beverage services, and is a walkable, neighborhood-serving commercial district. As of Q3 2019, the district's vacancy rate by square

footage was 7.3%, a decrease from Q2 2018 (10.4%). The decrease is due primarily to the turnover of smaller (by square footage) restaurants and expanding service businesses. Despite the fluctuations in the vacancy rate over this period, when vacant, Elmwood storefronts remain actively marketed for lease and turnover is brisk.

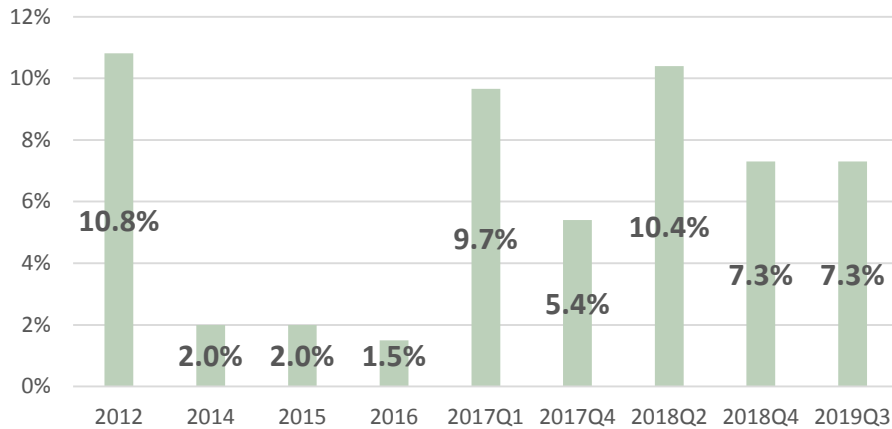


## Business Mix (by Square Footage), 2019 Q3



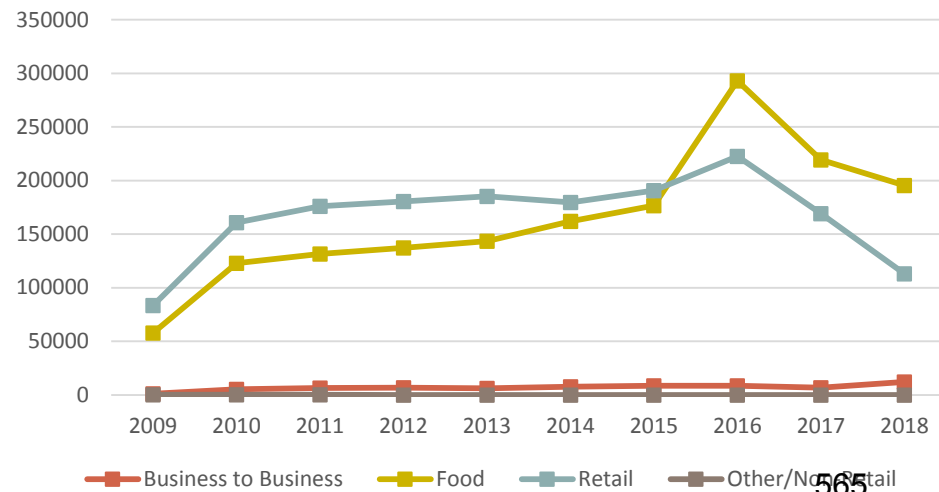
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2019



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2010-2018



Source: MuniServices

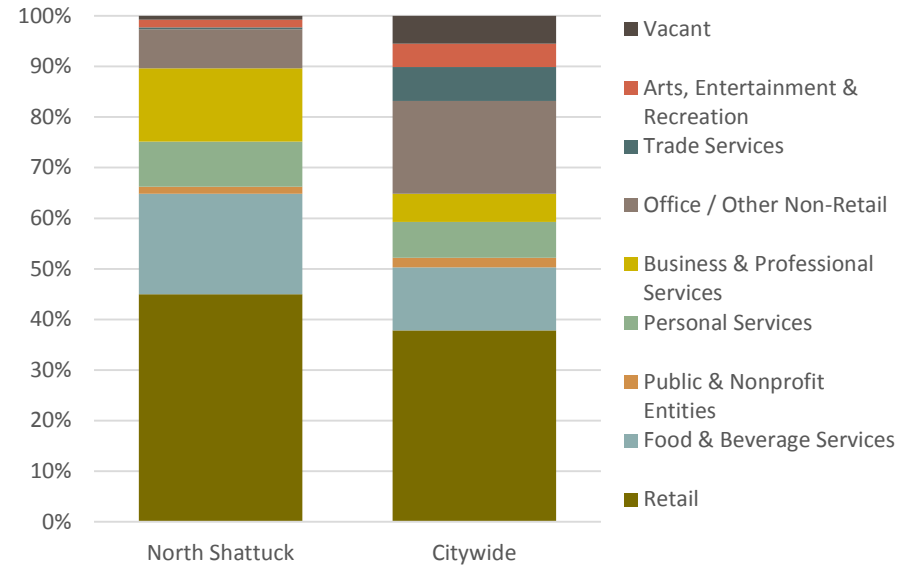


North Shattuck is one of Berkeley's oldest commercial districts, just north of Downtown. The district is characterized by a high concentration of well-known, long-standing, and celebrated restaurants, including Chez Panisse and the Cheeseboard. North Shattuck is both a walkable, neighborhood-serving commercial district as well as a global destination for food and dining. As of Q3 2019, the district's vacancy rate by square footage was 0.7%, which is up slightly from the lowest ever of 0.4% in 2017.

New establishments to look forward to in 2020 include a new operator (Cupcakin') in the former Virginia Bakery location, a Cheeseboard expansion at the northwest corner of Shattuck and Vine Streets and the return of North Berkeley Wine Imports to the northeast corner.

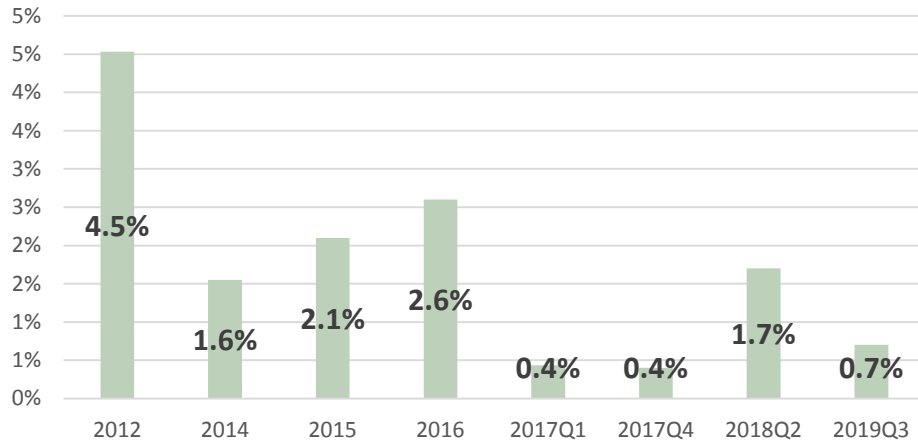


## Business Mix (by Square Footage), 2019 Q3



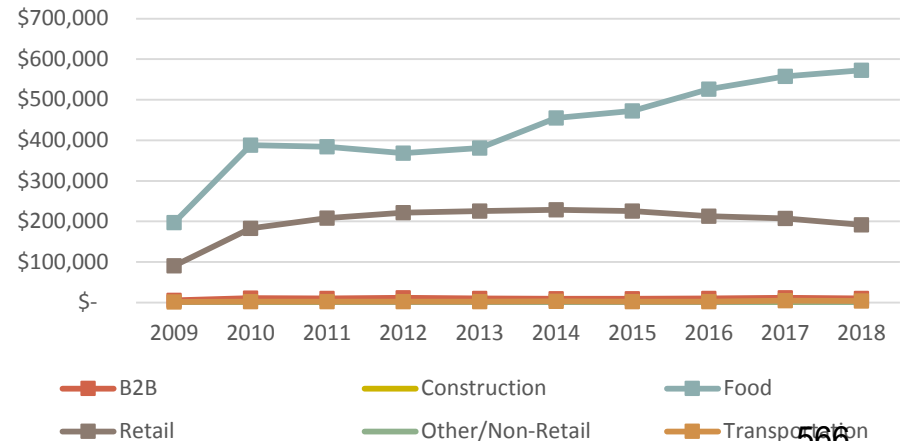
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2019



Source: Berkeley OED

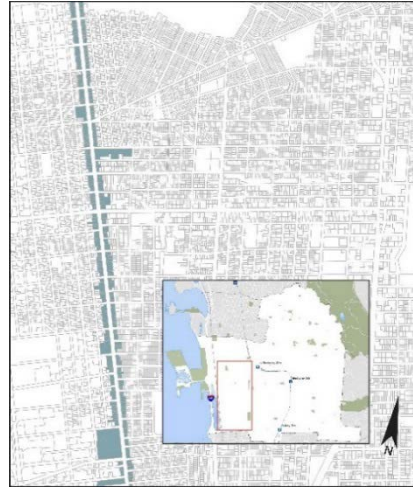
## Sales Tax Revenue by Sector, 2010-2018



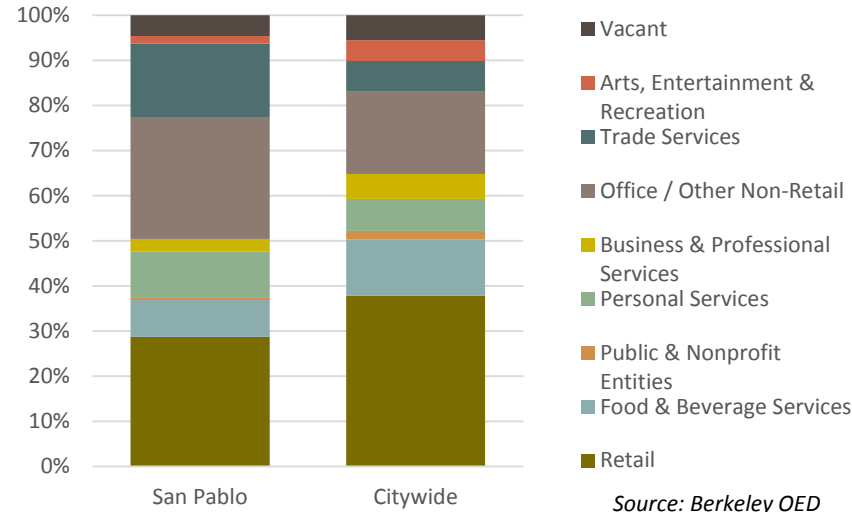
Source: MuniServices



San Pablo Avenue is Berkeley's largest commercial corridor, running the entire north-south length of the City. San Pablo is characterized by a high concentration of Trade Services (16.3%), including over 60 automobile services. San Pablo functions more as a regional destination for specific uses rather than a walkable, neighborhood-serving commercial district; as such, it features smaller percentages of Food & Beverage Services (8.2%) and Personal Services (10.2%). In Q4 2018, the district's vacancy rate by square footage was 4.9%, in 2019, it has decreased slightly to 4.6%, an all time low. Retail Sales tax revenue has decreased in recent years but continues to be the largest source of tax revenue for the area.

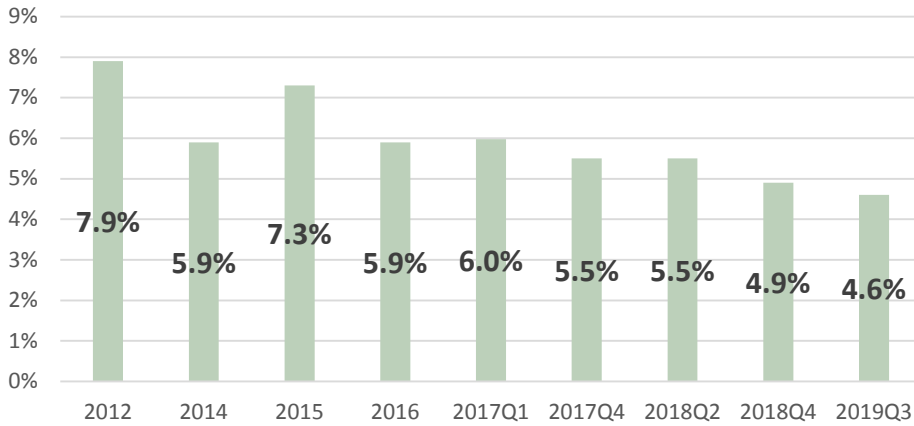


**Business Mix (by Square Footage), 2019 Q3**



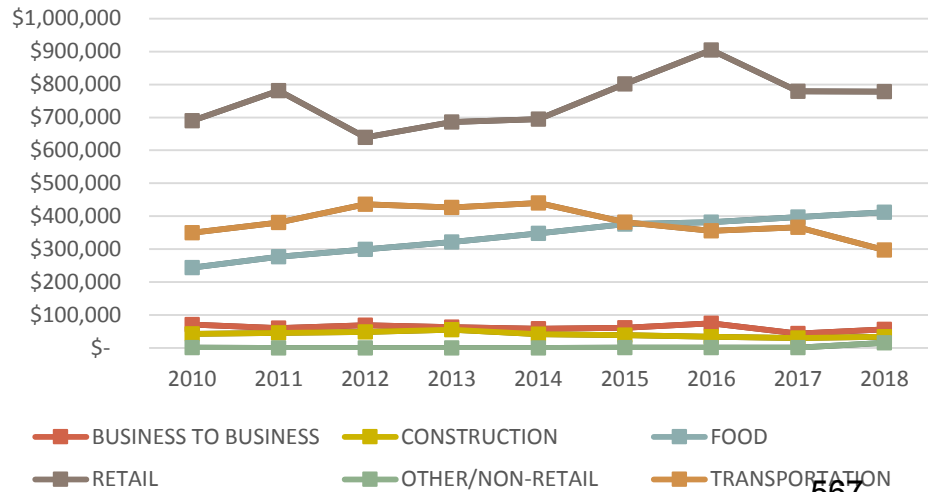
Source: Berkeley OED

**Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2019**



Source: Berkeley OED

**Sales Tax Revenue by Sector, 2010-2018**



Source: MuniServices

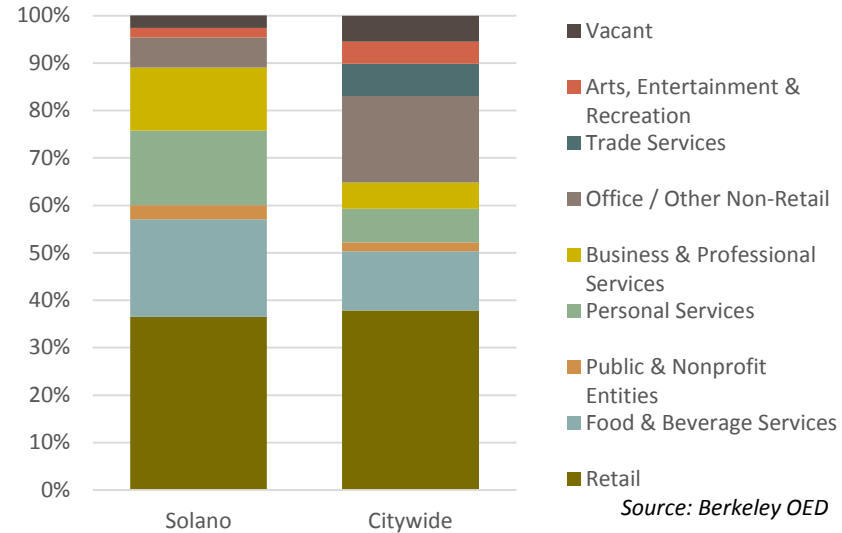


Solano is a small commercial district in North Berkeley, with a total of 130 commercial spaces and approximately 191,000 square feet of commercial space. It shares a border with Albany and is situated next to a large elementary school and an active neighborhood of single-family homes. Solano has a large key asset (the former Oaks Theatre) that is due to be occupied by a climbing gym in 2020. The district's vacancy rate by square footage was 2.6%, a decrease from Q4 2018 (4.1%).

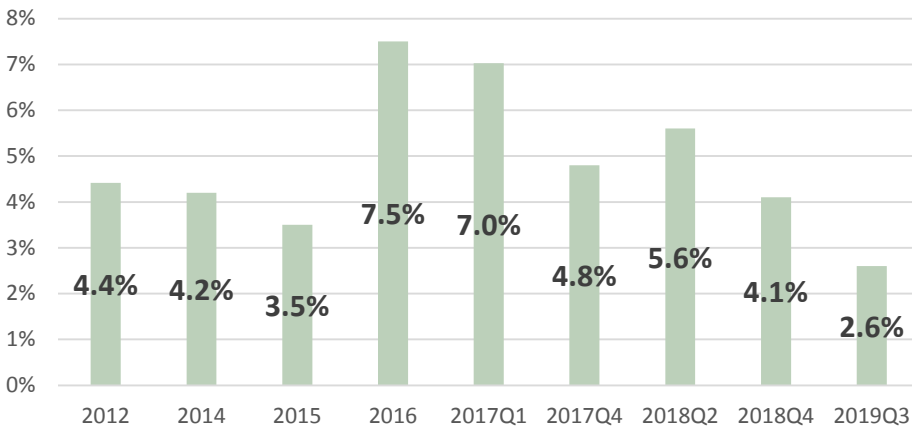


Despite the decrease in vacancy, Solano Avenue saw a decrease in Food and Beverage sales tax in 2018 while sales tax revenues from other industries held steady.

**Business Mix (by Square Footage), 2019 Q3**

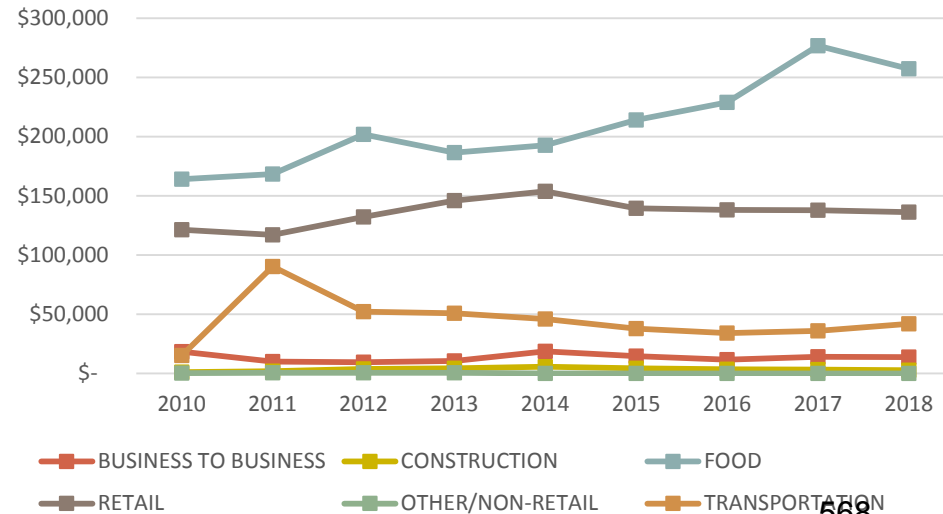


**Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2019**



Source: Berkeley OED

**Sales Tax Revenue by Sector, 2010-2018**



Source: MuniServices

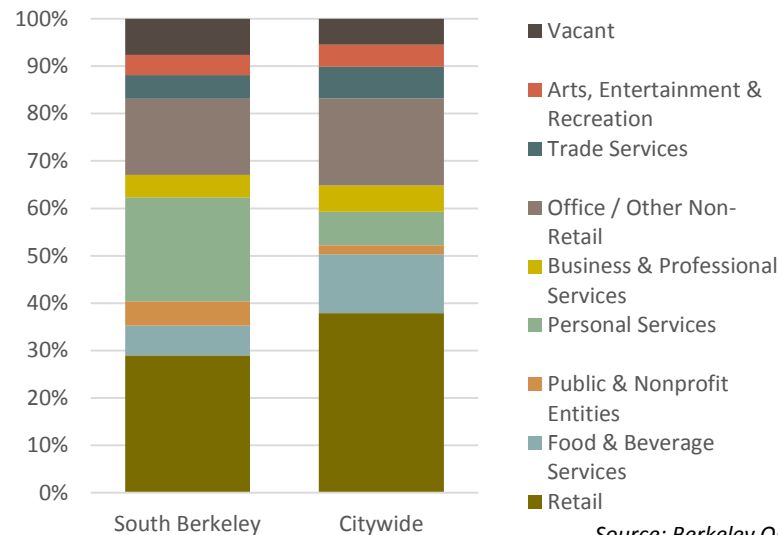




South Berkeley is a large district stretching over an area known for its cultural diversity and includes the Lorin District, the Sacramento corridor, and the South Shattuck area. South Berkeley includes several car dealerships, which accrue significant retail sales tax revenue for the City. The area also features a high concentration of Personal Services businesses (22.0% vs. 7.1% citywide) but is under-served by Food & Beverage services, which account for only 6.3% of ground floor commercial space, as compared to 12.4% citywide. As of Q3 2019, the district's vacancy rate by square footage was 7.6%, an decrease from 2018. Sales tax revenue for retail and transport has increased steadily since 2016.

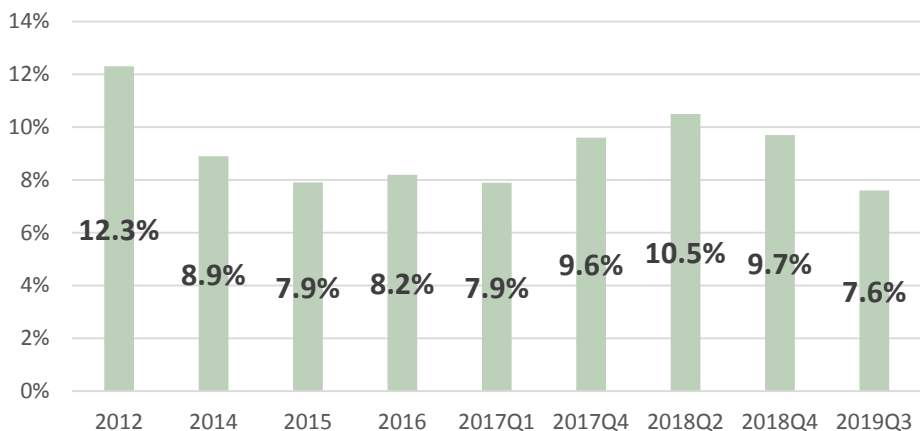


**Business Mix (by Square Footage) 2019**



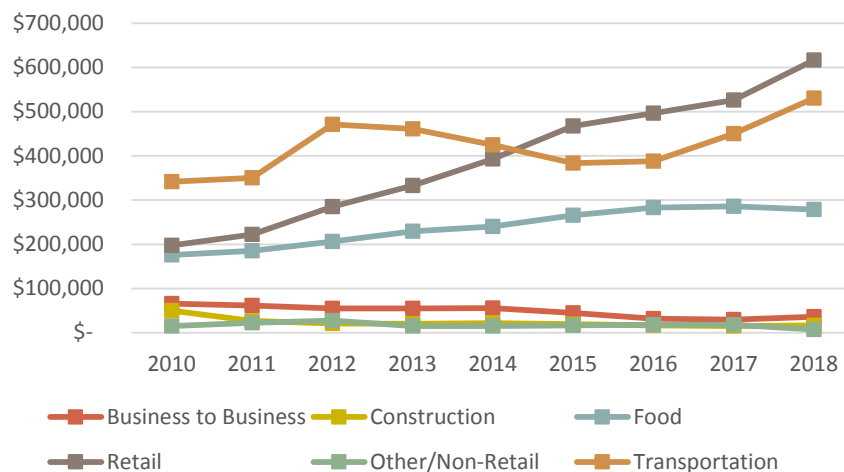
Source: Berkeley OED

**Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2019**



Source: Berkeley OED

**Sales Tax Revenue by Sector, 2010-2018**



569  
Source: MuniServices

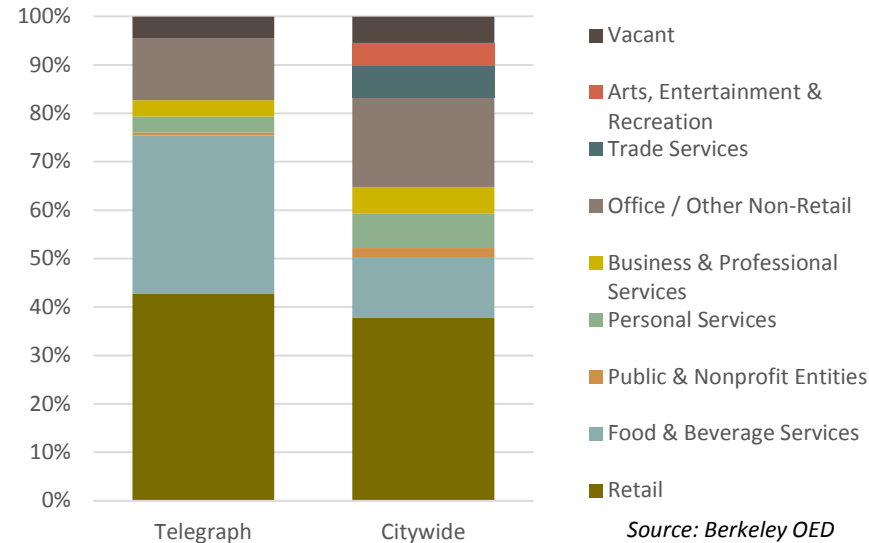


The Telegraph district has undergone significant change over the past several years. Food & Beverage services have shown a dramatic increase since 2012, with 32.7% of Food & Beverage services accounting for ground floor commercial space in the district, as compared to 12.4%

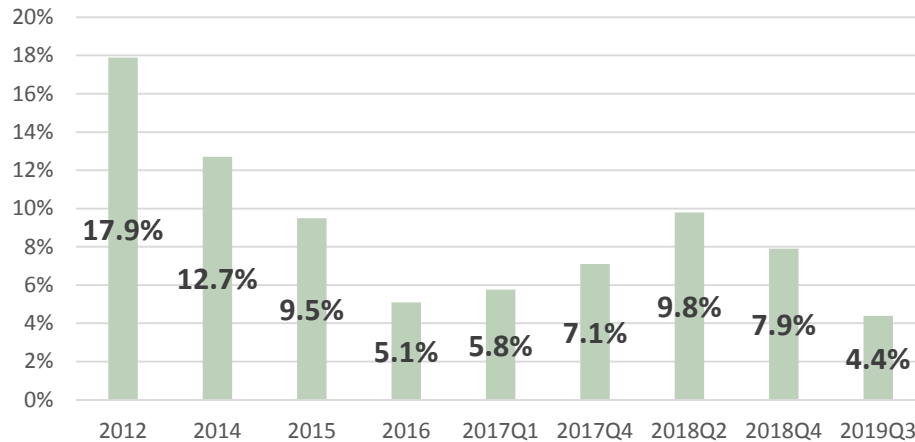
Citywide. As of Q3 2019, the district's ground floor commercial vacancy rate has continued to decrease from Q4 2018 from 7.9% to 4.4% and is significantly lower than the peak of 17.9% in 2012. New ground floor leases are anticipated along Telegraph Avenue in 2020, including the Nexus Building and the long-vacant lot at Telegraph and Haste St.



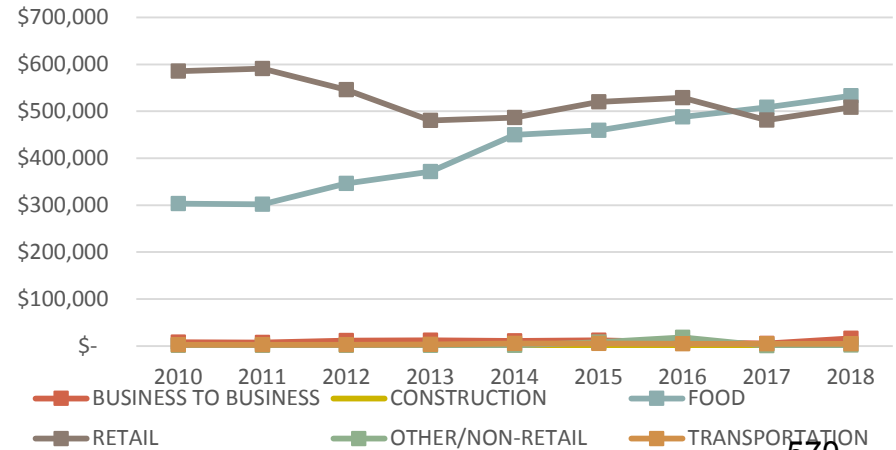
**Business Mix (by Square Footage), 2019 Q3**



**Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2019**



**Sales Tax Revenue by Sector, 2010-2018**



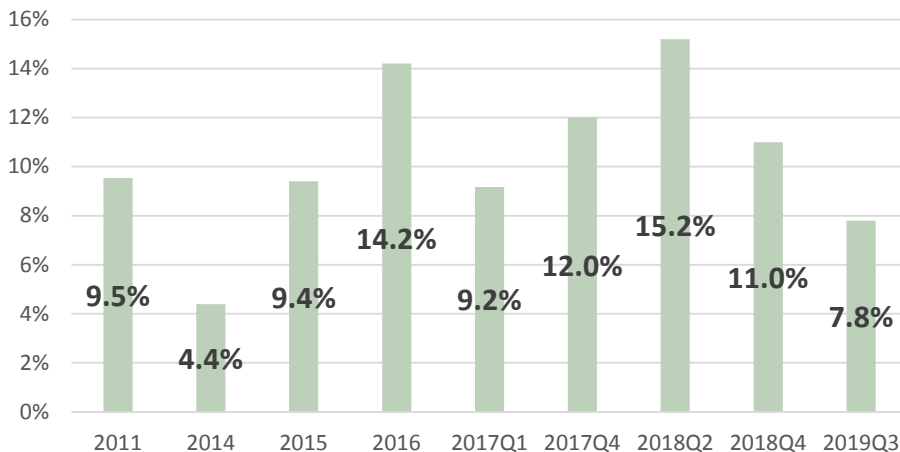


University Avenue, from Martin Luther King Jr Way to the waterfront, spans many of the City's neighborhoods and serves as the gateway to the UC Berkeley Campus. Since 2018, Transportation and Food & Beverage Services have

generated the most sales tax revenue for the district. Over the past 8 years the vacancy rate has remained high, but has decreased to 7.8% in 2019 from the all-time high of 15.2% in Q2 2018.

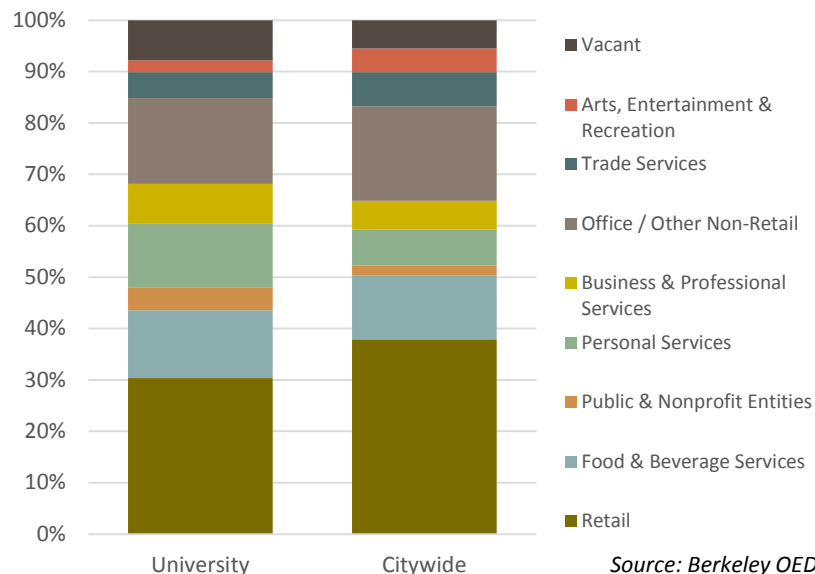


### Ground Floor Commercial Vacancy Rate (by Square Footage), 2011-2019



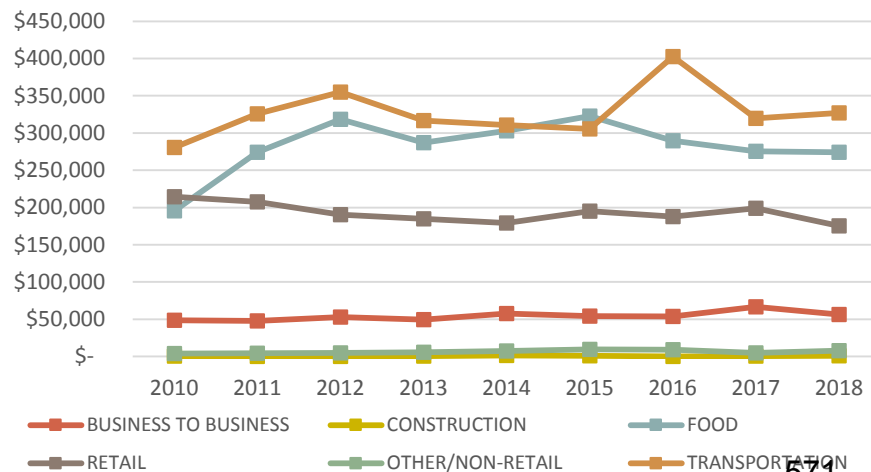
Source: Berkeley OED

### Business Mix (by Square Footage), 2019



Source: Berkeley OED

### Sales Tax Revenue by Sector, 2010-2018



Source: MuniServices

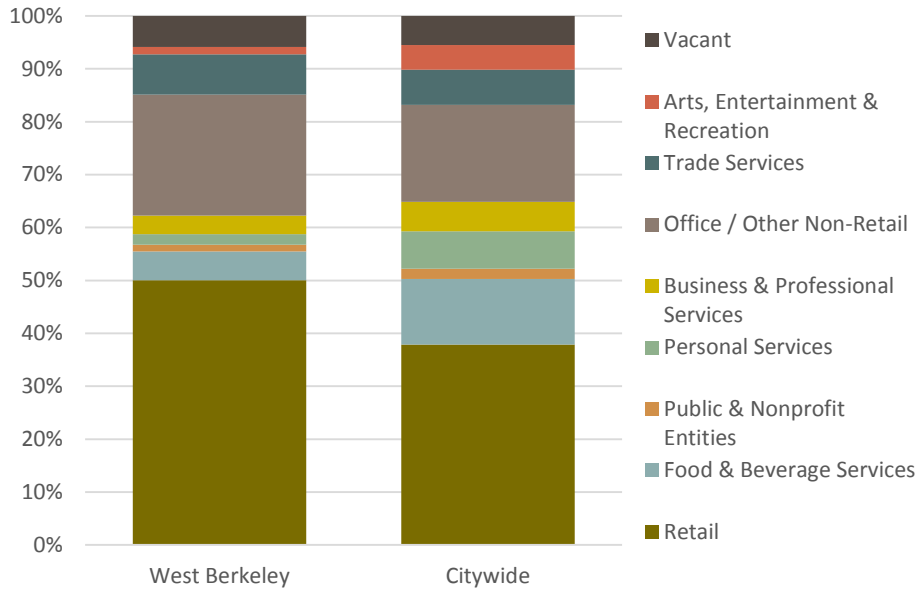




West Berkeley represents all commercial spaces west of San Pablo Avenue, including 4<sup>th</sup> Street and the Gilman Corridor. There are a number of major, large-floor-plate retailers, and a dense cluster of home supplies and construction businesses. There is also a higher percentage of non-retail commercial uses, including manufacturing and warehousing. Retail accounts for 50.0% of ground floor commercial space in the district, as compared to 37.8% citywide. The commercial vacancy rate as of Q3 2019 was 5.4%, an increase from 2018 largely due to turnover of a few large floorplate retailers. Sales tax revenue has decreased in this area for all industries except Construction, which saw an uptick in sales tax revenue due to a number of large projects beginning in 2018.

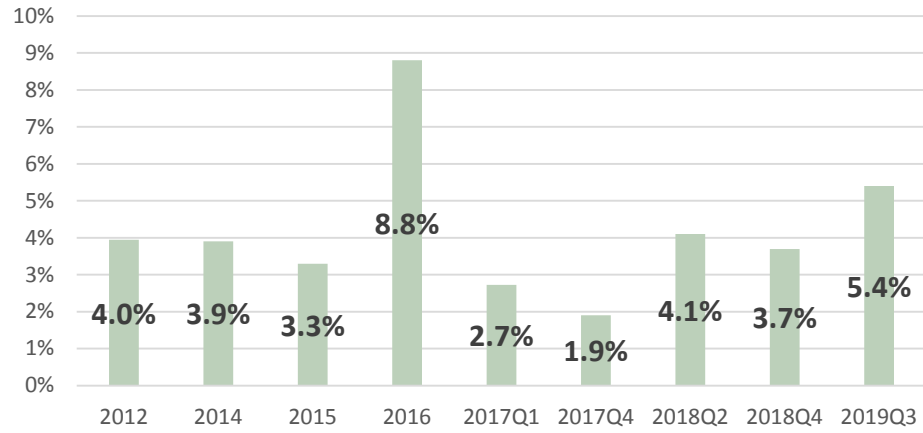


## Business Mix (by Square Footage), 2019 Q3



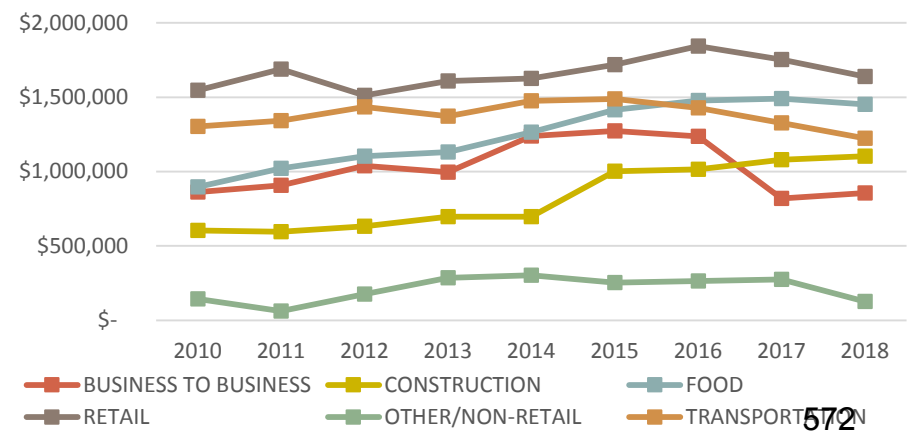
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2019



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2010-2018



Source: MuniServices



city of

# BERKELEY

## Demographic & Economic Profile

**Disclaimer:** The City of Berkeley makes no representations about the suitability of the information contained in this document for any purpose. The information is provided "as is" without warranty, either express or implied, of any kind. The published document may contain technical inaccuracies or typographical errors. Changes are periodically added to the information herein. The City of Berkeley may make improvements and/or changes to the document at any time.



Office of Economic Development

# about Berkeley

**Incorporated:** 1878  
**Encompasses:** 10.47 mi<sup>2</sup>  
**Average Annual Temperature:** 58° F (48° F low, 68° F high)

Berkeley is an iconic city, with a diversity of culture, cuisine, art, neighborhoods, innovation. It is a community that engages citizens and visitors alike every day. Berkeley is alive with a terrific quality of life including walkable streets, bike routes, access to transit, excellent schools, and thriving commercial districts. Come discover Berkeley's signature elements, events, and style.

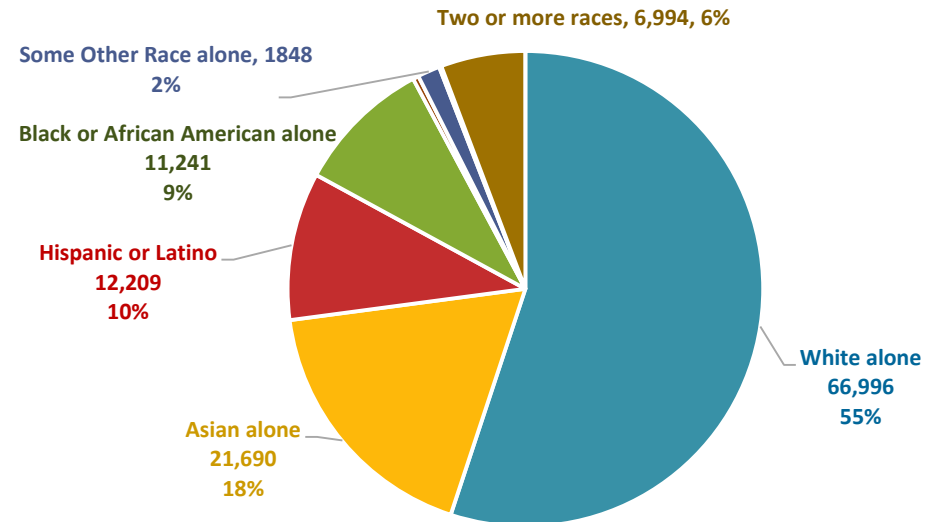
| Demographic Snapshot                  |             |
|---------------------------------------|-------------|
| Population                            | 121,643     |
| Median Age                            | 31          |
| Housing Units                         | 49,137      |
| Owner-Occupied Units                  | 18,846      |
| Median Home Sales Price (2019)        | \$1,240,000 |
| Average HH Income                     | \$75,709    |
| Bachelor's Degree or Higher (age 25+) | 72.3%       |

Sources: US Census Bureau, 2018 ACS Estimates  
 2015-2023 City of Berkeley Housing Element, Redfin.com

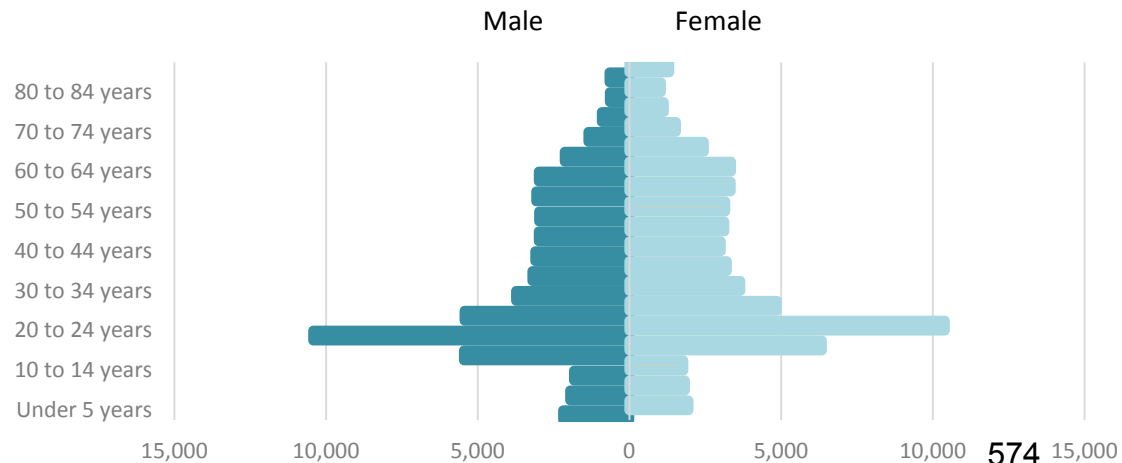
**125,000** students  
**15,292** companies  
**1.65 million** visitors per year  
**\$4.04 billion** total spending power

Sources: Downtown Berkeley Association; California Employment Development Department

## Race & Ethnicity



## Age & Gender



Source: US Census Bureau, 2017 ACS Estimate



# an Accessible Regional Hub

**BERKELEY** is centrally located within the Bay Area, which is the nation's fifth-largest metro region and home to 8.4 million people. Downtown Berkeley is just a direct 22-minute train ride and a 24-minute drive from San Francisco's Financial District.

**Ideal location for business:** With two interstate highways and a transcontinental rail line passing through the city limits, two major airports and three principal shipping ports close by, few places are as accessibly located for business as Berkeley.

**Year-round foot traffic:** Downtown Berkeley enjoys some of the highest pedestrian volumes in the Bay Area outside of San Francisco. As a major visitor destination, over 1.65 million people visit the City of Berkeley each year, and the new Downtown BART Plaza, and the Center Street Parking Garage put visitor estimates to nearly two million by 2025.



Nearly 11,450 riders pass through the Downtown Berkeley BART station per weekday, making it one of the **busiest stations** in the entire BART system.

**THE DOWNTOWN BART PLAZA** reopened in October of 2018 after major infrastructure, public art, and cultural programming reinvestment. The Metropolitan Transportation Commission granted **\$7.6 million** to the transportation improvement project, bolstered by an additional **\$400,000** for local arts including a rotating sculpture installation, contemporary sound pieces, and outdoor performances.

Source: Bay Area Rapid Transit



## Transit Access

- Bus:** AC Transit, 28+ lines
- Auto:** 5,000+ parking spaces in downtown, with 2,777 in off-street lots and garages
- Airports:** Oakland International (12 mi), San Francisco International (20 mi), San Jose International (45 mi)
- Deep Water Ports:** Oakland (6 mi), Richmond (8 mi), San Francisco (12 mi)
- Rail:** Bay Area Rapid Transit and Amtrak



# A jewel in the heart of a booming region, Downtown Berkeley

Downtown Berkeley has nearly doubled in population since 2000<sup>1</sup>, and its population is expected to double again to 5,500 by 2020. More than \$400 million in construction investment are driving a boom in real estate development. This growth is supported by ongoing investments in public infrastructure that improve safety, walkability, automobile access and parking.

<sup>1</sup> Source: *Downtown Berkeley Retail Brochure, Downtown Berkeley Association, August 2016*

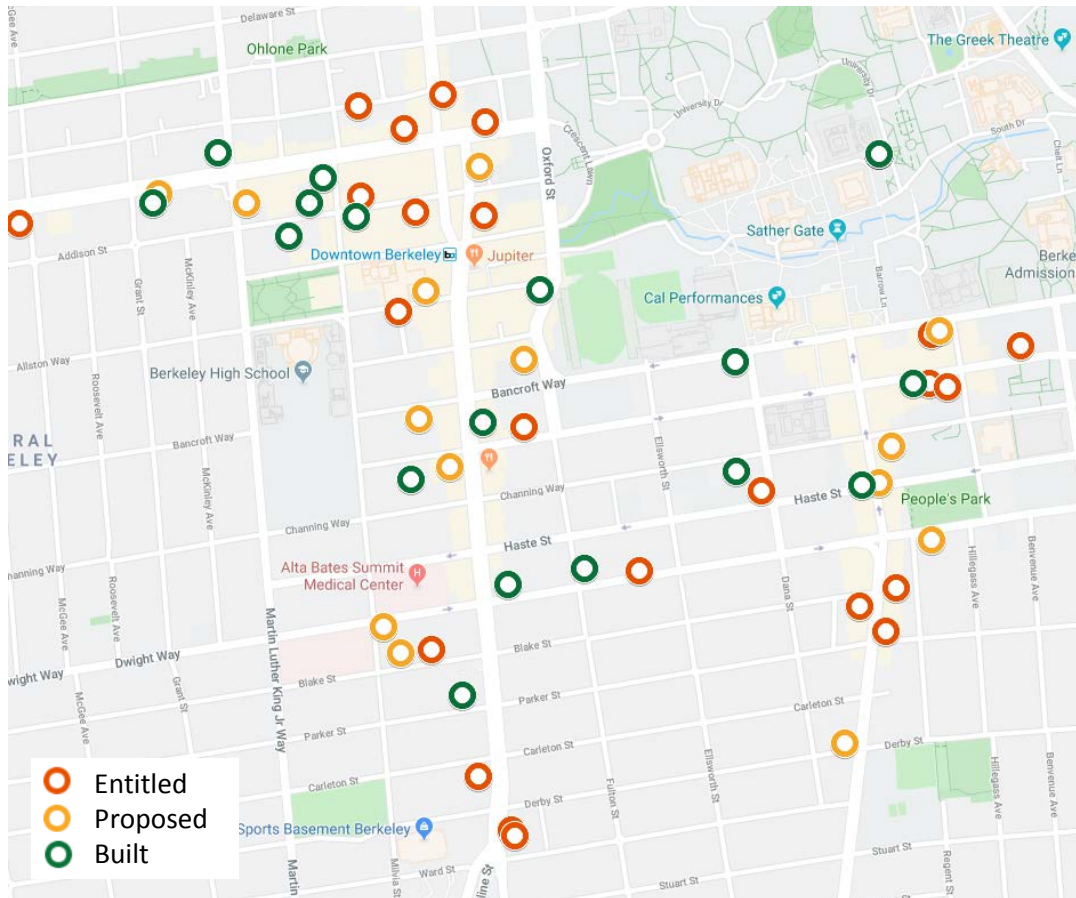


## Future Development at a Glance

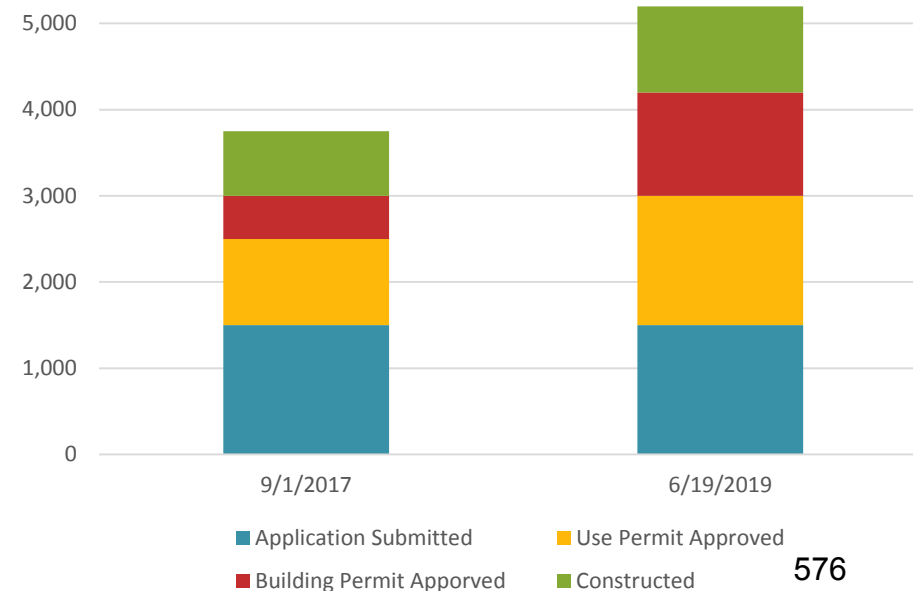
### Recent Downtown Growth & Amenities include:

- Approximately 2,185 new housing units currently slated for development in or near the Downtown.
- New 720-space parking garage opened in Downtown in 2018.
- A new hotel will add 334 additional hotel rooms to the city, attracting new tourists and additional city-wide income.

Multi-Unit Projects (5+ Units), 2005 to Present



Permit Volume, 2017 to 2019





# Berkeley's Employment Base

## Berkeley's Largest 25 Employers, by Number of Employees

|                                  |                                       |
|----------------------------------|---------------------------------------|
| Ansys, Inc.                      | Lawrence Berkeley Laboratory          |
| Backroads Inc.                   | Lifelong Medical Care                 |
| Bayer Healthcare LLC             | OC Jones & Sons                       |
| Berkeley Bowl Produce            | Recreational Equipment Inc. (REI)     |
| Berkeley Cement Inc.             | Rigetti Quantum Computing             |
| Berkeley City College            | Siemens Corporation                   |
| Berkeley Marina Doubletree       | Solar Mosaic Inc.                     |
| Berkeley Repertory Theatre       | Sutter Bay Hospitals                  |
| Berkeley Unified School District | Target Corporation                    |
| City of Berkeley                 | University of California, Berkeley    |
| Genji Pacific                    | Whole Foods Market California Inc.    |
| Kaiser Permanente                | YMCA of the Central Bay Area          |
| Meyer Sound Laboratories         | <i>Source: EDD, QCEW Data Q4 2018</i> |

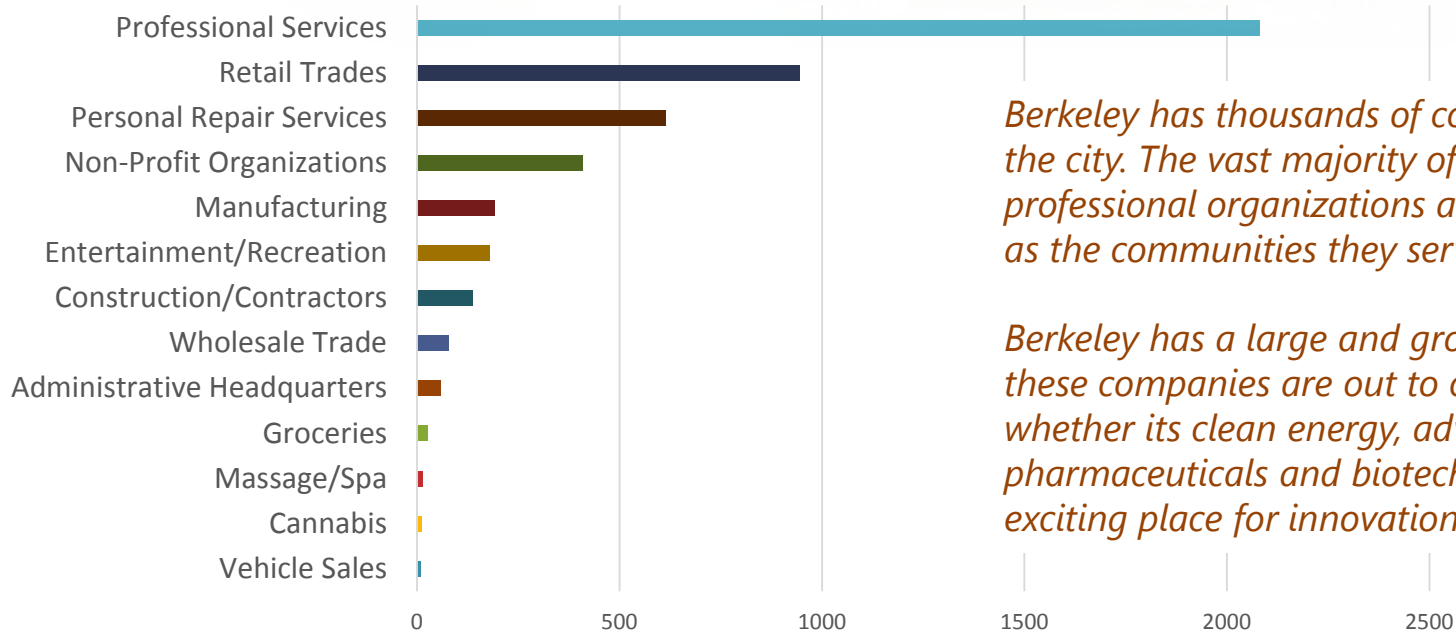
## Berkeley Businesses Highlights

- 15,292 business licenses
- 2,500 brick and mortar businesses\*
- **97%** are 'small businesses' (50 or less employees)
- Only 1.2% businesses employ more than 100 people
- Small businesses account for 41% of jobs in Berkeley

Source: City of Berkeley

\* 2,100 records in Ground Floor Commercial Database

### Count of Firms by Type



*Berkeley has thousands of companies throughout the city. The vast majority of these firms are professional organizations and they are as diverse as the communities they serve.*

*Berkeley has a large and growing tech sector, and these companies are out to change the world – whether its clean energy, advances in pharmaceuticals and biotech or new apps. It's an exciting place for innovation.*

# A **THRIVING** Innovation Ecosystem

When it comes to successful startups, Berkeley has a distinct edge:

**capital, talent,** and **brilliant** thinking. The City is home to over 320 startup companies, along with more than 100 organizations in the innovation ecosystem, from UC Berkeley institutes and private research labs, to student entrepreneurship groups, incubators and venture investors. In 2019 alone, Berkeley startups pulled in more than \$200 million in venture investment.

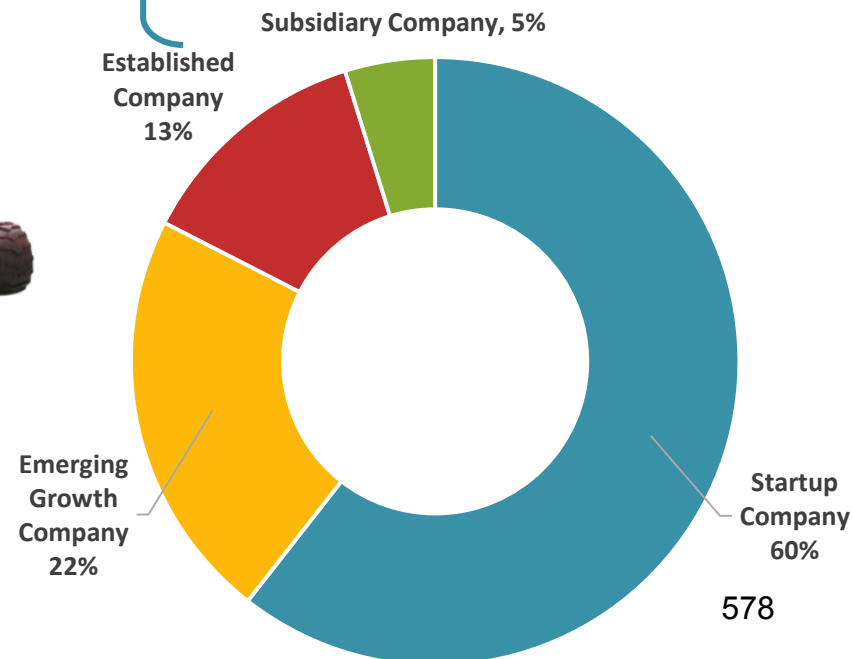
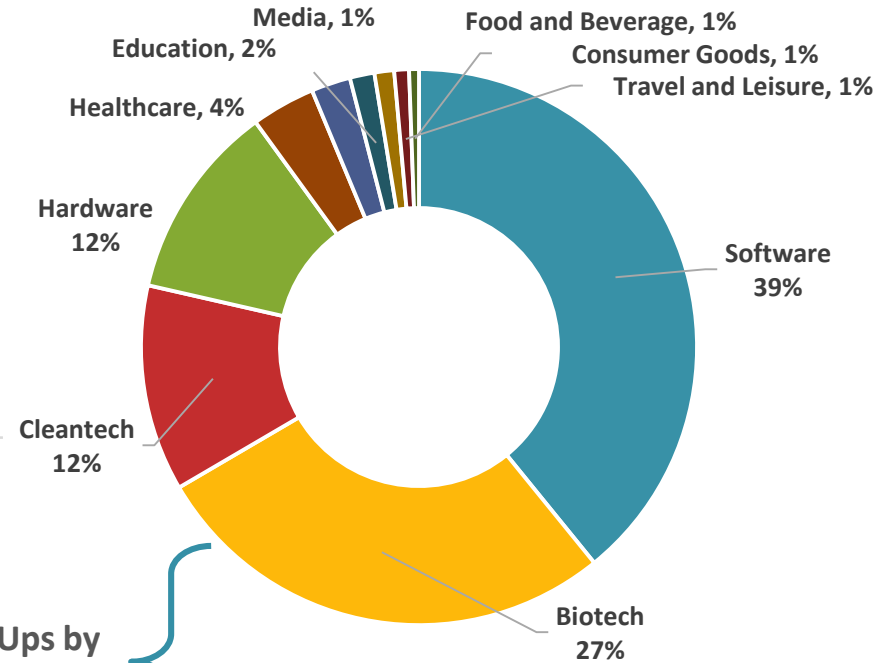
## The Role of Incubators

Incubators such as **SkyDeck**, **Cyclotron Road**, and **The Foundry @ CITRIS** are an invaluable resource to Berkeley's innovation sector - not only because they help startups get off the ground, but because they act as connectors for more mature companies and give founders a place to recruit new talent, share ideas, and find new sources of funding.

From right to left: Kiwi Bot out of SkyDeck; Elysian Lab's cannabis products out of CITRIS Foundry; and Noble Thermodynamic' emission-free engine out of Cyclotron Road.



Berkeley Start-Ups by Type and Stage, 2018



## Berkeley's Women Founders

The lack of representation for women and people of color is a frequent topic of discussion in STEM fields and innovation sector companies. Currently, 15% of founders in Berkeley identify as women, and programs such as the **Women Entrepreneurs of Berkeley** aim to increase that number.

# Berkeley's Downtown Arts District

**Berkeley's creative scene engages at every turn.** Wander through an artist's open studio, experience cutting-edge theater or tap your toes to rock n' roll -- there are many ways to spark Berkeley's creative side. With more than **150 cultural arts organizations**, including the Berkeley Art Museum & Pacific Film Archive, Berkeley Art Center, Berkeley Repertory Theatre, and Aurora Theatre Company, Berkeley is filled with world-class productions applauded by audiences and acclaimed by critics.



## Downtown Arts Venues



"Berkeley - The City and Its People", Romare Bearden, 1973

### Public Art and Sound at BART Plaza

Recent major investments in the Berkeley art scene have focused on the Downtown Berkeley BART Plaza, currently showcasing contemporary sound pieces and outdoor performances; a rotating sculpture installation; and ongoing cultural event programming. Currently, the Downtown BART Plaza features a new sound installation called, "Histories of the Present" by composers Yann Novak and Robert Crouch which is a multichannel site specific sound created specifically for this spot.



#### Cinema

- California Theatres
- East Bay Media Center
- Shattuck Cinemas
- United Artists Berkeley 7

#### Theater

- Aurora Theatre Company
- Berkeley Community Theater
- Berkeley Repertory Theatre
- UC Theatre

#### Music

- California Jazz Conservatory
- Freight & Salvage Coffeehouse
- The Back Room
- Cornerstone

#### Visual Art

- Berkeley Art Museum/PFA
- D King Gallery Rock Posters
- David Brower Center
- Habitot Children's Museum
- Lumbini Buddhist Art Gallery 579
- Magnes Collection of Jewish Art & Life



# BERKELEY DISTRICTS

## 4th Street Page 32 of 33

Berkeley's Fourth Street is a premier shopping destination, featuring fine dining and more than 80 unique retailers offering creative merchandise and contemporary design. With tree-lined sidewalks, live music every weekend, and a calendar of special events free to the public, Fourth Street is the perfect place to enjoy the Bay Area with authentic restaurants and classy shopping.



## Downtown

Downtown Berkeley is a rich urban environment of innovation and creativity. It is home to cultural icons such as Berkeley Repertory Theatre, Freight and Salvage, and BAMPFA. It's also home to vibrant start-up business scene with a half-dozen incubators and co-working spaces, as well as office space to grow. The beautiful new Downtown BART Plaza and major hotels greet visitors, residents, and entrepreneurs alike. Nearby campuses of UC Berkeley and Berkeley City College, plus a bounty of dining and night life options, keep the district buzzing with youthful energy.



## Elmwood

The Elmwood is a charming commercial district with the character of a classic "Main Street" and a shopping atmosphere unlike any other. Specialty shops, restaurants and a theater span the blocks along College and Ashby Avenue, serving local residents and visitors from around the world. The surrounding neighborhood is packed with attractive older homes, parks, and architectural gems like the Elmwood Theater and the Claremont Public Library.



## Lorin District

With historic commercial buildings surrounded by charming residential neighborhoods, the Lorin is one of the most diverse, artistic and easy-access districts in Berkeley. It is home to the Berkeley Flea Market, South Berkeley Farmers Market, a thriving antiques and home furnishing cluster, and cultural icons including the Shotgun Players and Black Repertory Theater. This registered historic district has long been a center of the local Black community, and is also fast becoming a food scene with an impressive assortment of eating and drinking establishments like Hoi Polloi and Lemat.



Berkeley's twists and turns of terrain give its neighborhoods room to establish independent personas, moods and mantras. Each of Berkeley's commercial districts has hyper-local authenticity; Berkeley's neighborhoods range from sophisticated and urbane to cozy and intimate.

## Gilman

The Gilman District is a thriving medley of the creativity, craftsmanship and eclectic community that makes Berkeley such a unique and vibrant city. A hub of craft brewing, dining, live music, arts and more is available in Northwest Berkeley.



## North Shattuck

North Shattuck is a culinary wonderland, home to world famous foodie destinations like Chez Panisse, Cheeseboard, and the original Peet's Coffee, along with a vibrant scene of new innovators. This area is celebrated as the birthplace of the California farm-to-table movement. North Shattuck is a walkable business district near Downtown and UC Berkeley campus, filled with independent boutiques and a bustling café culture.



## West Berkeley Design Loop

The industrial warehouses of West Berkeley are home to traditional manufacturers, artisan businesses, and a thriving community of R&D companies. West Berkeley overflows with hidden gems. It's a place where bakers and glass blowers rub shoulders with researchers creating everything from plant-based meats to cures for infectious diseases. The up-and-coming SoU District along 4th and 5th Street features experimental and handcrafted food, crafts and fine art. The Aquatic Park research zone is a world class hub of biology and technology innovation. The Design Loop along San Pablo Avenue is a hub for sustainable interior design and furnishings.



## Telegraph Avenue

Telegraph Avenue serves as a conduit and amplifier for Berkeley's unceasing energy. Its tree-lined sidewalks host a mix of specialty stores, vintage boutiques, international cuisine cafés, and national retailers. In a city known for its openness, political activism, and unparalleled academia, Telegraph offers more of all those things. Bordering the core of the UC Berkeley campus, Telegraph is home to a collection of historical 'legacy' businesses, including one of the best bookstores in America and iconic music establishments. It also features world class people-watching.



## University Avenue

University Avenue is Berkeley's main East/West artery, spanning from the Bay to the entrance to UC Berkeley's campus. More than 200 merchants line this vibrant corridor, and each block has a unique personality. The International Marketplace district where University crosses San Pablo provides a concentration of cultural and ethnic businesses, rich with Indian and South Asian flavors, fine fabrics and regional foods from around the world.



## Solano Avenue

Solano Avenue provides a shopping experience unlike any other, with an abundance of local, independently-owned shops, and restaurants. Family-friendly spirit and local flavor are on display throughout this mile-long shopping district, as it passes through Berkeley and the neighboring town of Albany. The famous Solano Avenue Stroll, one of the largest and most festive street fairs in California, takes place here each September.







Office of the City Manager

INFORMATION CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 Subject: FY 2019 Fourth Quarter Investment Report: Ended June 30, 2019

SUMMARY

The City's investment policy requires that a quarterly investment report be submitted to the City Council on the status of the investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the types, values (par, book, and market), term, and yield of each security.

- The return on pooled investments for the quarter ended June 30, 2019 was 2.27% or .17% less than the 2.44% earned by the State Local Agency Investment Fund (State LAIF), which is the benchmark for investment performance used by the City. The return on pooled investments of 2.27% for the quarter ended June 30, 2019 was 7.5 basis points more than the rate of 2.195% earned in the quarter ended March 31, 2019.
- The average return on all Retiree Medical Trust Fund investments was 3.639% for the quarter ended June 30, 2019.

CURRENT SITUATION AND ITS EFFECTS

Attached is a summary of quarterly reports for fiscal year 2019 Fourth quarter ending June 30, 2019 representing the status of the City's investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the values (par, book, and market), term, and yield of each security.

Summary information by type of security and detailed information on each security is provided on Exhibit 2-A. An evaluation of portfolio performance for this accounting period compared to the previous three accounting periods is also included in Attachment 1.

## **A. Portfolio Results**

As a result of the differences in the investment policies of different cities, including responsible investing policies, maturity restrictions, investment restrictions, etc., it was difficult for the City of Berkeley to come up with a reasonable performance measure for pooled cash investments. In order to provide some measure of the relative performance of the City's investment returns, many years ago the City established the State Local Agency Investment Fund (LAIF) as the performance measure to be reported in the quarterly investment reports, since many local governments invested significant portions of their investment portfolios in LAIF.

LAIF was intended to be a reference point to compare the City's investment performance against, rather than a true performance measure, since most cities typically earn a yield higher than LAIF during normal interest rate environments, and because LAIF's average maturity of its investments is generally shorter than most cities. As a result, past City Councilmembers requested that information about the rates earned by other California cities be included in the quarterly investment reports for comparison purposes, despite the differences in the investment policies of the various cities.

At the present time, the interest rate environment is far from being normal. On June 19, 2019, the Federal Funds rate range, which is the most important measure of short-term interest rates, was at 2.25%-2.50%, which was significantly higher than the 2-year Treasury (1.74%), the 5-year Treasury (1.77%), the 10-year Treasury (2.03%), and nearly as high as the 30-year Treasury (2.54%). This environment is highly unusual, and currently results in portfolios with shorter average maturities outperforming portfolios with long-term maturities, which is the opposite of performances in a normal interest rate environment.

### 1. Liquidity of Portfolio:

The average investment in the pooled portfolio matured in 915 days as of June 30, 2019. This is 202 days more than the 713 maturity days of as of March 31, 2019.

### 2. Comparison of Results to Performance Measures – Pooled investments: Quarter Ended June 30, 2019

The City's yield on investments for the quarter ended June 30, 2019 was 2.27%, an increase of 7.5 basis points (.075%) from the 2.195% earned during the quarter ended March 31, 2019. The average yield on a 90-day Treasury bill at the end of the quarter ended June 30, 2019 was 2.087%, a decrease of 29.4 basis points (.294%) from the 2.381% at the end of the previous quarter.

As summarized in Table 1, staff's overall results fell short of the performance measure for the quarter by 17 basis points (.17%). Staff's performance was under the performance measure in April by 27.3 basis points (-.273%); under the performance measure in May by 17.8 basis points (-.178%); and, was under the performance measure in June by 6.2 basis points (-.062%). The performance measure for the return on investments is compared to the rate of return of the State LAIF.



**Table 1**

| <b>For Quarter Ending June 30, 2019</b> |             |                   |                   |
|-----------------------------------------|-------------|-------------------|-------------------|
| <b>Period</b>                           | <b>City</b> | <b>State LAIF</b> | <b>Difference</b> |
| April-19                                | 2.172%      | 2.445%            | -0.273%           |
| May-19                                  | 2.271%      | 2.449%            | -0.178%           |
| June-19                                 | 2.366%      | 2.428%            | -0.062%           |
| April-June 19                           | 2.27%       | 2.44%             | -0.170%           |

3. Investment Results-Retiree Health Insurance Funds:

Average interest rates earned on the retiree health insurance trust funds for the quarter ended June 30, 2019 compared to the quarter ended March 31, 2019, were as follows:

**Table 2**

| <b>EARNED INTEREST RATES</b>                             |                             |                            |
|----------------------------------------------------------|-----------------------------|----------------------------|
| <b>For Quarter Ended 3/31/2019 Compared To 6/30/2019</b> |                             |                            |
| <b>Trust Fund</b>                                        | <b>3rd Qtr<br/>03/31/19</b> | <b>4th Qtr<br/>6/30/19</b> |
| Retiree Medical Trust Fund (Misc Employees)              | 4.267%                      | 3.932%                     |
| Fire Retiree Medical Trust Fund                          | 3.566%                      | 3.580%                     |
| Police Retiree Medical Trust Fund                        | 3.443%                      | 3.405%                     |

The rates earned on these plans will continue to drop slightly over the next few quarters as staff reinvests the proceeds of maturing securities at lower rates.

Details related to retiree health trust fund investments are in Attachment 3, Exhibits 3-A, 3-B, and 3-C of this report.

## **B. Discussion of Interest Rate Environment and Outlook**

On June 19, 2019 the Federal Open Market Committee issued its statement on the economy and interest rates:

Information received since the Federal Open Market Committee met in May indicates that the labor market remains strong and that economic activity rose at a moderate rate. Job gains have been solid, on average, in recent months, and the unemployment rate has remained low. Although growth of household spending appears to have picked up from earlier in the year, indicators of business fixed investment have been soft. On a 12-month basis, overall inflation and inflation for items other than food and energy have declined and are running below 2 percent. Market-based measures of inflation compensation have declined; and survey-based measures of longer-term inflation expectations are little changed.

Consistent with its statutory mandate, the Committee seeks to foster maximum employment and price stability.

The Committee continues to view sustained expansion of economic activity, strong labor market conditions, and inflation near the Committee's symmetric 2 percent objective as the most likely outcomes, but uncertainties about this outlook have increased. In light of these uncertainties and muted inflation pressures, the Committee will closely monitor the implications of incoming information for the economic outlook and will act as appropriate to sustain the expansion, with a strong labor market and inflation near its symmetric 2 percent objective.

### Yield Trend

In support of the above goals, the Committee decided to maintain the target range for the federal funds rate at 2-1/4 to 2-1/2 percent.

In determining the timing and size of future adjustments to the target range for the federal funds rate, the Committee will assess realized and expected economic conditions relative to its maximum employment objective and its symmetric 2 percent inflation objective. This assessment will take into account a wide range of information, including measures of labor market conditions, indicators of inflation pressures and inflation expectations, and readings on financial and international developments.

In the current interest rate environment, staff expects returns in FY 2020 to be about the same as those returns earned in FY 2019. Also, the City's rate earned is expected to be about the same as the City's benchmark (State LAIF) and the City's return to be comparable to rates earned by most other cities in California. A sample of rates earned by Northern and Southern California cities is reflected in table 3 below (previously only Northern California cities were included):

**Table 3**

| <b>Other California Cities<br/>Earned Interest Rates</b> |                     |
|----------------------------------------------------------|---------------------|
| For the Quarter Ending June 30, 2019                     |                     |
| <b>City</b>                                              | <b>Rates Earned</b> |
| Sacramento                                               | 2.57%               |
| San Francisco                                            | 2.45%               |
| San Diego                                                | 2.45%               |
| Oakland                                                  | 2.42%               |
| Palo Alto                                                | 2.38%               |
| San Jose                                                 | 2.35%               |
| <b>Berkeley</b>                                          | <b>2.27%</b>        |
| Los Angeles                                              | 2.21%               |
| Riverside                                                | 2.13%               |
| Santa Monica                                             | 2.05%               |

The City's investment strategy will continue to focus on (1) locking in reasonable rates on long-term investments, when opportunities for attractive rates present themselves and (2) matching of investment maturities to cash flow.

#### BACKGROUND

- Pooled Investments

Short-term cash is invested primarily in government sponsored enterprises (referred to as Federal Agency) notes and medium-term corporate notes for periods of one to five years. Additional cash is invested in a money market fund or overnight securities to meet the liquidity needs of the City.

In some cases, the City may have investments with a current market value that is greater or less than the recorded cost. These changes in market value are due to fluctuations in the market and have no effect on yield, as the City does not intend to sell securities prior to maturity.

- Retiree Health Trust Fund Investments

The City agreed to provide retiree Health insurance coverage for fire, police and miscellaneous employees under certain terms and conditions. An actuarial study commissioned by the City many years ago determined that, in addition to City Contributions, an average rate of return of 7% on miscellaneous employees trust fund assets invested must be achieved to fund the retiree health benefit at the desired 70% level. Primarily as a result of the Federal Reserve Board's decision to keep short-term rates near zero for the last 12 years, the average rate currently earned is significantly below that 7% level. City Finance Department staff manages these investment portfolios.



### ENVIRONMENTAL SUSTAINABILITY

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

### CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7300

### ATTACHMENTS

1. Portfolio Evaluation FY 2019
2. Investment Report Analysis FY 2019
  - a. Exhibit 2-A: Pooled Cash and Investments
  - b. Exhibit 2-B.1 through 2-B.3: Interest Earnings April 2019 – June 2019
  - c. Exhibit 2-C: Book Value By Investment Type
  - d. Exhibit 2-D: Current Holdings vs. Policy Limits
  - e. Exhibit 2-E: Investment Portfolio Trend
3. Summary of Pooled and Cash Investments FY 2019 –Trust Funds
  - a. Exhibit 3-A: Retiree Medical Trust Funds –Misc.
  - b. Exhibit 3-B: Retiree Medical Trust Funds –Fire
  - c. Exhibit 3-C: Retiree Medical Trust Funds –Police



**Portfolio Evaluation**  
**Quarter Ended June 30, 2019**

Attachment 1

|                                             | Quarter Ending |                    |                |                    |                    |                    |                |                    |                |    |                    |                |
|---------------------------------------------|----------------|--------------------|----------------|--------------------|--------------------|--------------------|----------------|--------------------|----------------|----|--------------------|----------------|
|                                             | June 2019      |                    | March 2019     |                    | December 2018      |                    | September 2018 |                    |                |    |                    |                |
| <b>Total Portfolio</b>                      |                |                    |                |                    |                    |                    |                |                    |                |    |                    |                |
| Pooled Cash and Investments (COB)           | \$             | 459,343,830        | \$             | 421,335,434        | \$                 | 401,582,141        | \$             | 318,612,235        |                |    |                    |                |
| Pooled Cash and Investments (Trust)         |                | <u>47,383,337</u>  |                | <u>46,484,598</u>  |                    | <u>44,766,863</u>  |                | <u>44,222,899</u>  |                |    |                    |                |
| Total Cash and Investments                  | \$             | <u>506,727,167</u> | \$             | <u>467,820,032</u> | \$                 | <u>446,349,004</u> | \$             | <u>362,835,134</u> |                |    |                    |                |
| <b>Average Life of Investment Portfolio</b> |                |                    |                |                    |                    |                    |                |                    |                |    |                    |                |
| Pooled Investments (CoB)                    |                | 915 days           |                | 713 days           |                    | 716 days           |                | 656 days           |                |    |                    |                |
| Trust Investments                           |                | 6.212 years        |                | 5.809 years        |                    | 5.878 years        |                | 6.133 years        |                |    |                    |                |
| <b>Weighted Yield</b>                       |                |                    |                |                    |                    |                    |                |                    |                |    |                    |                |
| Pooled Investments (CoB)                    |                | 2.270%             |                | 2.195%             |                    | 2.005%             |                | 1.870%             |                |    |                    |                |
| Trust Investments                           |                | 3.639%             |                | 3.970%             |                    | 3.772%             |                | 3.772%             |                |    |                    |                |
| Prime Rate                                  |                | 5.500%             |                | 5.500%             |                    | 5.500%             |                | 5.250%             |                |    |                    |                |
| 91-day Treasury Bill Rate                   |                | 2.087%             |                | 2.381%             |                    | 2.355%             |                | 2.196%             |                |    |                    |                |
| 2-year Treasury Note Rate                   |                | 1.755%             |                | 2.260%             |                    | 2.488%             |                | 2.819%             |                |    |                    |                |
| <b>Cash and Investments Maturity</b>        |                |                    |                |                    |                    |                    |                |                    |                |    |                    |                |
| Within one year                             | \$             | 298,391,854        | 58.89%         | \$                 | 273,797,880        | 58.53%             | \$             | 210,359,453        | 47.13%         | \$ | 110,849,998        | 30.55%         |
| Between 1 to 3 years                        |                | 62,290,505         | 12.29%         |                    | 86,143,761         | 18.41%             |                | 140,177,122        | 31.41%         |    | 180,564,620        | 49.76%         |
| Between 3 to 5 years                        |                | 72,075,845         | 14.22%         |                    | 76,234,240         | 16.30%             |                | 54,854,262         | 12.29%         |    | 35,945,816         | 9.91%          |
| Between 5 to 10 years                       |                | 73,968,963         | 14.60%         |                    | 31,644,151         | 6.76%              |                | 40,958,167         | 9.18%          |    | 35,474,699         | 9.78%          |
| Over 10 years                               |                | -                  | 0.00%          |                    | -                  | 0.00%              |                | -                  | 0.00%          |    | -                  | 0.00%          |
| Total                                       | \$             | <u>506,727,167</u> | <u>100.00%</u> | \$                 | <u>467,820,032</u> | <u>100.00%</u>     | \$             | <u>446,349,004</u> | <u>100.00%</u> | \$ | <u>362,835,134</u> | <u>100.00%</u> |



City of Berkeley  
Pooled Cash and Investments  
As of June 30, 2019

| CUSIP                                      | Investment # | Issuer                       | Book Value           | Par Value            | Market Value         | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Moody's Credit Rating |
|--------------------------------------------|--------------|------------------------------|----------------------|----------------------|----------------------|--------------|--------------|---------------|------------------|-----------------------|
| <b>Certificates of Deposit - S &amp; L</b> |              |                              |                      |                      |                      |              |              |               |                  |                       |
| 254673RD0                                  | 14539        | Discover Bank                | 250,000.00           | 250,000.00           | 257,100.00           | 3.300        | 3.300        | 07/05/2023    | 1,465            | N/A                   |
| 795450T47                                  | 14540        | Sallie Mae Bank              | 250,000.00           | 250,000.00           | 257,095.00           | 3.300        | 3.300        | 07/03/2023    | 1,463            | N/A                   |
| <b>Subtotal and Average</b>                |              |                              | <b>500,000.00</b>    | <b>500,000.00</b>    | <b>514,195.00</b>    |              | <b>3.300</b> |               | <b>1,464</b>     |                       |
| <b>Medium Term Notes</b>                   |              |                              |                      |                      |                      |              |              |               |                  |                       |
| 037833AK6                                  | 14536        | Apple Inc                    | 4,854,475.77         | 5,000,000.00         | 5,049,500.00         | 2.400        | 3.225        | 05/03/2023    | 1,402            | AA1                   |
| 084670BJ6                                  | 14542        | Berkshire Hathaway           | 4,974,897.09         | 5,000,000.00         | 5,150,150.00         | 3.000        | 3.150        | 02/11/2023    | 1,321            | AA2                   |
| 20030NBN0                                  | 14563        | Comcast Corp                 | 5,075,848.15         | 5,000,000.00         | 5,229,500.00         | 3.375        | 3.099        | 08/15/2025    | 2,237            | A3                    |
| 233851CU6                                  | 14571        | Daimler Finance              | 5,086,088.41         | 5,000,000.00         | 5,135,500.00         | 3.450        | 3.190        | 01/06/2027    | 2,746            | A2                    |
| 233851CU6                                  | 14574        | Daimler Finance              | 3,836,963.56         | 3,725,000.00         | 3,825,947.50         | 3.450        | 3.000        | 01/06/2027    | 2,746            | A2                    |
| 24422EUM9                                  | 14554        | John Deere Cap               | 5,068,636.82         | 5,000,000.00         | 5,287,050.00         | 3.650        | 3.300        | 10/12/2023    | 1,564            | A2                    |
| 375558BF9                                  | 14570        | Gilead Sciences              | 5,158,722.96         | 5,000,000.00         | 5,278,750.00         | 3.650        | 3.117        | 03/01/2026    | 2,435            | A3                    |
| 49327M2X1                                  | 14560        | Key Bank NA                  | 5,024,487.84         | 5,000,000.00         | 5,131,450.00         | 3.300        | 3.100        | 02/01/2022    | 946              | A3                    |
| 540424AQ1                                  | 14555        | Loews Corporation            | 4,870,229.13         | 5,000,000.00         | 5,042,050.00         | 2.625        | 3.350        | 05/15/2023    | 1,414            | A3                    |
| 589331AT4                                  | 14545        | Merck & Co Inc               | 4,905,647.09         | 5,000,000.00         | 5,046,050.00         | 2.400        | 3.030        | 09/15/2022    | 1,172            | A1                    |
| 68389XAS4                                  | 14548        | Oracle Corp                  | 5,041,662.23         | 5,000,000.00         | 5,272,300.00         | 3.625        | 3.387        | 07/15/2023    | 1,475            | A1                    |
| 747525AT0                                  | 14564        | Qualcomm Inc                 | 4,966,215.11         | 5,000,000.00         | 5,078,900.00         | 2.900        | 3.049        | 05/20/2024    | 1,785            | A2                    |
| <b>Subtotal and Average</b>                |              |                              | <b>58,863,874.16</b> | <b>58,725,000.00</b> | <b>60,527,147.50</b> |              | <b>3.170</b> |               | <b>1,756</b>     |                       |
| <b>Medium Term Notes - Callable</b>        |              |                              |                      |                      |                      |              |              |               |                  |                       |
| 05531FBF9                                  | 14561        | BB&T Corporation             | 5,151,253.29         | 5,000,000.00         | 5,277,100.00         | 3.750        | 3.011        | 12/06/2023    | 1,619            | A2                    |
| 06406HBY4                                  | 14538        | Bank of New York Mellon Corp | 3,577,612.81         | 3,542,000.00         | 3,639,050.80         | 3.550        | 3.149        | 09/23/2021    | 815              | A1                    |
| 06406FAB9                                  | 14541        | Bank of New York Mellon Corp | 1,432,229.66         | 1,458,000.00         | 1,455,054.84         | 2.050        | 3.060        | 05/03/2021    | 672              | A1                    |
| 693475AV7                                  | 14557        | PNC Financial Services       | 5,026,725.72         | 5,000,000.00         | 5,265,600.00         | 3.500        | 3.424        | 01/23/2024    | 1,667            | A3                    |
| 751212AC5                                  | 14566        | Ralph Lauren                 | 5,177,414.49         | 5,000,000.00         | 5,303,550.00         | 3.750        | 3.105        | 09/15/2025    | 2,268            | A2                    |
| 91159HHU7                                  | 14562        | US BANCORP                   | 5,269,741.58         | 5,000,000.00         | 5,432,000.00         | 3.950        | 2.848        | 11/17/2025    | 2,331            | A1                    |
| <b>Subtotal and Average</b>                |              |                              | <b>25,634,977.55</b> | <b>25,000,000.00</b> | <b>26,372,355.64</b> |              | <b>3.100</b> |               | <b>1,740</b>     |                       |



City of Berkeley  
Pooled Cash and Investments  
As of June 30, 2019

| CUSIP                                       | Investment # | Issuer                         | Book Value            | Par Value             | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Moody's Credit Rating |
|---------------------------------------------|--------------|--------------------------------|-----------------------|-----------------------|-----------------------|--------------|--------------|---------------|------------------|-----------------------|
| <b>Federal Agency Coupon Securities</b>     |              |                                |                       |                       |                       |              |              |               |                  |                       |
| 3133EKQT6                                   | 14572        | Federal Farm Credit Bank       | 5,000,000.00          | 5,000,000.00          | 4,993,000.00          | 2.490        | 2.490        | 09/13/2023    | 1,535            | AAA                   |
| 3133EJAD1                                   | 14528        | Federal Farm Credit Bank       | 10,000,000.00         | 10,000,000.00         | 10,041,900.00         | 2.150        | 2.150        | 12/23/2020    | 541              | AAA                   |
| 3130ADKF8                                   | 14529        | Federal Home Loan Banks        | 15,000,000.00         | 15,000,000.00         | 14,997,450.00         | 2.100        | 2.100        | 01/30/2020    | 213              | AAA                   |
| 3130ADUB6                                   | 14533 T1     | Federal Home Loan Banks        | 21,000,000.00         | 21,000,000.00         | 21,007,350.00         | 2.320        | 2.320        | 12/19/2019    | 171              | AAA                   |
| 3133EG7F6                                   | 14517        | Federal Farm Credit Bank       | 5,000,000.00          | 5,000,000.00          | 4,994,550.00          | 1.750        | 1.750        | 02/16/2021    | 596              | AAA                   |
| 3133EHBA0                                   | 14520        | Federal Farm Credit Bank       | 6,500,000.00          | 6,500,000.00          | 6,479,915.00          | 1.520        | 1.519        | 03/02/2020    | 245              | AAA                   |
| 3133EHQB2                                   | 14527        | Federal Farm Credit Bank       | 9,001,000.00          | 9,001,000.00          | 8,952,034.56          | 1.550        | 1.549        | 07/06/2020    | 371              | AAA                   |
| 3130AAS82                                   | 14519        | Federal Home Loan Banks        | 9,999,591.64          | 10,000,000.00         | 9,966,000.00          | 1.550        | 1.556        | 02/06/2020    | 220              | AAA                   |
| 3130ABTD8                                   | 14526        | Federal Home Loan Banks        | 15,000,000.00         | 15,000,000.00         | 14,965,650.00         | 1.450        | 1.450        | 10/18/2019    | 109              | AAA                   |
| 3137EAE55                                   | 14516        | Federal Home Loan Mortgage Co  | 4,999,907.02          | 5,000,000.00          | 4,982,300.00          | 1.500        | 1.503        | 01/17/2020    | 200              | AAA                   |
| 3135G0T29                                   | 14521        | Federal National Mortgage Assn | 3,500,000.00          | 3,500,000.00          | 3,486,560.00          | 1.500        | 1.499        | 02/28/2020    | 242              | AAA                   |
| 3135G0T29                                   | 14522        | Federal National Mortgage Assn | 9,990,973.84          | 10,000,000.00         | 9,961,600.00          | 1.500        | 1.641        | 02/28/2020    | 242              | AAA                   |
| <b>Subtotal and Average</b>                 |              |                                | <b>114,991,472.50</b> | <b>115,001,000.00</b> | <b>114,828,309.56</b> |              | <b>1.855</b> |               | <b>312</b>       |                       |
| <b>Federal Agency Callable</b>              |              |                                |                       |                       |                       |              |              |               |                  |                       |
| 3130AFKR7                                   | 14550        | Federal Home Loan Banks        | 5,000,000.00          | 5,000,000.00          | 5,068,650.00          | 3.100        | 3.100        | 12/28/2023    | 1,641            | AAA                   |
| <b>Subtotal and Average</b>                 |              |                                | <b>5,000,000.00</b>   | <b>5,000,000.00</b>   | <b>5,068,650.00</b>   |              | <b>3.100</b> |               | <b>1,641</b>     |                       |
| <b>Federal Agency Continuously Callable</b> |              |                                |                       |                       |                       |              |              |               |                  |                       |
| 3132X04Z1                                   | 14544        | Farmer Mac                     | 5,000,000.00          | 5,000,000.00          | 5,005,850.00          | 3.250        | 3.250        | 08/15/2023    | 1,506            | N/A                   |
| 31422BAR1                                   | 14553        | Farmer Mac                     | 5,000,000.00          | 5,000,000.00          | 5,017,200.00          | 3.230        | 3.230        | 12/27/2023    | 1,640            | N/A                   |
| 3133EGAW5                                   | 14504        | Federal Farm Credit Bank       | 5,000,000.00          | 5,000,000.00          | 4,994,350.00          | 1.250        | 1.246        | 08/19/2019    | 49               | AAA                   |
| 3133EKJB3                                   | 14565        | Federal Farm Credit Bank       | 5,000,000.00          | 5,000,000.00          | 5,001,650.00          | 3.040        | 3.017        | 07/23/2025    | 2,214            | AAA                   |
| 3133EKQZ2                                   | 14573        | Federal Farm Credit Bank       | 5,000,000.00          | 5,000,000.00          | 4,989,450.00          | 2.370        | 2.370        | 12/17/2021    | 900              | AAA                   |
| 3130A7GZ2                                   | 14500        | Federal Home Loan Banks        | 5,000,000.00          | 5,000,000.00          | 4,994,350.00          | 1.250        | 1.250        | 03/30/2021    | 638              | AAA                   |
| 3130A9YW5                                   | 14512        | Federal Home Loan Banks        | 4,999,869.44          | 5,000,000.00          | 4,982,650.00          | 1.190        | 1.196        | 11/22/2019    | 144              | AAA                   |
| 3130AAJZ2                                   | 14513        | Federal Home Loan Banks        | 3,742,500.00          | 3,742,500.00          | 3,734,191.65          | 1.750        | 1.750        | 04/27/2020    | 301              | AAA                   |
| 3134G7S77                                   | 14358        | Federal Home Loan Mortgage Co  | 5,000,000.00          | 5,000,000.00          | 4,997,650.00          | 2.000        | 1.125        | 10/29/2020    | 486              | AAA                   |
| 3134GSVB8                                   | 14547        | Federal Home Loan Mortgage Co  | 5,000,000.00          | 5,000,000.00          | 5,008,250.00          | 3.250        | 3.250        | 09/13/2023    | 1,535            | AAA                   |
| 3135G0S46                                   | 14514        | Federal National Mortgage Assn | 5,000,000.00          | 5,000,000.00          | 4,985,550.00          | 1.650        | 1.650        | 01/27/2020    | 210              | AAA                   |
| 3135G0S46                                   | 14515        | Federal National Mortgage Assn | 5,000,000.00          | 5,000,000.00          | 4,985,550.00          | 1.650        | 1.649        | 01/27/2020    | 210              | AAA                   |
| 3136G4LP6                                   | 14518        | Federal National Mortgage Assn | 5,000,000.00          | 5,000,000.00          | 4,990,900.00          | 1.800        | 1.800        | 08/28/2020    | 424              | AAA                   |
| <b>Subtotal and Average</b>                 |              |                                | <b>63,742,369.44</b>  | <b>63,742,500.00</b>  | <b>63,687,591.65</b>  |              | <b>2.067</b> |               | <b>798</b>       |                       |



City of Berkeley  
Pooled Cash and Investments  
As of June 30, 2019

| CUSIP                                | Investment # | Issuer                        | Book Value            | Par Value             | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Moody's Credit Rating |
|--------------------------------------|--------------|-------------------------------|-----------------------|-----------------------|-----------------------|--------------|--------------|---------------|------------------|-----------------------|
| <b>Municipal Bonds</b>               |              |                               |                       |                       |                       |              |              |               |                  |                       |
| 13063DGB8                            | 14559        | General Obligation Unlimited  | 5,084,410.93          | 5,000,000.00          | 5,324,050.00          | 3.375        | 3.087        | 04/01/2025    | 2,101            | AA3                   |
| 672319CA6                            | 14282        | Oakland CA Pension Obligation | <u>5,000,000.00</u>   | <u>5,000,000.00</u>   | <u>5,023,650.00</u>   | 3.267        | <u>3.267</u> | 12/15/2019    | <u>167</u>       | AA3                   |
| <b>Subtotal and Average</b>          |              |                               | <b>10,084,410.93</b>  | <b>10,000,000.00</b>  | <b>10,347,700.00</b>  |              | <b>3.177</b> |               | <b>1,142</b>     |                       |
| <b>Fidelity Money Market</b>         |              |                               |                       |                       |                       |              |              |               |                  |                       |
| SYS14190                             | 14190        | Fidelity Money Market         | 14,469,202.14         | 14,469,202.14         | 14,469,202.14         | 0.002        | 0.002        |               | 1                |                       |
| SYS14265                             | 14265        | Fidelity Money Market         | <u>127,018,713.09</u> | <u>127,018,713.09</u> | <u>127,018,713.09</u> | 0.003        | 0.003        |               | <u>1</u>         |                       |
| <b>Subtotal and Average</b>          |              |                               | <b>141,487,915.23</b> | <b>141,487,915.23</b> | <b>141,487,915.23</b> |              | <b>0.003</b> |               | <b>1</b>         |                       |
| <b>Total Investments and Average</b> |              |                               | <b>420,305,019.81</b> | <b>419,456,415.23</b> | <b>422,833,864.58</b> |              | <b>0.003</b> |               | <b>1</b>         |                       |

|                                                            |                                     |
|------------------------------------------------------------|-------------------------------------|
| <b>Total Investments (Book Value)</b>                      | <b>420,305,019.81</b>               |
| <b>Cash</b>                                                | <b><u>36,509,965.00</u></b>         |
| <b>Total Investments (Book Value) and Cash</b>             | <b>456,814,984.81</b>               |
| <b>Increase / (Decrease) in Market Value of Securities</b> | <b><u>2,528,844.77</u></b>          |
| <b>Total Investments (Market Value) and Cash</b>           | <b><u><u>459,343,829.58</u></u></b> |



**Pooled Investment - Long Term  
Interest Earnings  
Sorted by Fund - Fund  
June 1, 2019 - June 30, 2019  
Yield on Average Book Value**

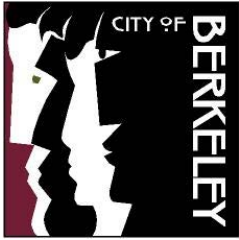
**Exhibit 2-B.1**

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AFKR7                                  | 14550        | 010  | MC4           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/28/2023    | 3.100                   | 3.143 | 12,916.67                  | 0.00                    | 12,916.67                  |
| 3130ADUB6                                  | 14533 T1     | 010  | FAC           | 21,000,000.00    | 21,000,000.00        | 21,000,000.00      | 12/19/2019    | 2.320                   | 2.352 | 40,600.00                  | 0.00                    | 40,600.00                  |
| 3130AAJZ2                                  | 14513        | 010  | MC5           | 3,742,500.00     | 3,742,500.00         | 3,742,500.00       | 04/27/2020    | 1.750                   | 1.774 | 5,457.81                   | 0.00                    | 5,457.81                   |
| 3130A9YW5                                  | 14512        | 010  | MC5           | 5,000,000.00     | 4,999,841.67         | 4,999,856.02       | 11/22/2019    | 1.190                   | 1.213 | 4,958.33                   | 27.77                   | 4,986.10                   |
| 3130AAS82                                  | 14519        | 010  | FAC           | 10,000,000.00    | 9,999,534.66         | 9,999,564.10       | 02/06/2020    | 1.550                   | 1.579 | 12,916.67                  | 56.98                   | 12,973.65                  |
| 3130ABTD8                                  | 14526        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 10/18/2019    | 1.450                   | 1.470 | 18,125.00                  | 0.00                    | 18,125.00                  |
| 3130ADKF8                                  | 14529        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 01/30/2020    | 2.100                   | 2.129 | 26,250.00                  | 0.00                    | 26,250.00                  |
| 3133EHBA0                                  | 14520        | 010  | FAC           | 6,500,000.00     | 6,500,000.00         | 6,500,000.00       | 03/02/2020    | 1.520                   | 1.541 | 8,233.33                   | 0.00                    | 8,233.33                   |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 02/16/2021    | 1.750                   | 1.774 | 7,291.67                   | 0.00                    | 7,291.67                   |
| 3133EKQZ2                                  | 14573        | 010  | MC5           | 5,000,000.00     | 0.00                 | 2,333,333.33       | 12/17/2021    | 2.370                   | 2.403 | 4,608.33                   | 0.00                    | 4,608.33                   |
| 3133EKJB3                                  | 14565        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 07/23/2025    | 3.040                   | 3.082 | 12,666.67                  | 0.00                    | 12,666.67                  |
| 3133EKQT6                                  | 14572        | 010  | FAC           | 5,000,000.00     | 0.00                 | 3,000,000.00       | 09/13/2023    | 2.490                   | 2.525 | 6,225.00                   | 0.00                    | 6,225.00                   |
| 3133EHQB2                                  | 14527        | 010  | FAC           | 9,001,000.00     | 9,001,000.00         | 9,001,000.00       | 07/06/2020    | 1.550                   | 1.572 | 11,626.29                  | 0.00                    | 11,626.29                  |
| 3133EJKC2                                  | 14535        | 010  | MC5           | 0.00             | 20,000,000.00        | 2,666,666.67       | 04/09/2021    | 2.670                   | 2.707 | 5,933.33                   | 0.00                    | 5,933.33                   |
| 3133EJAD1                                  | 14528        | 010  | FAC           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 12/23/2020    | 2.150                   | 2.180 | 17,916.67                  | 0.00                    | 17,916.67                  |
| 3133EGAW5                                  | 14504        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 08/19/2019    | 1.250                   | 1.267 | 5,208.33                   | 0.00                    | 5,208.33                   |
| 3134GSVB8                                  | 14547        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 09/13/2023    | 3.250                   | 3.295 | 13,541.67                  | 0.00                    | 13,541.67                  |
| 3137EAEE5                                  | 14516        | 010  | FAC           | 5,000,000.00     | 4,999,892.79         | 4,999,900.14       | 01/17/2020    | 1.500                   | 1.524 | 6,250.00                   | 14.23                   | 6,264.23                   |
| 3134G7S77                                  | 14358        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 10/29/2020    | 2.000                   | 2.028 | 8,333.33                   | 0.00                    | 8,333.33                   |
| 3135G0S46                                  | 14515        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 01/27/2020    | 1.650                   | 1.673 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3135G0T29                                  | 14522        | 010  | FAC           | 10,000,000.00    | 9,989,831.29         | 9,990,421.61       | 02/28/2020    | 1.500                   | 1.661 | 12,500.00                  | 1,142.55                | 13,642.55                  |
| 3135G0S46                                  | 14514        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 01/27/2020    | 1.650                   | 1.673 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3136G4LP6                                  | 14518        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 08/28/2020    | 1.800                   | 1.825 | 7,500.00                   | 0.00                    | 7,500.00                   |
| 3135G0T29                                  | 14521        | 010  | FAC           | 3,500,000.00     | 3,500,000.00         | 3,500,000.00       | 02/28/2020    | 1.500                   | 1.521 | 4,375.00                   | 0.00                    | 4,375.00                   |
| 672319CA6                                  | 14282        | 010  | MUN           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/15/2019    | 3.267                   | 3.312 | 13,612.50                  | 0.00                    | 13,612.50                  |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,851,316.78         | 4,852,948.92       | 05/03/2023    | 2.400                   | 3.299 | 10,000.00                  | 3,158.99                | 13,158.99                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 678.08                     | 0.00                    | 678.08                     |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,578,944.96         | 3,578,256.68       | 09/23/2021    | 3.550                   | 3.110 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 06406FAB9                                  | 14541        | 010  | MC3           | 1,458,000.00     | 1,431,061.82         | 1,431,665.21       | 05/03/2021    | 2.050                   | 3.109 | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 795450T47                                  | 14540        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/03/2023    | 3.300                   | 3.300 | 678.08                     | 0.00                    | 678.08                     |

**Pooled Investment - Long Term  
Interest Earnings  
June 1, 2019 - June 30, 2019**

**Exhibit 2-B.1**

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 084670BJ6                                  | 14542        | 010  | MTN             | 5,000,000.00          | 4,974,317.80          | 4,974,617.10          | 02/11/2023    | 3.000                   | 3.199            | 12,500.00                  | 579.29                  | 13,079.29                  |
| 31422BAR1                                  | 14553        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 12/27/2023    | 3.230                   | 3.275            | 13,458.33                  | 0.00                    | 13,458.33                  |
| 3132X02G5                                  | 14537        | 010  | MC5             | 0.00                  | 5,000,000.00          | 3,333,333.33          | 06/21/2023    | 3.270                   | 3.315            | 9,083.33                   | 0.00                    | 9,083.33                   |
| 3132X04Z1                                  | 14544        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 08/15/2023    | 3.250                   | 3.295            | 13,541.67                  | 0.00                    | 13,541.67                  |
| 589331AT4                                  | 14545        | 010  | MTN             | 5,000,000.00          | 4,903,194.25          | 4,904,461.55          | 09/15/2022    | 2.400                   | 3.089            | 10,000.00                  | 2,452.84                | 12,452.84                  |
| 68389XAS4                                  | 14548        | 010  | MTN             | 5,000,000.00          | 5,042,521.83          | 5,042,077.70          | 07/15/2023    | 3.625                   | 3.437            | 15,104.17                  | -859.60                 | 14,244.57                  |
| 24422EUM9                                  | 14554        | 010  | MTN             | 5,000,000.00          | 5,069,973.04          | 5,069,282.66          | 10/12/2023    | 3.650                   | 3.329            | 15,208.33                  | -1,336.22               | 13,872.11                  |
| 540424AQ1                                  | 14555        | 010  | MTN             | 5,000,000.00          | 4,867,436.36          | 4,868,879.29          | 05/15/2023    | 2.625                   | 3.431            | 10,937.50                  | 2,792.77                | 13,730.27                  |
| 693475AV7                                  | 14557        | 010  | MC3             | 5,000,000.00          | 5,027,214.01          | 5,026,961.73          | 01/23/2024    | 3.500                   | 3.411            | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN             | 5,000,000.00          | 5,085,634.28          | 5,085,002.22          | 04/01/2025    | 3.375                   | 3.072            | 14,062.50                  | -1,223.35               | 12,839.15                  |
| 49327M2X1                                  | 14560        | 010  | MTN             | 5,000,000.00          | 5,025,277.77          | 5,024,869.64          | 02/01/2022    | 3.300                   | 3.138            | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3             | 5,000,000.00          | 5,154,098.17          | 5,152,628.32          | 12/06/2023    | 3.750                   | 3.018            | 15,625.00                  | -2,844.88               | 12,780.12                  |
| 91159HHU7                                  | 14562        | 010  | MC3             | 5,000,000.00          | 5,273,266.08          | 5,271,445.09          | 11/17/2025    | 3.950                   | 2.985            | 16,458.33                  | -3,524.50               | 12,933.83                  |
| 20030NBN0                                  | 14563        | 010  | MTN             | 5,000,000.00          | 5,076,880.57          | 5,076,347.16          | 08/15/2025    | 3.375                   | 3.123            | 14,062.50                  | -1,032.42               | 13,030.08                  |
| 747525AT0                                  | 14564        | 010  | MTN             | 5,000,000.00          | 4,965,638.91          | 4,965,936.61          | 05/20/2024    | 2.900                   | 3.102            | 12,083.33                  | 576.20                  | 12,659.53                  |
| 751212AC5                                  | 14566        | 010  | MC3             | 5,000,000.00          | 5,179,796.96          | 5,178,566.02          | 09/15/2025    | 3.750                   | -0.560           | 0.00                       | -2,382.47               | -2,382.47                  |
| 375558BF9                                  | 14570        | 010  | MTN             | 5,000,000.00          | 5,160,706.99          | 5,159,681.91          | 03/01/2026    | 3.650                   | 3.118            | 15,208.33                  | -1,984.03               | 13,224.30                  |
| 233851CU6                                  | 14574        | 010  | MTN             | 3,725,000.00          | 0.00                  | 767,413.41            | 01/06/2027    | 3.450                   | 3.002            | 2,141.87                   | -248.35                 | 1,893.52                   |
| 233851CU6                                  | 14571        | 010  | MTN             | 5,000,000.00          | 0.00                  | 3,560,484.67          | 01/06/2027    | 3.450                   | 3.210            | 10,062.50                  | -668.34                 | 9,394.16                   |
|                                            |              |      | <b>Subtotal</b> | <b>272,968,500.00</b> | <b>279,899,880.99</b> | <b>270,558,101.07</b> |               |                         | <b>2.366</b>     | <b>532,992.95</b>          | <b>-6,745.07</b>        | <b>526,247.88</b>          |
|                                            |              |      | <b>Total</b>    | <b>272,968,500.00</b> | <b>279,899,880.99</b> | <b>270,558,101.07</b> |               |                         | <b>2.366</b>     | <b>532,992.95</b>          | <b>-6,745.07</b>        | <b>526,247.88</b>          |



**Pooled Investment - Long Term  
Interest Earnings  
Sorted by Fund - Fund  
May 1, 2019 - May 31, 2019  
Yield on Average Book Value**

Exhibit 2-B.2

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AFKR7                                  | 14550        | 010  | MC4           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/28/2023    | 3.100                   | 3.042 | 12,916.67                  | 0.00                    | 12,916.67                  |
| 3130ADUB6                                  | 14533 T1     | 010  | FAC           | 21,000,000.00    | 21,000,000.00        | 21,000,000.00      | 12/19/2019    | 2.320                   | 2.276 | 40,600.00                  | 0.00                    | 40,600.00                  |
| 3130AAJZ2                                  | 14513        | 010  | MC5           | 3,742,500.00     | 3,742,500.00         | 3,742,500.00       | 04/27/2020    | 1.750                   | 1.717 | 5,457.81                   | 0.00                    | 5,457.81                   |
| 3130A9YW5                                  | 14512        | 010  | MC5           | 5,000,000.00     | 4,999,813.89         | 4,999,828.67       | 11/22/2019    | 1.190                   | 1.174 | 4,958.33                   | 27.78                   | 4,986.11                   |
| 3130AAS82                                  | 14519        | 010  | FAC           | 10,000,000.00    | 9,999,477.68         | 9,999,508.01       | 02/06/2020    | 1.550                   | 1.528 | 12,916.67                  | 56.98                   | 12,973.65                  |
| 3130ABTD8                                  | 14526        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 10/18/2019    | 1.450                   | 1.423 | 18,125.00                  | 0.00                    | 18,125.00                  |
| 3130ADKF8                                  | 14529        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 01/30/2020    | 2.100                   | 2.060 | 26,250.00                  | 0.00                    | 26,250.00                  |
| 3133EHBA0                                  | 14520        | 010  | FAC           | 6,500,000.00     | 6,500,000.00         | 6,500,000.00       | 03/02/2020    | 1.520                   | 1.491 | 8,233.33                   | 0.00                    | 8,233.33                   |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 02/16/2021    | 1.750                   | 1.717 | 7,291.67                   | 0.00                    | 7,291.67                   |
| 3133EKJB3                                  | 14565        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 07/23/2025    | 3.040                   | 2.983 | 12,666.67                  | 0.00                    | 12,666.67                  |
| 3133EGD77                                  | 14509        | 010  | MC5           | 0.00             | 10,000,000.00        | 645,161.29         | 05/03/2019    | 1.120                   | 1.136 | 622.22                     | 0.00                    | 622.22                     |
| 3133EHQB2                                  | 14527        | 010  | FAC           | 9,001,000.00     | 9,001,000.00         | 9,001,000.00       | 07/06/2020    | 1.550                   | 1.521 | 11,626.29                  | 0.00                    | 11,626.29                  |
| 3133EJKC2                                  | 14535        | 010  | MC5           | 20,000,000.00    | 20,000,000.00        | 20,000,000.00      | 04/09/2021    | 2.670                   | 2.620 | 44,500.00                  | 0.00                    | 44,500.00                  |
| 3133EJAD1                                  | 14528        | 010  | FAC           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 12/23/2020    | 2.150                   | 2.110 | 17,916.67                  | 0.00                    | 17,916.67                  |
| 3133EGD77                                  | 14507        | 010  | MC5           | 0.00             | 10,000,000.00        | 645,161.29         | 05/03/2019    | 1.120                   | 1.136 | 622.22                     | 0.00                    | 622.22                     |
| 3133EGAW5                                  | 14504        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 08/19/2019    | 1.250                   | 1.226 | 5,208.33                   | 0.00                    | 5,208.33                   |
| 3134GSVB8                                  | 14547        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 09/13/2023    | 3.250                   | 3.189 | 13,541.67                  | 0.00                    | 13,541.67                  |
| 3134G9MA2                                  | 14505        | 010  | MC5           | 0.00             | 5,000,000.00         | 3,709,677.42       | 05/24/2019    | 1.125                   | 1.141 | 3,593.78                   | 0.00                    | 3,593.78                   |
| 3137EAAE5                                  | 14516        | 010  | FAC           | 5,000,000.00     | 4,999,878.56         | 4,999,886.13       | 01/17/2020    | 1.500                   | 1.475 | 6,250.00                   | 14.23                   | 6,264.23                   |
| 3134G7S77                                  | 14358        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 10/29/2020    | 2.000                   | 1.962 | 8,333.33                   | 0.00                    | 8,333.33                   |
| 3135G0S46                                  | 14515        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 01/27/2020    | 1.650                   | 1.619 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3135G0T29                                  | 14522        | 010  | FAC           | 10,000,000.00    | 9,988,688.73         | 9,989,296.86       | 02/28/2020    | 1.500                   | 1.608 | 12,500.00                  | 1,142.56                | 13,642.56                  |
| 3135G0S46                                  | 14514        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 01/27/2020    | 1.650                   | 1.619 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3136G4LP6                                  | 14518        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 08/28/2020    | 1.800                   | 1.766 | 7,500.00                   | 0.00                    | 7,500.00                   |
| 3135G0T29                                  | 14521        | 010  | FAC           | 3,500,000.00     | 3,500,000.00         | 3,500,000.00       | 02/28/2020    | 1.500                   | 1.472 | 4,375.00                   | 0.00                    | 4,375.00                   |
| 672319CA6                                  | 14282        | 010  | MUN           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/15/2019    | 3.267                   | 3.206 | 13,612.50                  | 0.00                    | 13,612.50                  |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,848,157.79         | 4,849,839.18       | 05/03/2023    | 2.400                   | 3.195 | 10,000.00                  | 3,158.99                | 13,158.99                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,580,277.11         | 3,579,568.06       | 09/23/2021    | 3.550                   | 3.008 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 06406FAB9                                  | 14541        | 010  | MC3           | 1,458,000.00     | 1,429,893.98         | 1,430,515.57       | 05/03/2021    | 2.050                   | 3.011 | 2,490.75                   | 1,167.84                | 3,658.59                   |



**Pooled Investment - Long Term  
Interest Earnings  
May 1, 2019 - May 31, 2019**

**Exhibit 2-B.2**

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |                   |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|-------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |                   |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |                   |
| 795450T47                                  | 14540        | 010  | SCD             | 250,000.00            | 250,000.00            | 250,000.00            | 07/03/2023    | 3.300                   | 3.300            | 700.68                     | 0.00                    | 700.68                     |                   |
| 084670BJ6                                  | 14542        | 010  | MTN             | 5,000,000.00          | 4,973,738.50          | 4,974,046.84          | 02/11/2023    | 3.000                   | 3.096            | 12,500.00                  | 579.30                  | 13,079.30                  |                   |
| 31422BAR1                                  | 14553        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 12/27/2023    | 3.230                   | 3.169            | 13,458.33                  | 0.00                    | 13,458.33                  |                   |
| 3132X02G5                                  | 14537        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 06/21/2023    | 3.270                   | 3.208            | 13,625.00                  | 0.00                    | 13,625.00                  |                   |
| 3132X04Z1                                  | 14544        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 08/15/2023    | 3.250                   | 3.189            | 13,541.67                  | 0.00                    | 13,541.67                  |                   |
| 589331AT4                                  | 14545        | 010  | MTN             | 5,000,000.00          | 4,900,741.40          | 4,902,046.95          | 09/15/2022    | 2.400                   | 2.991            | 10,000.00                  | 2,452.85                | 12,452.85                  |                   |
| 68389XAS4                                  | 14548        | 010  | MTN             | 5,000,000.00          | 5,043,381.44          | 5,042,923.91          | 07/15/2023    | 3.625                   | 3.326            | 15,104.17                  | -859.61                 | 14,244.56                  |                   |
| 24422EUM9                                  | 14554        | 010  | MTN             | 5,000,000.00          | 5,071,309.25          | 5,070,598.04          | 10/12/2023    | 3.650                   | 3.221            | 15,208.33                  | -1,336.21               | 13,872.12                  |                   |
| 540424AQ1                                  | 14555        | 010  | MTN             | 5,000,000.00          | 4,864,643.58          | 4,866,130.06          | 05/15/2023    | 2.625                   | 3.322            | 10,937.50                  | 2,792.78                | 13,730.28                  |                   |
| 693475AV7                                  | 14557        | 010  | MC3             | 5,000,000.00          | 5,027,702.30          | 5,027,442.41          | 01/23/2024    | 3.500                   | 3.301            | 14,583.33                  | -488.29                 | 14,095.04                  |                   |
| 13063DGB8                                  | 14559        | 010  | MUN             | 5,000,000.00          | 5,086,857.62          | 5,086,206.49          | 04/01/2025    | 3.375                   | 2.972            | 14,062.50                  | -1,223.34               | 12,839.16                  |                   |
| 49327M2X1                                  | 14560        | 010  | MTN             | 5,000,000.00          | 5,026,067.70          | 5,025,647.25          | 02/01/2022    | 3.300                   | 3.036            | 13,750.00                  | -789.93                 | 12,960.07                  |                   |
| 05531FBF9                                  | 14561        | 010  | MC3             | 5,000,000.00          | 5,156,943.06          | 5,155,428.85          | 12/06/2023    | 3.750                   | 2.919            | 15,625.00                  | -2,844.89               | 12,780.11                  |                   |
| 91159HHU7                                  | 14562        | 010  | MC3             | 5,000,000.00          | 5,276,790.58          | 5,274,914.64          | 11/17/2025    | 3.950                   | 2.887            | 16,458.33                  | -3,524.50               | 12,933.83                  |                   |
| 20030NBNO                                  | 14563        | 010  | MTN             | 5,000,000.00          | 5,077,912.99          | 5,077,363.47          | 08/15/2025    | 3.375                   | 3.022            | 14,062.50                  | -1,032.42               | 13,030.08                  |                   |
| 747525AT0                                  | 14564        | 010  | MTN             | 5,000,000.00          | 4,965,062.70          | 4,965,369.39          | 05/20/2024    | 2.900                   | 3.002            | 12,083.33                  | 576.21                  | 12,659.54                  |                   |
| 751212AC5                                  | 14566        | 010  | MC3             | 5,000,000.00          | 5,182,179.43          | 5,180,911.34          | 09/15/2025    | 3.750                   | -0.541           | 0.00                       | -2,382.47               | -2,382.47                  |                   |
| 375558BF9                                  | 14570        | 010  | MTN             | 5,000,000.00          | 0.00                  | 1,498,329.51          | 03/01/2026    | 3.650                   | 2.771            | 4,055.56                   | -529.08                 | 3,526.48                   |                   |
|                                            |              |      | <b>Subtotal</b> | <b>279,243,500.00</b> | <b>299,743,018.29</b> | <b>281,239,301.63</b> |               |                         |                  | <b>2.271</b>               | <b>546,794.24</b>       | <b>-4,373.37</b>           | <b>542,420.87</b> |
|                                            |              |      | <b>Total</b>    | <b>279,243,500.00</b> | <b>299,743,018.29</b> | <b>281,239,301.63</b> |               |                         |                  | <b>2.271</b>               | <b>546,794.24</b>       | <b>-4,373.37</b>           | <b>542,420.87</b> |



**Pooled Investment - Long Term  
Interest Earnings  
Sorted by Fund - Fund  
April 1, 2019 - April 30, 2019  
Yield on Average Book Value**

Exhibit 2-B.3

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AFKR7                                  | 14550        | 010  | MC4           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/28/2023    | 3.100                   | 3.143 | 12,916.67                  | 0.00                    | 12,916.67                  |
| 3130ADUB6                                  | 14533 T1     | 010  | FAC           | 21,000,000.00    | 21,000,000.00        | 21,000,000.00      | 12/19/2019    | 2.320                   | 2.352 | 40,600.00                  | 0.00                    | 40,600.00                  |
| 3130AAJZ2                                  | 14513        | 010  | MC5           | 3,742,500.00     | 3,742,500.00         | 3,742,500.00       | 04/27/2020    | 1.750                   | 1.774 | 5,457.81                   | 0.00                    | 5,457.81                   |
| 3130A9YW5                                  | 14512        | 010  | MC5           | 5,000,000.00     | 4,999,786.11         | 4,999,800.46       | 11/22/2019    | 1.190                   | 1.213 | 4,958.33                   | 27.78                   | 4,986.11                   |
| 3130AAS82                                  | 14519        | 010  | FAC           | 10,000,000.00    | 9,999,420.70         | 9,999,450.14       | 02/06/2020    | 1.550                   | 1.579 | 12,916.67                  | 56.98                   | 12,973.65                  |
| 3130ABTD8                                  | 14526        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 10/18/2019    | 1.450                   | 1.470 | 18,125.00                  | 0.00                    | 18,125.00                  |
| 3130ADKF8                                  | 14529        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 01/30/2020    | 2.100                   | 2.129 | 26,250.00                  | 0.00                    | 26,250.00                  |
| 3133EHBA0                                  | 14520        | 010  | FAC           | 6,500,000.00     | 6,500,000.00         | 6,500,000.00       | 03/02/2020    | 1.520                   | 1.541 | 8,233.33                   | 0.00                    | 8,233.33                   |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 02/16/2021    | 1.750                   | 1.774 | 7,291.67                   | 0.00                    | 7,291.67                   |
| 3133EKJB3                                  | 14565        | 010  | MC5           | 5,000,000.00     | 0.00                 | 1,333,333.33       | 07/23/2025    | 3.040                   | 3.082 | 3,377.78                   | 0.00                    | 3,377.78                   |
| 3133EGD77                                  | 14509        | 010  | MC5           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 05/03/2019    | 1.120                   | 1.136 | 9,333.33                   | 0.00                    | 9,333.33                   |
| 3133EHQB2                                  | 14527        | 010  | FAC           | 9,001,000.00     | 9,001,000.00         | 9,001,000.00       | 07/06/2020    | 1.550                   | 1.572 | 11,626.29                  | 0.00                    | 11,626.29                  |
| 3133EJKC2                                  | 14535        | 010  | MC5           | 20,000,000.00    | 20,000,000.00        | 20,000,000.00      | 04/09/2021    | 2.670                   | 2.707 | 44,500.00                  | 0.00                    | 44,500.00                  |
| 3133EJAD1                                  | 14528        | 010  | FAC           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 12/23/2020    | 2.150                   | 2.180 | 17,916.67                  | 0.00                    | 17,916.67                  |
| 3133EGD77                                  | 14507        | 010  | MC5           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 05/03/2019    | 1.120                   | 1.136 | 9,333.33                   | 0.00                    | 9,333.33                   |
| 3133EGAW5                                  | 14504        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 08/19/2019    | 1.250                   | 1.267 | 5,208.33                   | 0.00                    | 5,208.33                   |
| 3133EF4C8                                  | 14503        | 010  | MC5           | 0.00             | 5,000,000.00         | 4,000,000.00       | 04/25/2019    | 1.190                   | 1.207 | 3,966.67                   | 0.00                    | 3,966.67                   |
| 3134GSVB8                                  | 14547        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 09/13/2023    | 3.250                   | 3.295 | 13,541.67                  | 0.00                    | 13,541.67                  |
| 3134G9MA2                                  | 14505        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 05/24/2019    | 1.125                   | 1.141 | 4,687.54                   | 0.00                    | 4,687.54                   |
| 3137EAE5                                   | 14516        | 010  | FAC           | 5,000,000.00     | 4,999,864.33         | 4,999,871.68       | 01/17/2020    | 1.500                   | 1.524 | 6,250.00                   | 14.23                   | 6,264.23                   |
| 3134G7S77                                  | 14358        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 10/29/2020    | 2.000                   | 1.555 | 6,388.89                   | 0.00                    | 6,388.89                   |
| 3135G0S46                                  | 14515        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 01/27/2020    | 1.650                   | 1.673 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3135G0T29                                  | 14522        | 010  | FAC           | 10,000,000.00    | 9,987,546.18         | 9,988,136.50       | 02/28/2020    | 1.500                   | 1.662 | 12,500.00                  | 1,142.55                | 13,642.55                  |
| 3135G0S46                                  | 14514        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 01/27/2020    | 1.650                   | 1.673 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3136G4LP6                                  | 14518        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 08/28/2020    | 1.800                   | 1.825 | 7,500.00                   | 0.00                    | 7,500.00                   |
| 3135G0T29                                  | 14521        | 010  | FAC           | 3,500,000.00     | 3,500,000.00         | 3,500,000.00       | 02/28/2020    | 1.500                   | 1.521 | 4,375.00                   | 0.00                    | 4,375.00                   |
| 672319CA6                                  | 14282        | 010  | MUN           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/15/2019    | 3.267                   | 3.312 | 13,612.50                  | 0.00                    | 13,612.50                  |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,844,998.79         | 4,846,630.94       | 05/03/2023    | 2.400                   | 3.303 | 10,000.00                  | 3,159.00                | 13,159.00                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 678.08                     | 0.00                    | 678.08                     |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,581,609.26         | 3,580,920.98       | 09/23/2021    | 3.550                   | 3.108 | 10,478.42                  | -1,332.15               | 9,146.27                   |

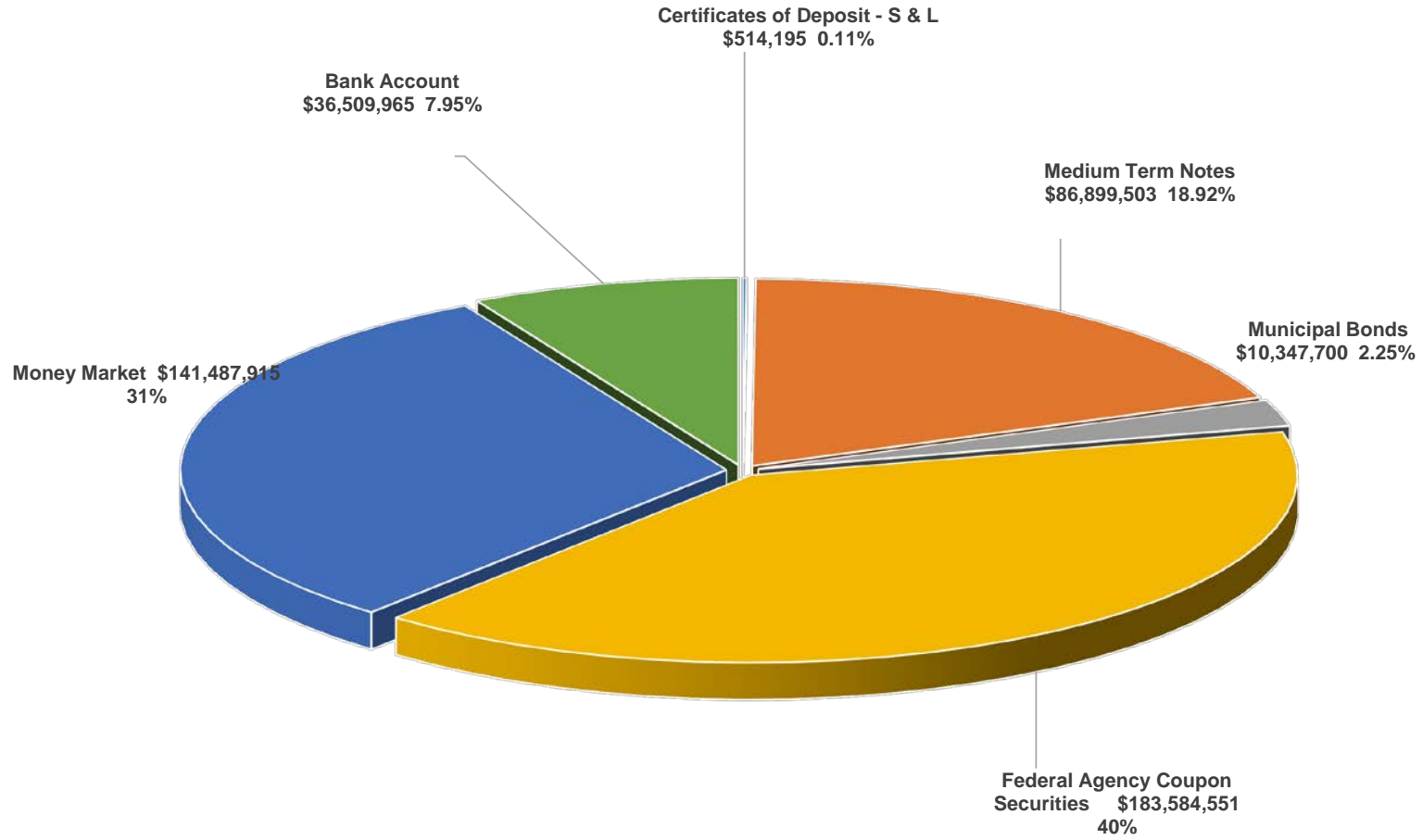
**Pooled Investment - Long Term  
Interest Earnings  
April 1, 2019 - April 30, 2019**

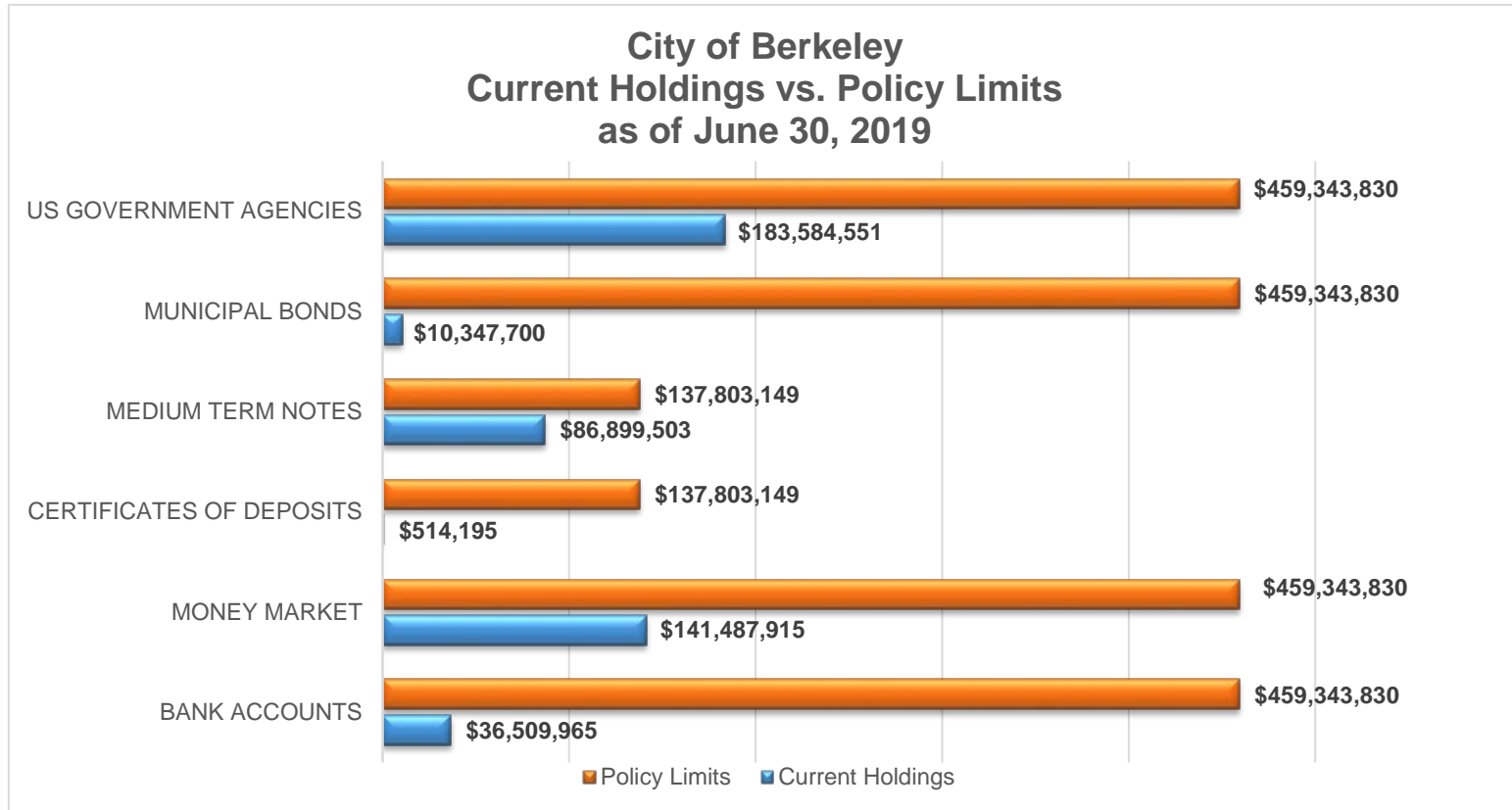
**Exhibit 2-B.3**

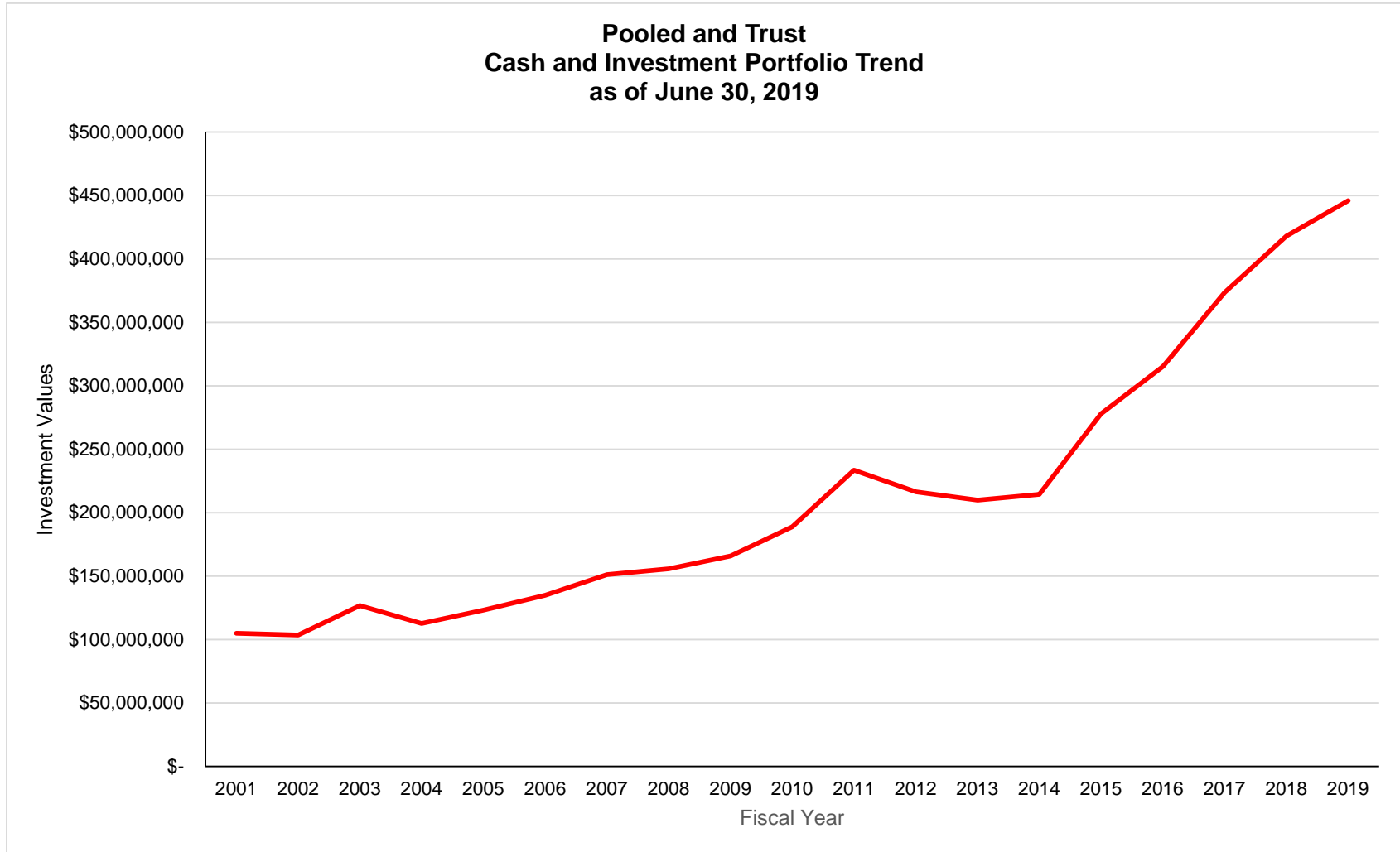
| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 06406FAB9                                  | 14541        | 010  | MC3             | 1,458,000.00          | 1,428,726.14          | 1,429,329.53          | 05/03/2021    | 2.050                   | 3.114            | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 795450T47                                  | 14540        | 010  | SCD             | 250,000.00            | 250,000.00            | 250,000.00            | 07/03/2023    | 3.300                   | 3.300            | 678.08                     | 0.00                    | 678.08                     |
| 084670BJ6                                  | 14542        | 010  | MTN             | 5,000,000.00          | 4,973,159.20          | 4,973,458.51          | 02/11/2023    | 3.000                   | 3.200            | 12,500.00                  | 579.30                  | 13,079.30                  |
| 31422BAR1                                  | 14553        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 12/27/2023    | 3.230                   | 3.275            | 13,458.33                  | 0.00                    | 13,458.33                  |
| 3132X02G5                                  | 14537        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 06/21/2023    | 3.270                   | 3.315            | 13,625.00                  | 0.00                    | 13,625.00                  |
| 3132X04Z1                                  | 14544        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 08/15/2023    | 3.250                   | 3.295            | 13,541.67                  | 0.00                    | 13,541.67                  |
| 589331AT4                                  | 14545        | 010  | MTN             | 5,000,000.00          | 4,898,288.55          | 4,899,555.85          | 09/15/2022    | 2.400                   | 3.092            | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN             | 5,000,000.00          | 5,044,241.04          | 5,043,796.91          | 07/15/2023    | 3.625                   | 3.436            | 15,104.17                  | -859.60                 | 14,244.57                  |
| 24422EUM9                                  | 14554        | 010  | MTN             | 5,000,000.00          | 5,072,645.46          | 5,071,955.09          | 10/12/2023    | 3.650                   | 3.328            | 15,208.33                  | -1,336.21               | 13,872.12                  |
| 540424AQ1                                  | 14555        | 010  | MTN             | 5,000,000.00          | 4,861,850.81          | 4,863,293.74          | 05/15/2023    | 2.625                   | 3.435            | 10,937.50                  | 2,792.77                | 13,730.27                  |
| 693475AV7                                  | 14557        | 010  | MC3             | 5,000,000.00          | 5,028,190.59          | 5,027,938.31          | 01/23/2024    | 3.500                   | 3.411            | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN             | 5,000,000.00          | 5,088,080.97          | 5,087,448.91          | 04/01/2025    | 3.375                   | 3.070            | 14,062.50                  | -1,223.35               | 12,839.15                  |
| 49327M2X1                                  | 14560        | 010  | MTN             | 5,000,000.00          | 5,026,857.63          | 5,026,449.50          | 02/01/2022    | 3.300                   | 3.137            | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3             | 5,000,000.00          | 5,159,787.95          | 5,158,318.09          | 12/06/2023    | 3.750                   | 3.014            | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 91159HHU7                                  | 14562        | 010  | MC3             | 5,000,000.00          | 0.00                  | 4,926,484.83          | 11/17/2025    | 3.950                   | 2.981            | 15,361.11                  | -3,289.53               | 12,071.58                  |
| 20030NBN0                                  | 14563        | 010  | MTN             | 5,000,000.00          | 0.00                  | 4,570,524.33          | 08/15/2025    | 3.375                   | 3.122            | 12,656.25                  | -929.17                 | 11,727.08                  |
| 747525AT0                                  | 14564        | 010  | MTN             | 5,000,000.00          | 0.00                  | 2,647,956.61          | 05/20/2024    | 2.900                   | 3.102            | 6,444.44                   | 307.31                  | 6,751.75                   |
| 751212AC5                                  | 14566        | 010  | MC3             | 5,000,000.00          | 0.00                  | 345,481.28            | 09/15/2025    | 3.750                   | -81.264          | -22,916.67                 | -158.83                 | -23,075.50                 |
|                                            |              |      | <b>Subtotal</b> | <b>299,243,500.00</b> | <b>279,238,553.71</b> | <b>292,063,635.52</b> |               |                         | <b>2.172</b>     | <b>522,883.77</b>          | <b>-1,551.34</b>        | <b>521,332.43</b>          |
|                                            |              |      | <b>Total</b>    | <b>299,243,500.00</b> | <b>279,238,553.71</b> | <b>292,063,635.52</b> |               |                         | <b>2.172</b>     | <b>522,883.77</b>          | <b>-1,551.34</b>        | <b>521,332.43</b>          |

Exhibit 2-C

Pooled Cash and Investments  
(Market Value)  
as of June 30, 2019









**Summary of Pooled Cash and Investments - Trust Funds  
(Market Value)  
As of June 30, 2019**

|                                           | <u>Pooled Cash</u>  | <u>Investments<br/>(Book Value)</u> | <u>Gain/Loss on<br/>Investments</u> | <u>Pooled Cash<br/>&amp; Investments<br/>(Market Value)</u> |
|-------------------------------------------|---------------------|-------------------------------------|-------------------------------------|-------------------------------------------------------------|
| <b>Retiree Medical Trust Fund</b>         |                     |                                     |                                     |                                                             |
| <b>Fund No.</b>                           |                     |                                     |                                     |                                                             |
| 941 BHA                                   | \$ 74,783           | \$ 310,416                          | \$ 9,577                            | \$ 394,776                                                  |
| 942 M1=IBEW                               | 2,895               | 168,656                             | 8,721                               | 180,272                                                     |
| 943 M2=Local 1                            | 1,173,515           | 6,858,124                           | 364,214                             | 8,395,854                                                   |
| 944 MUI=Z1                                | 151,198             | 1,729,584                           | 103,057                             | 1,983,840                                                   |
| 945 MUI=Z2 to Z6                          | 255,624             | 2,269,215                           | 125,030                             | 2,649,869                                                   |
| 946 M535= Local 535                       | 839,257             | 7,253,653                           | 427,233                             | 8,520,143                                                   |
| 947 M3=Local 790                          | 550,171             | 5,130,525                           | 216,742                             | 5,897,437                                                   |
| <b>Total Retiree Medical Trust Fund</b>   | <b>3,047,443</b>    | <b>23,720,172</b>                   | <b>1,254,575</b>                    | <b>28,022,192</b>                                           |
| <b>Fire Medical Trust Fund</b>            |                     |                                     |                                     |                                                             |
| 949 Fire Medical Trust Fund               | 215,402             | 10,731,801                          | 310,295                             | 11,257,497                                                  |
| <b>Total Fire Medical Trust Fund</b>      | <b>215,402</b>      | <b>10,731,801</b>                   | <b>310,295</b>                      | <b>11,257,497</b>                                           |
| <b>Police Medical Trust Fund</b>          |                     |                                     |                                     |                                                             |
| 903 Police EE Retiree HLT Assistance Plan | 54,478              | 2,025,186                           | 367,989.89                          | 2,079,664                                                   |
| 905 Safety Members Pension Fund           | 33,289              | -                                   | -                                   | 33,289                                                      |
| 950 Police Medical Trust Fund             | -                   | 5,808,563                           | (185,858.14)                        | 5,622,705                                                   |
| <b>Total Police Medical Trust Fund</b>    | <b>87,767</b>       | <b>7,833,749</b>                    | <b>182,132</b>                      | <b>8,103,648</b>                                            |
| <b>Total Trust Funds</b>                  | <b>\$ 3,350,612</b> | <b>\$ 42,285,723</b>                | <b>\$ 1,747,002</b>                 | <b>\$ 47,383,337</b>                                        |



**Retiree Medical Trust Fund  
Fund 941 - 947  
Interest Earnings  
April 1 to June 30, 2019**

| Investments<br>June 30, 2019                |              |                             |                         |                         |                         |                         |               |                | Interest Earnings<br>April 1 to June 30, 2019 |                  |                            |                            |                            |
|---------------------------------------------|--------------|-----------------------------|-------------------------|-------------------------|-------------------------|-------------------------|---------------|----------------|-----------------------------------------------|------------------|----------------------------|----------------------------|----------------------------|
| CUSIP                                       | Investment # | Issuer                      | Par Value               | Beginning Book Value    | Ending Book Value       | Market Value            | Maturity Date | Moody's Rating | Current Rate                                  | Annualized Yield | Adjusted Interest Earnings |                            |                            |
|                                             |              |                             |                         |                         |                         |                         |               |                |                                               |                  | Interest Earned            | Amortization/<br>Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                    |              |                             |                         |                         |                         |                         |               |                |                                               |                  |                            |                            |                            |
| 06744CUS8                                   | 14530        | Barclays Bank PLC           | 6,000,000.00            | 6,000,000.00            | 6,000,000.00            | 6,003,540.00            | 02/08/2028    | A2             | 3.125                                         | 3.134            | 46,875.00                  | -                          | 46,875.00                  |
| 61747WAF6                                   | 14224        | Morgan Stanley              | 1,666,666.67            | 1,684,582.98            | 1,682,117.44            | 1,750,550.00            | 01/25/2021    | A3             | 5.750                                         | 5.121            | 23,958.34                  | (2,465.55)                 | 21,492.79                  |
| <b>Federal Agency Coupon Securities</b>     |              |                             |                         |                         |                         |                         |               |                |                                               |                  |                            |                            |                            |
| 3133EFQT7                                   | 14361        | Fed Farm Credit Bank        | 2,600,000.00            | 2,612,096.86            | 2,611,642.09            | 2,690,272.00            | 11/25/2025    | AAA            | 2.700                                         | 2.625            | 17,550.00                  | (454.77)                   | 17,095.23                  |
| <b>Federal Agency Continuously Callable</b> |              |                             |                         |                         |                         |                         |               |                |                                               |                  |                            |                            |                            |
| 3130HOCE1                                   | 14567        | Farmer Mac                  | 3,556,000.00            | 3,556,000.00            | 3,556,000.00            | 3,570,970.76            | 05/01/2029    | N/A            | 3.400                                         | 3.390            | 19,814.82                  | -                          | 19,814.82                  |
| 3134GAWD2                                   | 14510        | Fed Home Loan Mortgage Corp | 1,500,000.00            | 1,500,000.00            | 1,500,000.00            | 1,495,200.00            | 11/27/2019    | AAA            | 1.300                                         | 1.304            | 4,875.00                   | -                          | 4,875.00                   |
| <b>Municipal Bonds</b>                      |              |                             |                         |                         |                         |                         |               |                |                                               |                  |                            |                            |                            |
| 672319CC2                                   | 14283        | OAKGEN                      | 2,750,000.00            | 2,736,444.81            | 2,737,697.34            | 2,852,465.00            | 12/15/2021    | AA3            | 3.800                                         | 4.012            | 26,125.00                  | 1,252.53                   | 27,377.53                  |
| 786091AG3                                   | 14316        | SACGEN                      | 5,000,000.00            | 5,342,224.41            | 5,328,715.55            | 6,307,750.00            | 08/01/2025    | A3             | 7.250                                         | 5.797            | 90,625.00                  | (13,508.86)                | 77,116.14                  |
| <b>Savo Island Loan</b>                     |              |                             |                         |                         |                         |                         |               |                |                                               |                  |                            |                            |                            |
| SYS10988                                    | 10988        | EMPMED                      | 304,000.00              | 336,000.00              | 304,000.00              | 304,000.00              | 09/01/2025    | N/A            | 8.000                                         | 8.000            | 6,063.35                   | -                          | 6,063.35                   |
| <b>Total</b>                                |              |                             | <b>\$ 23,376,666.67</b> | <b>\$ 23,767,349.06</b> | <b>\$ 23,720,172.42</b> | <b>\$ 24,974,747.76</b> |               |                |                                               | <b>3.932</b>     | <b>\$ 235,886.51</b>       | <b>\$ (15,176.65)</b>      | <b>\$ 220,709.86</b>       |

|                                                                |                         |
|----------------------------------------------------------------|-------------------------|
| <b>Total Investments (Book Value)</b>                          | <b>\$ 23,720,172.42</b> |
| <b>Gain/Loss on Investments</b>                                | <b>1,254,575.34</b>     |
| <b>Total Investments (Market Value)</b>                        | <b>24,974,747.76</b>    |
| <b>Temporarily Invested with Pooled Cash &amp; Investments</b> | <b>3,047,443.48</b>     |
| <b>Total Pooled Cash and Investments</b>                       | <b>\$ 28,022,191.24</b> |





**Fire Retiree Medical  
Fund 949  
Interest Earnings  
April 1 to June 30, 2019**

| Investments<br>June 30, 2019                |              |                            |                                |                                |                                |                                |               |               | Interest Earnings<br>April 1 to June 30, 2019 |                     |                            |                             |                            |
|---------------------------------------------|--------------|----------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|---------------|---------------|-----------------------------------------------|---------------------|----------------------------|-----------------------------|----------------------------|
| CUSIP                                       | Investment # | Issuer                     | Par Value                      | Beginning Book Value           | Ending Book Value              | Market Value                   | Maturity Date | Credit Rating | Current Rate                                  | Annualized Yield    | Adjusted Interest Earnings |                             |                            |
|                                             |              |                            |                                |                                |                                |                                |               |               |                                               |                     | Interest Earned            | Amortization/<br>Accretion  | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                    |              |                            |                                |                                |                                |                                |               |               |                                               |                     |                            |                             |                            |
| 06744CUS8                                   | 14531        | Barclays Bank PLC          | 2,000,000.00                   | 2,000,000.00                   | 2,000,000.00                   | 2,001,180.00                   | 02/18/2028    | A2            | 3.125                                         | 3.134               | 15,625.00                  | -                           | 15,625.00                  |
| 6174467X1                                   | 14318        | Morgan Stanley DW DTC#0015 | 2,000,000.00                   | 2,051,314.64                   | 2,049,384.71                   | 2,214,160.00                   | 11/24/2025    | BAA2          | 5.000                                         | 4.513               | 25,000.00                  | (1,929.93)                  | 23,070.07                  |
| 61747WAF6                                   | 14225        | Morgan Stanley             | 1,666,666.67                   | 1,684,582.98                   | 1,682,117.44                   | 1,750,550.00                   | 01/25/2021    | A3            | 5.750                                         | 5.121               | 23,958.33                  | (2,465.54)                  | 21,492.79                  |
| <b>Federal Agency Coupon Securities</b>     |              |                            |                                |                                |                                |                                |               |               |                                               |                     |                            |                             |                            |
| 3133EFQT7                                   | 14362        | Fed Farm Credit Bank       | 2,300,000.00                   | 2,310,701.07                   | 2,310,298.78                   | 2,379,856.00                   | 11/25/2025    | AAA           | 2.700                                         | 2.625               | 15,525.00                  | (402.29)                    | 15,122.71                  |
| <b>Federal Agency Continuously Callable</b> |              |                            |                                |                                |                                |                                |               |               |                                               |                     |                            |                             |                            |
| 3130H0CE1                                   | 14568        | Farmer Mac                 | 2,190,000.00                   | 2,190,000.00                   | 2,190,000.00                   | 2,199,219.90                   | 05/01/2029    | N/A           | 3.400                                         | 3.390               | 12,203.17                  | -                           | 12,203.17                  |
| 3130A9WA5                                   | 14508        | Federal Home Loan Bank     | 500,000.00                     | 500,000.00                     | 500,000.00                     | 497,130.00                     | 04/27/2020    | AAA           | 1.300                                         | 1.304               | 1,625.00                   | -                           | 1,625.00                   |
| <b>Total</b>                                |              |                            | <b><u>\$ 10,656,666.67</u></b> | <b><u>\$ 10,736,598.69</u></b> | <b><u>\$ 10,731,800.93</u></b> | <b><u>\$ 11,042,095.90</u></b> |               |               |                                               | <b><u>3.580</u></b> | <b><u>\$ 93,936.50</u></b> | <b><u>\$ (4,797.76)</u></b> | <b><u>\$ 89,138.74</u></b> |

|                                                     |                         |
|-----------------------------------------------------|-------------------------|
| Total Investments (Book Value)                      | \$ 10,731,800.93        |
| Gain/Loss on Investments                            | <u>310,294.97</u>       |
| Total Investments (Market Value)                    | 11,042,095.90           |
| Temporarily Invested with Pooled Cash & Investments | <u>215,401.53</u>       |
| Total Pooled Cash and Investments                   | <u>\$ 11,257,497.43</u> |



**Police Retiree Medical  
Fund 903, 950 and 970  
Interest Earnings  
April 1 to June 30, 2019**

| Investments<br>June 30, 2019                |              |                                |                        |                        |                        |                        |               |               |              | Interest Earnings<br>April 1 to June 30, 2019 |                            |                            |                            |
|---------------------------------------------|--------------|--------------------------------|------------------------|------------------------|------------------------|------------------------|---------------|---------------|--------------|-----------------------------------------------|----------------------------|----------------------------|----------------------------|
| CUSIP                                       | Investment # | Issuer                         | Par Value              | Beginning Book Value   | Ending Book Value      | Market Value           | Maturity Date | Credit Rating | Current Rate | Annualized Yield                              | Adjusted Interest Earnings |                            |                            |
|                                             |              |                                |                        |                        |                        |                        |               |               |              |                                               | Interest Earned            | Amortization/<br>Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                    |              |                                |                        |                        |                        |                        |               |               |              |                                               |                            |                            |                            |
| 06744CUS8                                   | 14532        | Barclays Bank PLC              | 2,000,000.00           | 2,000,000.00           | 2,000,000.00           | 2,001,180.00           | 02/08/2028    | A2            | 3.125        | 3.134                                         | 15,625.00                  | -                          | 15,625.00                  |
| 6174467X1                                   | 14319        | Morgan Stanley DW DTC#0015     | 500,000.00             | 512,828.66             | 512,346.18             | 553,540.00             | 11/24/2025    | BAA2          | 5.000        | 4.513                                         | 6,250.00                   | (482.48)                   | 5,767.52                   |
| 61747WAF6                                   | 14226        | Morgan Stanley                 | 1,666,666.67           | 1,684,582.98           | 1,682,117.44           | 1,750,550.00           | 01/25/2021    | A3            | 5.750        | 5.121                                         | 23,958.33                  | (2,465.54)                 | 21,492.79                  |
| <b>Federal Agency Coupon Securities</b>     |              |                                |                        |                        |                        |                        |               |               |              |                                               |                            |                            |                            |
| 3133EFQT7                                   | 14363        | Fed. Farm Credit Banks Funding | 2,300,000.00           | 2,310,701.07           | 2,310,298.78           | 2,379,856.00           | 11/25/2025    | AAA           | 2.700        | 2.625                                         | 15,525.00                  | (402.29)                   | 15,122.71                  |
| <b>Federal Agency Continuously Callable</b> |              |                                |                        |                        |                        |                        |               |               |              |                                               |                            |                            |                            |
| 3130HOCE1                                   | 14569        | Farmer Mac                     | 829,000.00             | 829,000.00             | 829,000.00             | 832,490.09             | 05/01/2029    | N/A           | 3.400        | 3.390                                         | 4,619.37                   | -                          | 4,619.37                   |
| 3130A9YW5                                   | 14511        | Federal Home Loan Banks        | 500,000.00             | 499,978.61             | 499,986.94             | 498,265.00             | 11/22/2019    | AAA           | 1.190        | 1.200                                         | 1,487.50                   | 8.33                       | 1,495.83                   |
| <b>Total</b>                                |              |                                | <b>\$ 7,795,666.67</b> | <b>\$ 7,837,091.32</b> | <b>\$ 7,833,749.34</b> | <b>\$ 8,015,881.09</b> |               |               |              | <b>3.405</b>                                  | <b>\$ 67,465.20</b>        | <b>\$ (3,341.98)</b>       | <b>\$ 64,123.22</b>        |

|                                                     |                 |
|-----------------------------------------------------|-----------------|
| Total Investments (Book Value)                      | \$ 7,833,749.34 |
| Gain/Loss on Investments                            | 182,131.75      |
| Total Investments (Market Value)                    | 8,015,881.09    |
| Temporarily Invested with Pooled Cash & Investments | 87,766.91       |
| Total Pooled Cash and Investments                   | \$ 8,103,648.00 |





Office of the City Manager

INFORMATION CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 Subject: FY 2020 First Quarter Investment Report: Ended September 30, 2019

SUMMARY

The City's investment policy requires that a quarterly investment report be submitted to the City Council on the status of the investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the types, values (par, book, and market), term, and yield of each security.

- The return on pooled investments for the quarter ended September 30, 2019 was 2.30% equal the 2.30% earned by the State Local Agency Investment Fund (State LAIF), which is the benchmark for investment performance used by the City. The return on pooled investments of 2.30% for the quarter ended September 30, 2019 was 3.0 basis points more than the rate of 2.27% earned in the quarter ended June 30, 2019.
- The average return on all Retiree Medical Trust Fund investments was 3.588% for the quarter ended September 30, 2019.

CURRENT SITUATION AND ITS EFFECTS

Attached is a summary of quarterly reports for fiscal year 2020 First quarter ending September 30, 2019 representing the status of the City's investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the values (par, book, and market), term, and yield of each security.

Summary information by type of security and detailed information on each security is provided on Exhibit 2-A. An evaluation of portfolio performance for this accounting period compared to the previous three accounting periods is also included in Attachment 1.

## **A. Portfolio Results**

As a result of the differences in the investment policies of different cities, including responsible investing policies, maturity restrictions, investment restrictions, etc., it was difficult for the City of Berkeley to come up with a reasonable performance measure for pooled cash investments. In order to provide some measure of the relative performance of the City's investment returns, many years ago the City established the State Local Agency Investment Fund (LAIF) as the performance measure to be reported in the quarterly investment reports, since many local governments invested significant portions of their investment portfolios in LAIF.

LAIF was intended to be a reference point to compare the City's investment performance against, rather than a true performance measure, since most cities typically earn a yield higher than LAIF during normal interest rate environments, and because LAIF's average maturity of its investments is generally shorter than most cities. As a result, past City Councilmembers requested that information about the rates earned by other California cities be included in the quarterly investment reports for comparison purposes, despite the differences in the investment policies of the various cities.

At the present time, the interest rate environment is far from being normal. On September 18, 2019, the Federal Funds rate range, which is the most important measure of short-term interest rates, was lowered to 1.75%-2%, which was moderately higher than the 2-year Treasury (1.77%), the 5-year Treasury (1.68%), the 10-year Treasury (1.80%), and nearly as high as the 30-year Treasury (2.25%). This environment is highly unusual, and currently results in portfolios with shorter average maturities outperforming portfolios with long-term maturities, which is the opposite of performances in a normal interest rate environment (i.e., the longer the maturity, the higher the rate would be).

### 1. Liquidity of Portfolio:

The average investment in the pooled portfolio matured in 750 days as of September 30, 2019. This is 165 days less than the 915 maturity days of as of June 30, 2019.

### 2. Comparison of Results to Performance Measures – Pooled investments: Quarter Ended September 30, 2019

The City's yield on investments for the quarter ended September 30, 2019 was 2.30%, an increase of 3.0 basis points (.030%) from the 2.27% earned during the quarter ended June 30, 2019. The average yield on a 90-day Treasury bill at the end of the quarter ended September 30, 2019 was 1.807%, a decrease of 28.0 basis points (.280%) from the 2.087% at the end of the previous quarter.

As summarized in Table 1, staff's overall results equaled the performance measure for the quarter. Staff's performance was under the performance measure in July by 11.7 basis points (-.117%); under the performance measure in August by 2.5 basis points (-.025%); and, was over the performance measure in September by 2.7 basis points (+027%). The performance measure for the return on investments is compared to the rate of return of the State LAIF.

**Table 1**

| <b>For Quarter Ending September 30, 2019</b> |             |                   |                   |
|----------------------------------------------|-------------|-------------------|-------------------|
| <b>Period</b>                                | <b>City</b> | <b>State LAIF</b> | <b>Difference</b> |
| July-19                                      | 2.262%      | 2.379%            | -0.117%           |
| August-19                                    | 2.316%      | 2.341%            | -0.025%           |
| September-19                                 | 2.307%      | 2.28%             | 0.027%            |
| July-September 19                            | 2.30%       | 2.30%             | 0.000%            |

3. Investment Results-Retiree Health Insurance Funds:

Average interest rates earned on the retiree health insurance trust funds for the quarter ended September 30, 2019 compared to the quarter ended June 30, 2019, were as follows:

**Table 2**

| <b>EARNED INTEREST RATES</b>                             |                             |                            |
|----------------------------------------------------------|-----------------------------|----------------------------|
| <b>For Quarter Ended 9/30/2019 Compared To 6/30/2019</b> |                             |                            |
| <b>Trust Fund</b>                                        | <b>1st Qtr<br/>09/30/19</b> | <b>4th Qtr<br/>6/30/19</b> |
| Retiree Medical Trust Fund (Misc Employees)              | 3.863%                      | 3.932%                     |
| Fire Retiree Medical Trust Fund                          | 3.532%                      | 3.580%                     |
| Police Retiree Medical Trust Fund                        | 3.863%                      | 3.405%                     |

The rates earned on these plans will continue to drop slightly over the next few quarters as staff reinvests the proceeds of maturing securities at lower rates.

Details related to retiree health trust fund investments are in Attachment 3, Exhibits 3-A, 3-B, and 3-C of this report.

**B. Discussion of Interest Rate Environment and Outlook**

On September 18, 2019 the Federal Open Market Committee issued its statement on the economy and interest rates:

Information received since the Federal Open Market Committee met in July indicates that the labor market remains strong and that economic activity has been rising at a moderate rate. Job gains have been solid, on average, in recent months, and the unemployment rate has remained low. Although household spending has been rising at a strong pace, business fixed investment and exports have weakened. On a 12-month basis, overall inflation and inflation for items other than food and energy are running below 2 percent. Market-based measures of inflation compensation remain low; and survey-based measures of longer-term inflation expectations are little changed.

Consistent with its statutory mandate, the Committee seeks to foster maximum employment and price stability.

The Committee continues to view sustained expansion of economic activity, strong labor market conditions, and inflation near the Committee's symmetric 2 percent objective as the most likely outcomes, but uncertainties about this outlook remain. As the Committee contemplates the future path of the target range for the federal funds rate, it will continue to monitor the implications of incoming information for the economic outlook and will act as appropriate to sustain the expansion, with a strong labor market and inflation near its symmetric 2 percent objective.

**Yield Trend**

In light of the implications of global developments for the economic outlook as well as muted inflation pressures, the Committee decided to lower the target range for the federal funds rate to 1-3/4 to 2 percent.

In determining the timing and size of future adjustments to the target range for the federal funds rate, the Committee will assess realized and expected economic conditions relative to its maximum employment objective and its symmetric 2 percent inflation objective. This assessment will take into account a wide range of information, including measures of labor market conditions, indicators of inflation pressures and inflation expectations, and readings on financial and international developments.

In the current interest rate environment, staff expects returns in FY 2020 to be about the same as those returns earned in FY 2019. Also, the City's rate earned is expected to be about the same as the City's benchmark (State LAIF) and the City's return to be comparable to rates earned by most other cities in California. A sample of rates earned by Northern and Southern California cities is reflected in table 3 below (previously only Northern California cities were included):

**Table 3**

| <b>Other California Cities<br/>Earned Interest Rates</b> |                     |
|----------------------------------------------------------|---------------------|
| For the Quarter Ending September 30, 2019                |                     |
| <b>City</b>                                              | <b>Rates Earned</b> |
| San Diego                                                | 2.40%               |
| Palo Alto                                                | 2.38%               |
| San Jose                                                 | 2.36%               |
| Sacramento                                               | 2.33%               |
| San Francisco                                            | 2.33%               |
| <b>Berkeley</b>                                          | <b>2.30%</b>        |
| Oakland                                                  | 2.25%               |
| Los Angeles                                              | 2.16%               |
| Santa Monica                                             | 2.05%               |
| Riverside                                                | 2.03%               |

The City's investment strategy will continue to focus on (1) locking in reasonable rates on long-term investments, when opportunities for attractive rates present themselves and (2) matching of investment maturities to cash flow.

#### BACKGROUND

- Pooled Investments

Short-term cash is invested primarily in government sponsored enterprises (referred to as Federal Agency) notes and medium-term corporate notes for periods of one to five years. Additional cash is invested in a money market fund or overnight securities to meet the liquidity needs of the City.

In some cases, the City may have investments with a current market value that is greater or less than the recorded cost. These changes in market value are due to fluctuations in the market and have no effect on yield, as the City does not intend to sell securities prior to maturity.

- Retiree Health Trust Fund Investments

The City agreed to provide retiree Health insurance coverage for fire, police and miscellaneous employees under certain terms and conditions. An actuarial study commissioned by the City many years ago determined that, in addition to City Contributions, an average rate of return of 7% on miscellaneous employees trust fund assets invested must be achieved to fund the retiree health benefit at the desired 70% level. Primarily as a result of the Federal Reserve Board's decision to keep short-term rates near zero for the last 12 years, the average rate currently earned is significantly below that 7% level. City Finance Department staff manages these investment portfolios.



### ENVIRONMENTAL SUSTAINABILITY

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

### CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7326

### ATTACHMENTS

1. Portfolio Evaluation FY 2020
2. Investment Report Analysis FY 2020
  - a. Exhibit 2-A: Pooled Cash and Investments
  - b. Exhibit 2-B.1 through 2-B.3: Interest Earnings July 2019 – September 2019
  - c. Exhibit 2-C: Book Value By Investment Type
  - d. Exhibit 2-D: Current Holdings vs. Policy Limits
  - e. Exhibit 2-E: Investment Portfolio Trend
3. Summary of Pooled and Cash Investments FY 2020 –Trust Funds
  - a. Exhibit 3-A: Retiree Medical Trust Funds –Misc.
  - b. Exhibit 3-B: Retiree Medical Trust Funds –Fire
  - c. Exhibit 3-C: Retiree Medical Trust Funds –Police



**Portfolio Evaluation**  
**Quarter Ended September 30, 2019**

|                                             | Quarter Ending        |                       |                       |                       |                       |                |                       |                |
|---------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|----------------|-----------------------|----------------|
|                                             | September 2019        | June 2019             | March 2019            | December 2018         |                       |                |                       |                |
| <b>Total Portfolio</b>                      |                       |                       |                       |                       |                       |                |                       |                |
| Pooled Cash and Investments (COB)           | \$ 422,069,258        | \$ 459,308,376        | \$ 421,335,434        | \$ 401,582,141        |                       |                |                       |                |
| Pooled Cash and Investments (Trust)         | 48,394,215            | 47,383,337            | 46,484,598            | 44,766,863            |                       |                |                       |                |
| Total Cash and Investments                  | <u>\$ 470,463,473</u> | <u>\$ 506,691,713</u> | <u>\$ 467,820,032</u> | <u>\$ 446,349,004</u> |                       |                |                       |                |
| <b>Average Life of Investment Portfolio</b> |                       |                       |                       |                       |                       |                |                       |                |
| Pooled Investments (CoB)                    | 750 days              | 915 days              | 713 days              | 716 days              |                       |                |                       |                |
| Trust Investments                           | 5.962 years           | 6.212 years           | 5.809 years           | 5.878 years           |                       |                |                       |                |
| <b>Weighted Yield</b>                       |                       |                       |                       |                       |                       |                |                       |                |
| Pooled Investments (CoB)                    | 2.295%                | 2.270%                | 2.195%                | 2.005%                |                       |                |                       |                |
| Trust Investments                           | 3.588%                | 3.639%                | 3.970%                | 3.772%                |                       |                |                       |                |
| Prime Rate                                  | 5.000%                | 5.500%                | 5.500%                | 5.500%                |                       |                |                       |                |
| 91-day Treasury Bill Rate                   | 1.807%                | 2.087%                | 2.381%                | 2.355%                |                       |                |                       |                |
| 2-year Treasury Note Rate                   | 1.622%                | 1.755%                | 2.260%                | 2.488%                |                       |                |                       |                |
| <b>Cash and Investments Maturity</b>        |                       |                       |                       |                       |                       |                |                       |                |
| Within one year                             | \$ 265,228,059        | 56.38%                | \$ 298,356,400        | 58.88%                | \$ 273,797,880        | 58.53%         | \$ 210,359,453        | 47.13%         |
| Between 1 to 3 years                        | 78,428,464            | 16.67%                | 62,290,505            | 12.29%                | 86,143,761            | 18.41%         | 140,177,122           | 31.41%         |
| Between 3 to 5 years                        | 57,261,873            | 12.17%                | 72,075,845            | 14.22%                | 76,234,240            | 16.30%         | 54,854,262            | 12.29%         |
| Between 5 to 10 years                       | 69,545,077            | 14.78%                | 73,968,963            | 14.60%                | 31,644,151            | 6.76%          | 40,958,167            | 9.18%          |
| Over 10 years                               | -                     | 0.00%                 | -                     | 0.00%                 | -                     | 0.00%          | -                     | 0.00%          |
| Total                                       | <u>\$ 470,463,473</u> | <u>100.00%</u>        | <u>\$ 506,691,713</u> | <u>100.00%</u>        | <u>\$ 467,820,032</u> | <u>100.00%</u> | <u>\$ 446,349,004</u> | <u>100.00%</u> |



**City of Berkeley**  
**Pooled Cash and Investments**  
**As of September 30, 2019**

| <u>CUSIP</u>                               | <u>Investment #</u> | <u>Issuer</u>                | <u>Book Value</u>    | <u>Par Value</u>     | <u>Market Value</u>  | <u>Current Rate</u> | <u>YTM/C 365</u> | <u>Maturity Date</u> | <u>Days To Maturity</u> | <u>Credit Rating</u> |
|--------------------------------------------|---------------------|------------------------------|----------------------|----------------------|----------------------|---------------------|------------------|----------------------|-------------------------|----------------------|
| <b>Certificates of Deposit - S &amp; L</b> |                     |                              |                      |                      |                      |                     |                  |                      |                         |                      |
| 254673RD0                                  | 14539               | Discover Bank                | 250,000.00           | 250,000.00           | 263,220.00           | 3.300               | 3.300            | 07/05/2023           | 1,373                   | N/A                  |
| 795450T47                                  | 14540               | Sallie Mae Bank              | 250,000.00           | 250,000.00           | 263,202.50           | 3.300               | 3.300            | 07/03/2023           | 1,371                   | N/A                  |
| <b>Subtotal and Average</b>                |                     |                              | <b>500,000.00</b>    | <b>500,000.00</b>    | <b>526,422.50</b>    |                     | <b>3.300</b>     |                      | 1,372                   |                      |
| <b>Medium Term Notes</b>                   |                     |                              |                      |                      |                      |                     |                  |                      |                         |                      |
| 037833AK6                                  | 14536               | Apple Inc                    | 4,863,952.75         | 5,000,000.00         | 5,082,350.00         | 2.400               | 3.225            | 05/03/2023           | 1,310                   | AA1                  |
| 084670BJ6                                  | 14542               | Berkshire Hathaway           | 4,976,634.99         | 5,000,000.00         | 5,180,200.00         | 3.000               | 3.150            | 02/11/2023           | 1,229                   | AA2                  |
| 20030NBN0                                  | 14563               | Comcast Corp                 | 5,072,750.91         | 5,000,000.00         | 5,287,500.00         | 3.375               | 3.100            | 08/15/2025           | 2,145                   | A3                   |
| 233851CU6                                  | 14571               | Daimler Finance              | 5,083,224.10         | 5,000,000.00         | 5,198,300.00         | 3.450               | 3.190            | 01/06/2027           | 2,654                   | A2                   |
| 233851CU6                                  | 14574               | Daimler Finance              | 3,833,238.34         | 3,725,000.00         | 3,872,733.50         | 3.450               | 3.000            | 01/06/2027           | 2,654                   | A2                   |
| 24422EUM9                                  | 14554               | John Deere Cap               | 5,064,628.18         | 5,000,000.00         | 5,327,000.00         | 3.650               | 3.300            | 10/12/2023           | 1,472                   | A2                   |
| 375558BF9                                  | 14570               | Gilead Sciences              | 5,152,770.85         | 5,000,000.00         | 5,359,150.00         | 3.650               | 3.118            | 03/01/2026           | 2,343                   | A3                   |
| 49327M2X1                                  | 14560               | Key Bank NA                  | 5,022,118.05         | 5,000,000.00         | 5,142,900.00         | 3.300               | 3.100            | 02/01/2022           | 854                     | A3                   |
| 53944VAS8                                  | 14580               | Lloyds Bank Plc              | 5,006,867.70         | 5,000,000.00         | 4,987,650.00         | 2.250               | 2.200            | 8/14/2022            | 1,048                   | AA3                  |
| 540424AQ1                                  | 14555               | Loews Corporation            | 4,878,607.45         | 5,000,000.00         | 5,074,700.00         | 2.625               | 3.350            | 05/15/2023           | 1,322                   | A3                   |
| 589331AT4                                  | 14545               | Merck & Co Inc               | 4,913,005.64         | 5,000,000.00         | 5,077,900.00         | 2.400               | 3.030            | 09/15/2022           | 1,080                   | A1                   |
| 68389XAS4                                  | 14548               | Oracle Corp                  | 5,039,083.41         | 5,000,000.00         | 5,279,500.00         | 3.625               | 3.388            | 07/15/2023           | 1,383                   | A1                   |
| 747525AT0                                  | 14564               | Qualcomm Inc                 | 4,967,943.73         | 5,000,000.00         | 5,139,750.00         | 2.900               | 3.050            | 05/20/2024           | 1,693                   | A2                   |
| <b>Subtotal and Average</b>                |                     |                              | <b>63,874,826.10</b> | <b>63,725,000.00</b> | <b>66,009,633.50</b> |                     | <b>3.094</b>     |                      | 1,616                   |                      |
| <b>Medium Term Notes - Callable</b>        |                     |                              |                      |                      |                      |                     |                  |                      |                         |                      |
| 05531FBF9                                  | 14561               | BB&T Corporation             | 5,142,718.62         | 5,000,000.00         | 5,290,700.00         | 3.750               | 3.012            | 12/06/2023           | 1,527                   | A2                   |
| 06406HBY4                                  | 14538               | Bank of New York Mellon Corp | 3,573,616.36         | 3,542,000.00         | 3,648,897.56         | 3.550               | 3.150            | 09/23/2021           | 723                     | A1                   |
| 06406FAB9                                  | 14541               | Bank of New York Mellon Corp | 1,435,733.18         | 1,458,000.00         | 1,459,093.50         | 2.050               | 3.060            | 05/03/2021           | 580                     | A1                   |
| 693475AV7                                  | 14557               | PNC Financial Services       | 5,025,260.85         | 5,000,000.00         | 5,278,900.00         | 3.500               | 3.425            | 01/23/2024           | 1,575                   | A3                   |
| 751212AC5                                  | 14566               | Ralph Lauren                 | 5,170,267.09         | 5,000,000.00         | 5,365,700.00         | 3.750               | 3.106            | 09/15/2025           | 2,176                   | A2                   |
| 91159HHU7                                  | 14562               | US BANCORP                   | 5,259,168.09         | 5,000,000.00         | 5,499,300.00         | 3.950               | 2.848            | 11/17/2025           | 2,239                   | A1                   |
| <b>Subtotal and Average</b>                |                     |                              | <b>25,606,764.19</b> | <b>25,000,000.00</b> | <b>26,542,591.06</b> |                     | <b>3.100</b>     |                      | <b>1,648</b>            |                      |



City of Berkeley  
Pooled Cash and Investments  
As of September 30, 2019

| CUSIP                                       | Investment # | Issuer                         | Book Value            | Par Value             | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Credit Rating |
|---------------------------------------------|--------------|--------------------------------|-----------------------|-----------------------|-----------------------|--------------|--------------|---------------|------------------|---------------|
| <b>Federal Agency Coupon Securities</b>     |              |                                |                       |                       |                       |              |              |               |                  |               |
| 3133EJAD1                                   | 14528        | Federal Farm Credit Bank       | 10,000,000.00         | 10,000,000.00         | 10,037,700.00         | 2.150        | 2.150        | 12/23/2020    | 449              | AAA           |
| 3130ADKF8                                   | 14529        | Federal Home Loan Banks        | 15,000,000.00         | 15,000,000.00         | 15,011,700.00         | 2.100        | 2.100        | 01/30/2020    | 121              | AAA           |
| 3130ADUB6                                   | 14533 T1     | Federal Home Loan Banks        | 21,000,000.00         | 21,000,000.00         | 21,021,000.00         | 2.320        | 2.321        | 12/19/2019    | 79               | AAA           |
| 3133EG7F6                                   | 14517        | Federal Farm Credit Bank       | 5,000,000.00          | 5,000,000.00          | 4,995,200.00          | 1.750        | 1.750        | 02/16/2021    | 504              | AAA           |
| 3133EHBA0                                   | 14520        | Federal Farm Credit Bank       | 6,500,000.00          | 6,500,000.00          | 6,491,680.00          | 1.520        | 1.520        | 03/02/2020    | 153              | AAA           |
| 3133EHQB2                                   | 14527        | Federal Farm Credit Bank       | 9,001,000.00          | 9,001,000.00          | 8,982,998.00          | 1.550        | 1.550        | 07/06/2020    | 279              | AAA           |
| 3130AAS82                                   | 14519        | Federal Home Loan Banks        | 9,999,762.58          | 10,000,000.00         | 9,988,000.00          | 1.550        | 1.557        | 02/06/2020    | 128              | AAA           |
| 3130ABTD8                                   | 14526        | Federal Home Loan Banks        | 15,000,000.00         | 15,000,000.00         | 14,997,300.00         | 1.450        | 1.450        | 10/18/2019    | 17               | AAA           |
| 3137EAE5                                    | 14516        | Federal Home Loan Mortgage Co  | 4,999,949.72          | 5,000,000.00          | 4,993,900.00          | 1.500        | 1.503        | 01/17/2020    | 108              | AAA           |
| 3135G0T29                                   | 14521        | Federal National Mortgage Assn | 3,500,000.00          | 3,500,000.00          | 3,494,050.00          | 1.500        | 1.500        | 02/28/2020    | 150              | AAA           |
| 3135G0T29                                   | 14522        | Federal National Mortgage Assn | 9,994,401.49          | 10,000,000.00         | 9,983,000.00          | 1.500        | 1.641        | 02/28/2020    | 150              | AAA           |
| <b>Subtotal and Average</b>                 |              |                                | <b>109,995,113.79</b> | <b>110,001,000.00</b> | <b>109,996,528.00</b> |              | <b>1.826</b> |               | <b>164</b>       |               |
| <b>Federal Agency Callable</b>              |              |                                |                       |                       |                       |              |              |               |                  |               |
| 3130AFKR7                                   | 14550        | Federal Home Loan Banks        | 5,000,000.00          | 5,000,000.00          | 5,070,400.00          | 3.100        | 3.100        | 12/28/2023    | 1,549            | AAA           |
| <b>Subtotal and Average</b>                 |              |                                | <b>5,000,000.00</b>   | <b>5,000,000.00</b>   | <b>5,070,400.00</b>   |              | <b>3.100</b> |               | <b>1,549</b>     |               |
| <b>Federal Agency Continuously Callable</b> |              |                                |                       |                       |                       |              |              |               |                  |               |
| 31422BAR1                                   | 14553        | Farmer Mac                     | 5,000,000.00          | 5,000,000.00          | 5,011,100.00          | 3.230        | 3.230        | 12/27/2023    | 1,548            | N/A           |
| 3133EKQ66                                   | 14581        | Federal Farm Credit Bank       | 5,000,000.00          | 5,000,000.00          | 5,000,250.00          | 2.100        | 2.100        | 09/19/2022    | 1,084            | AAA           |
| 3130A7GZ2                                   | 14500        | Federal Home Loan Banks        | 5,000,000.00          | 5,000,000.00          | 5,001,200.00          | 1.250        | 1.250        | 03/30/2021    | 546              | AAA           |
| 3130A9YW5                                   | 14512        | Federal Home Loan Banks        | 4,999,952.78          | 5,000,000.00          | 4,995,600.00          | 1.190        | 1.197        | 11/22/2019    | 52               | AAA           |
| 3130AAJZ2                                   | 14513        | Federal Home Loan Banks        | 3,742,500.00          | 3,742,500.00          | 3,742,911.68          | 1.750        | 1.750        | 04/27/2020    | 209              | AAA           |
| 3130AGQV0                                   | 14575        | Federal Home Loan Banks        | 35,000,000.00         | 35,000,000.00         | 35,001,750.00         | 2.100        | 2.100        | 07/15/2019    | 288              | AAA           |
| 3130AGT54                                   | 14578        | Federal Home Loan Banks        | 5,000,000.00          | 5,000,000.00          | 5,000,500.00          | 2.100        | 2.100        | 04/29/2021    | 576              | AAA           |
| 3130AGTJ4                                   | 14579        | Federal Home Loan Banks        | 5,000,000.00          | 5,000,000.00          | 5,002,250.00          | 2.100        | 2.101        | 04/29/2021    | 576              | AAA           |
| 3134G7S77                                   | 14358        | Federal Home Loan Mortgage Co  | 5,000,000.00          | 5,000,000.00          | 4,999,650.00          | 2.000        | 1.125        | 10/29/2020    | 394              | AAA           |
| 3134GTL92                                   | 14576        | Federal Home Loan Mortgage Co  | 5,000,000.00          | 5,000,000.00          | 5,000,850.00          | 2.450        | 2.450        | 07/25/2024    | 1,759            | AAA           |
| 3134GTK69                                   | 14577        | Federal Home Loan Mortgage Co  | 10,000,000.00         | 10,000,000.00         | 10,007,600.00         | 2.200        | 2.200        | 7/29/2022     | 1,032            | AAA           |
| 3135G0S46                                   | 14514        | Federal National Mortgage Assn | 5,000,000.00          | 5,000,000.00          | 4,994,450.00          | 1.650        | 1.650        | 01/27/2020    | 118              | AAA           |
| 3135G0S46                                   | 14515        | Federal National Mortgage Assn | 5,000,000.00          | 5,000,000.00          | 4,994,450.00          | 1.650        | 1.650        | 01/27/2020    | 118              | AAA           |
| 3136G4LP6                                   | 14518        | Federal National Mortgage Assn | 5,000,000.00          | 5,000,000.00          | 4,996,100.00          | 1.800        | 1.800        | 08/28/2020    | 332              | AAA           |
| <b>Subtotal and Average</b>                 |              |                                | <b>103,742,452.78</b> | <b>103,742,500.00</b> | <b>103,748,661.68</b> |              | <b>1.979</b> |               | <b>546</b>       |               |



City of Berkeley  
Pooled Cash and Investments  
As of September 30, 2019

| CUSIP                                | Investment # | Issuer                        | Book Value            | Par Value             | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Credit Rating |
|--------------------------------------|--------------|-------------------------------|-----------------------|-----------------------|-----------------------|--------------|--------------|---------------|------------------|---------------|
| <b>Municipal Bonds</b>               |              |                               |                       |                       |                       |              |              |               |                  |               |
| 13063DGB8                            | 14559        | General Obligation Unlimited  | 5,080,740.89          | 5,000,000.00          | 5,309,350.00          | 3.375        | 3.087        | 04/01/2025    | 2,009            | AA3           |
| 672319CA6                            | 14282        | Oakland CA Pension Obligation | 5,000,000.00          | 5,000,000.00          | 5,011,250.00          | 3.267        | 3.267        | 12/15/2019    | 75               | AA3           |
| <b>Subtotal and Average</b>          |              |                               | <b>10,080,740.89</b>  | <b>10,000,000.00</b>  | <b>10,320,600.00</b>  |              | <b>3.177</b> |               | <b>1,049</b>     |               |
| <b>Fidelity Money Market</b>         |              |                               |                       |                       |                       |              |              |               |                  |               |
| SYS14265                             | 14265        | Fidelity Money Market         | 51,059,112.96         | 51,059,112.96         | 51,059,112.96         | 0.003        | 0.003        |               | 1                |               |
| SYS14190                             | 14190        | Fidelity Money Market - TRANS | 34,929,373.03         | 34,929,373.03         | 34,929,373.03         | 0.002        | 0.002        |               |                  |               |
| <b>Subtotal and Average</b>          |              |                               | <b>85,988,485.99</b>  | <b>85,988,485.99</b>  | <b>85,988,485.99</b>  |              | <b>0.003</b> |               | <b>1</b>         |               |
| <b>Total Investments and Average</b> |              |                               | <b>404,788,383.74</b> | <b>403,956,985.99</b> | <b>408,203,322.73</b> |              | <b>0.003</b> |               | <b>1</b>         |               |

|                                                            |                       |
|------------------------------------------------------------|-----------------------|
| <b>Total Investments (Book Value)</b>                      | <b>404,788,383.74</b> |
| <b>Cash</b>                                                | <b>13,865,935.00</b>  |
| <b>Total Investments (Book Value) and Cash</b>             | <b>418,654,318.74</b> |
| <b>Increase / (Decrease) in Market Value of Securities</b> | <b>3,414,938.99</b>   |
| <b>Total Investments (Market Value) and Cash</b>           | <b>422,069,257.73</b> |



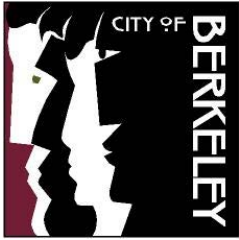
**Pooled Investment - Long Term  
Interest Earnings  
Sorted by Fund - Fund  
September 1, 2019 - September 30, 2019  
Yield on Beginning Book Value**

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Ending Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|-------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                   |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                   |               |                         |       |                            |                         |                            |
| 3130AFKR7                                  | 14550        | 010  | MC4           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00      | 12/28/2023    | 3.100                   | 3.143 | 12,916.67                  | 0.00                    | 12,916.67                  |
| 3130ADUB6                                  | 14533 T1     | 010  | FAC           | 21,000,000.00    | 21,000,000.00        | 21,000,000.00     | 12/19/2019    | 2.320                   | 2.352 | 40,600.00                  | 0.00                    | 40,600.00                  |
| 3130AAJZ2                                  | 14513        | 010  | MC5           | 3,742,500.00     | 3,742,500.00         | 3,742,500.00      | 04/27/2020    | 1.750                   | 1.774 | 5,457.81                   | 0.00                    | 5,457.81                   |
| 3130A9YW5                                  | 14512        | 010  | MC5           | 5,000,000.00     | 4,999,925.00         | 4,999,952.78      | 11/22/2019    | 1.190                   | 1.213 | 4,958.33                   | 27.78                   | 4,986.11                   |
| 3130AAS82                                  | 14519        | 010  | FAC           | 10,000,000.00    | 9,999,705.60         | 9,999,762.58      | 02/06/2020    | 1.550                   | 1.579 | 12,916.67                  | 56.98                   | 12,973.65                  |
| 3130ABTD8                                  | 14526        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00     | 10/18/2019    | 1.450                   | 1.470 | 18,125.00                  | 0.00                    | 18,125.00                  |
| 3130ADKF8                                  | 14529        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00     | 01/30/2020    | 2.100                   | 2.129 | 26,250.00                  | 0.00                    | 26,250.00                  |
| 3130AGQV0                                  | 14575        | 010  | MC5           | 35,000,000.00    | 35,000,000.00        | 35,000,000.00     | 07/15/2020    | 2.100                   | 2.129 | 61,250.00                  | 0.00                    | 61,250.00                  |
| 3130AGTJ4                                  | 14579        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00      | 04/29/2021    | 2.100                   | 2.129 | 8,750.00                   | 0.00                    | 8,750.00                   |
| 3130AGT54                                  | 14578        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00      | 04/29/2021    | 2.100                   | 2.129 | 8,750.00                   | 0.00                    | 8,750.00                   |
| 3133EHBA0                                  | 14520        | 010  | FAC           | 6,500,000.00     | 6,500,000.00         | 6,500,000.00      | 03/02/2020    | 1.520                   | 1.541 | 8,233.33                   | 0.00                    | 8,233.33                   |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00      | 02/16/2021    | 1.750                   | 1.774 | 7,291.67                   | 0.00                    | 7,291.67                   |
| 3133EKQ66                                  | 14581        | 010  | MC5           | 5,000,000.00     | 0.00                 | 5,000,000.00      | 09/19/2022    | 2.100                   | 2.129 | 3,500.00                   | 0.00                    | 3,500.00                   |
| 3133EKQZ2                                  | 14573        | 010  | MC5           | 0.00             | 5,000,000.00         | 0.00              | 12/17/2021    | 2.370                   | 2.403 | 5,266.67                   | 0.00                    | 5,266.67                   |
| 3133EKQT6                                  | 14572        | 010  | FAC           | 0.00             | 5,000,000.00         | 0.00              | 09/13/2023    | 2.490                   | 2.525 | 4,150.00                   | 0.00                    | 4,150.00                   |
| 3133EHQB2                                  | 14527        | 010  | FAC           | 9,001,000.00     | 9,001,000.00         | 9,001,000.00      | 07/06/2020    | 1.550                   | 1.572 | 11,626.29                  | 0.00                    | 11,626.29                  |
| 3133EJAD1                                  | 14528        | 010  | FAC           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00     | 12/23/2020    | 2.150                   | 2.180 | 17,916.67                  | 0.00                    | 17,916.67                  |
| 3134GSVB8                                  | 14547        | 010  | MC5           | 0.00             | 5,000,000.00         | 0.00              | 09/13/2023    | 3.250                   | 3.295 | 5,416.67                   | 0.00                    | 5,416.67                   |
| 3134GTK69                                  | 14577        | 010  | MC5           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00     | 07/29/2022    | 2.200                   | 2.231 | 18,333.33                  | 0.00                    | 18,333.33                  |
| 3134GTL92                                  | 14576        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00      | 07/25/2024    | 2.450                   | 2.484 | 10,208.33                  | 0.00                    | 10,208.33                  |
| 3137EAEE5                                  | 14516        | 010  | FAC           | 5,000,000.00     | 4,999,935.48         | 4,999,949.72      | 01/17/2020    | 1.500                   | 1.524 | 6,250.00                   | 14.24                   | 6,264.24                   |
| 3134G7S77                                  | 14358        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00      | 10/29/2020    | 2.000                   | 2.028 | 8,333.33                   | 0.00                    | 8,333.33                   |
| 3135G0S46                                  | 14515        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00      | 01/27/2020    | 1.650                   | 1.673 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3135G0T29                                  | 14522        | 010  | FAC           | 10,000,000.00    | 9,993,258.94         | 9,994,401.49      | 02/28/2020    | 1.500                   | 1.661 | 12,500.00                  | 1,142.55                | 13,642.55                  |
| 3135G0S46                                  | 14514        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00      | 01/27/2020    | 1.650                   | 1.673 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3136G4LP6                                  | 14518        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00      | 08/28/2020    | 1.800                   | 1.825 | 7,500.00                   | 0.00                    | 7,500.00                   |
| 3135G0T29                                  | 14521        | 010  | FAC           | 3,500,000.00     | 3,500,000.00         | 3,500,000.00      | 02/28/2020    | 1.500                   | 1.521 | 4,375.00                   | 0.00                    | 4,375.00                   |
| 53944VAS8                                  | 14580        | 010  | MTN           | 5,000,000.00     | 0.00                 | 5,006,867.70      | 08/14/2022    | 2.250                   | 2.230 | 4,687.50                   | -99.72                  | 4,587.78                   |
| 672319CA6                                  | 14282        | 010  | MUN           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00      | 12/15/2019    | 3.267                   | 3.312 | 13,612.50                  | 0.00                    | 13,612.50                  |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,860,793.75         | 4,863,952.75      | 05/03/2023    | 2.400                   | 3.294 | 10,000.00                  | 3,159.00                | 13,159.00                  |

**Pooled Investment - Long Term  
Interest Earnings  
September 1, 2019 - September 30, 2019**

**Exhibit 2-B.1**

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Ending Book Value     | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 254673RD0                                  | 14539        | 010  | SCD             | 250,000.00            | 250,000.00            | 250,000.00            | 07/05/2023    | 3.300                   | 3.300            | 678.08                     | 0.00                    | 678.08                     |
| 06406HBY4                                  | 14538        | 010  | MC3             | 3,542,000.00          | 3,574,948.51          | 3,573,616.36          | 09/23/2021    | 3.550                   | 3.113            | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 06406FAB9                                  | 14541        | 010  | MC3             | 1,458,000.00          | 1,434,565.34          | 1,435,733.18          | 05/03/2021    | 2.050                   | 3.103            | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 795450T47                                  | 14540        | 010  | SCD             | 250,000.00            | 250,000.00            | 250,000.00            | 07/03/2023    | 3.300                   | 3.300            | 678.08                     | 0.00                    | 678.08                     |
| 084670BJ6                                  | 14542        | 010  | MTN             | 5,000,000.00          | 4,976,055.69          | 4,976,634.99          | 02/11/2023    | 3.000                   | 3.198            | 12,500.00                  | 579.30                  | 13,079.30                  |
| 31422BAR1                                  | 14553        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 12/27/2023    | 3.230                   | 3.275            | 13,458.33                  | 0.00                    | 13,458.33                  |
| 589331AT4                                  | 14545        | 010  | MTN             | 5,000,000.00          | 4,910,552.79          | 4,913,005.64          | 09/15/2022    | 2.400                   | 3.085            | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN             | 5,000,000.00          | 5,039,943.01          | 5,039,083.41          | 07/15/2023    | 3.625                   | 3.439            | 15,104.17                  | -859.60                 | 14,244.57                  |
| 24422EUM9                                  | 14554        | 010  | MTN             | 5,000,000.00          | 5,065,964.40          | 5,064,628.18          | 10/12/2023    | 3.650                   | 3.332            | 15,208.33                  | -1,336.22               | 13,872.11                  |
| 540424AQ1                                  | 14555        | 010  | MTN             | 5,000,000.00          | 4,875,814.68          | 4,878,607.45          | 05/15/2023    | 2.625                   | 3.426            | 10,937.50                  | 2,792.77                | 13,730.27                  |
| 693475AV7                                  | 14557        | 010  | MC3             | 5,000,000.00          | 5,025,749.14          | 5,025,260.85          | 01/23/2024    | 3.500                   | 3.412            | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN             | 5,000,000.00          | 5,081,964.24          | 5,080,740.89          | 04/01/2025    | 3.375                   | 3.074            | 14,062.50                  | -1,223.35               | 12,839.15                  |
| 49327M2X1                                  | 14560        | 010  | MTN             | 5,000,000.00          | 5,022,907.98          | 5,022,118.05          | 02/01/2022    | 3.300                   | 3.139            | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3             | 5,000,000.00          | 5,145,563.51          | 5,142,718.62          | 12/06/2023    | 3.750                   | 3.022            | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 91159HHU7                                  | 14562        | 010  | MC3             | 5,000,000.00          | 5,262,692.59          | 5,259,168.09          | 11/17/2025    | 3.950                   | 2.990            | 16,458.33                  | -3,524.50               | 12,933.83                  |
| 20030NBN0                                  | 14563        | 010  | MTN             | 5,000,000.00          | 5,073,783.32          | 5,072,750.91          | 08/15/2025    | 3.375                   | 3.125            | 14,062.50                  | -1,032.41               | 13,030.09                  |
| 747525AT0                                  | 14564        | 010  | MTN             | 5,000,000.00          | 4,967,367.52          | 4,967,943.73          | 05/20/2024    | 2.900                   | 3.101            | 12,083.33                  | 576.21                  | 12,659.54                  |
| 751212AC5                                  | 14566        | 010  | MC3             | 5,000,000.00          | 5,172,649.55          | 5,170,267.09          | 09/15/2025    | 3.750                   | -0.560           | 0.00                       | -2,382.46               | -2,382.46                  |
| 375558BF9                                  | 14570        | 010  | MTN             | 5,000,000.00          | 5,154,754.88          | 5,152,770.85          | 03/01/2026    | 3.650                   | 3.121            | 15,208.33                  | -1,984.03               | 13,224.30                  |
| 233851CU6                                  | 14574        | 010  | MTN             | 3,725,000.00          | 3,834,480.08          | 3,833,238.34          | 01/06/2027    | 3.450                   | 3.004            | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851CU6                                  | 14571        | 010  | MTN             | 5,000,000.00          | 5,084,178.87          | 5,083,224.10          | 01/06/2027    | 3.450                   | 3.212            | 14,375.00                  | -954.77                 | 13,420.23                  |
|                                            |              |      | <b>Subtotal</b> | <b>312,968,500.00</b> | <b>318,801,054.87</b> | <b>313,799,897.75</b> |               |                         | <b>2.307</b>     | <b>605,377.13</b>          | <b>-8,124.54</b>        | <b>597,252.59</b>          |
|                                            |              |      | <b>Total</b>    | <b>312,968,500.00</b> | <b>318,801,054.87</b> | <b>313,799,897.75</b> |               |                         | <b>2.307</b>     | <b>605,377.13</b>          | <b>-8,124.54</b>        | <b>597,252.59</b>          |



**Pooled Investment - Long Term  
Interest Earnings  
Sorted by Fund - Fund  
August 1, 2019 - August 30, 2019  
Yield on Average Book Value**

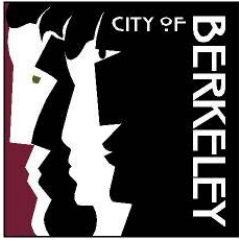
| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AFKR7                                  | 14550        | 010  | MC4           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/28/2023    | 3.100                   | 3.143 | 12,916.67                  | 0.00                    | 12,916.67                  |
| 3130ADUB6                                  | 14533 T1     | 010  | FAC           | 21,000,000.00    | 21,000,000.00        | 21,000,000.00      | 12/19/2019    | 2.320                   | 2.352 | 40,600.00                  | 0.00                    | 40,600.00                  |
| 3130AAJZ2                                  | 14513        | 010  | MC5           | 3,742,500.00     | 3,742,500.00         | 3,742,500.00       | 04/27/2020    | 1.750                   | 1.774 | 5,457.81                   | 0.00                    | 5,457.81                   |
| 3130A9YW5                                  | 14512        | 010  | MC5           | 5,000,000.00     | 4,999,897.22         | 4,999,911.57       | 11/22/2019    | 1.190                   | 1.213 | 4,958.33                   | 27.78                   | 4,986.11                   |
| 3130AAS82                                  | 14519        | 010  | FAC           | 10,000,000.00    | 9,999,648.62         | 9,999,678.06       | 02/06/2020    | 1.550                   | 1.579 | 12,916.67                  | 56.98                   | 12,973.65                  |
| 3130ABTD8                                  | 14526        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 10/18/2019    | 1.450                   | 1.470 | 18,125.00                  | 0.00                    | 18,125.00                  |
| 3130ADKF8                                  | 14529        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 01/30/2020    | 2.100                   | 2.058 | 25,375.00                  | 0.00                    | 25,375.00                  |
| 3130AGQV0                                  | 14575        | 010  | MC5           | 35,000,000.00    | 35,000,000.00        | 35,000,000.00      | 07/15/2020    | 2.100                   | 2.129 | 61,250.00                  | 0.00                    | 61,250.00                  |
| 3130AGTJ4                                  | 14579        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 04/29/2021    | 2.100                   | 2.129 | 8,750.00                   | 0.00                    | 8,750.00                   |
| 3130AGT54                                  | 14578        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 04/29/2021    | 2.100                   | 2.129 | 8,750.00                   | 0.00                    | 8,750.00                   |
| 3133EHBA0                                  | 14520        | 010  | FAC           | 6,500,000.00     | 6,500,000.00         | 6,500,000.00       | 03/02/2020    | 1.520                   | 1.541 | 8,233.33                   | 0.00                    | 8,233.33                   |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 02/16/2021    | 1.750                   | 1.774 | 7,291.67                   | 0.00                    | 7,291.67                   |
| 3133EKQZ2                                  | 14573        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/17/2021    | 2.370                   | 2.403 | 9,875.00                   | 0.00                    | 9,875.00                   |
| 3133EKQT6                                  | 14572        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 09/13/2023    | 2.490                   | 2.525 | 10,375.00                  | 0.00                    | 10,375.00                  |
| 3133EHQB2                                  | 14527        | 010  | FAC           | 9,001,000.00     | 9,001,000.00         | 9,001,000.00       | 07/06/2020    | 1.550                   | 1.572 | 11,626.29                  | 0.00                    | 11,626.29                  |
| 3133EJAD1                                  | 14528        | 010  | FAC           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 12/23/2020    | 2.150                   | 2.180 | 17,916.67                  | 0.00                    | 17,916.67                  |
| 3133EGAW5                                  | 14504        | 010  | MC5           | 0.00             | 5,000,000.00         | 3,000,000.00       | 08/19/2019    | 1.250                   | 1.267 | 3,125.00                   | 0.00                    | 3,125.00                   |
| 3134GSVB8                                  | 14547        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 09/13/2023    | 3.250                   | 3.295 | 13,541.67                  | 0.00                    | 13,541.67                  |
| 3134GTK69                                  | 14577        | 010  | MC5           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 07/29/2022    | 2.200                   | 2.231 | 18,333.33                  | 0.00                    | 18,333.33                  |
| 3134GTL92                                  | 14576        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 07/25/2024    | 2.450                   | 2.484 | 10,208.33                  | 0.00                    | 10,208.33                  |
| 3137EAEE5                                  | 14516        | 010  | FAC           | 5,000,000.00     | 4,999,921.25         | 4,999,928.61       | 01/17/2020    | 1.500                   | 1.524 | 6,250.00                   | 14.23                   | 6,264.23                   |
| 3134G7S77                                  | 14358        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 10/29/2020    | 2.000                   | 2.028 | 8,333.33                   | 0.00                    | 8,333.33                   |
| 3135G0S46                                  | 14515        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 01/27/2020    | 1.650                   | 1.673 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3135G0T29                                  | 14522        | 010  | FAC           | 10,000,000.00    | 9,992,116.39         | 9,992,706.71       | 02/28/2020    | 1.500                   | 1.661 | 12,500.00                  | 1,142.55                | 13,642.55                  |
| 3135G0S46                                  | 14514        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 01/27/2020    | 1.650                   | 1.673 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3136G4LP6                                  | 14518        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 08/28/2020    | 1.800                   | 1.825 | 7,500.00                   | 0.00                    | 7,500.00                   |
| 3135G0T29                                  | 14521        | 010  | FAC           | 3,500,000.00     | 3,500,000.00         | 3,500,000.00       | 02/28/2020    | 1.500                   | 1.521 | 4,375.00                   | 0.00                    | 4,375.00                   |
| 672319CA6                                  | 14282        | 010  | MUN           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/15/2019    | 3.267                   | 3.312 | 13,612.50                  | 0.00                    | 13,612.50                  |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,857,634.76         | 4,859,266.91       | 05/03/2023    | 2.400                   | 3.295 | 10,000.00                  | 3,158.99                | 13,158.99                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 678.08                     | 0.00                    | 678.08                     |



**Pooled Investment - Long Term  
Interest Earnings  
August 1, 2019 - August 30, 2019**

Exhibit 2-B.2

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 06406HBY4                                  | 14538        | 010  | MC3             | 3,542,000.00          | 3,576,280.66          | 3,575,592.38          | 09/23/2021    | 3.550                   | 3.112            | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 06406FAB9                                  | 14541        | 010  | MC3             | 1,458,000.00          | 1,433,397.50          | 1,434,000.89          | 05/03/2021    | 2.050                   | 3.104            | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 795450T47                                  | 14540        | 010  | SCD             | 250,000.00            | 250,000.00            | 250,000.00            | 07/03/2023    | 3.300                   | 3.300            | 678.08                     | 0.00                    | 678.08                     |
| 084670BJ6                                  | 14542        | 010  | MTN             | 5,000,000.00          | 4,975,476.39          | 4,975,775.70          | 02/11/2023    | 3.000                   | 3.198            | 12,500.00                  | 579.30                  | 13,079.30                  |
| 31422BAR1                                  | 14553        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 12/27/2023    | 3.230                   | 3.275            | 13,458.33                  | 0.00                    | 13,458.33                  |
| 3132X04Z1                                  | 14544        | 010  | MC5             | 0.00                  | 5,000,000.00          | 2,333,333.33          | 08/15/2023    | 3.250                   | 3.295            | 6,319.44                   | 0.00                    | 6,319.44                   |
| 589331AT4                                  | 14545        | 010  | MTN             | 5,000,000.00          | 4,908,099.94          | 4,909,367.25          | 09/15/2022    | 2.400                   | 3.086            | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN             | 5,000,000.00          | 5,040,802.62          | 5,040,358.49          | 07/15/2023    | 3.625                   | 3.438            | 15,104.17                  | -859.61                 | 14,244.56                  |
| 24422EUM9                                  | 14554        | 010  | MTN             | 5,000,000.00          | 5,067,300.61          | 5,066,610.23          | 10/12/2023    | 3.650                   | 3.331            | 15,208.33                  | -1,336.21               | 13,872.12                  |
| 540424AQ1                                  | 14555        | 010  | MTN             | 5,000,000.00          | 4,873,021.90          | 4,874,464.84          | 05/15/2023    | 2.625                   | 3.427            | 10,937.50                  | 2,792.78                | 13,730.28                  |
| 693475AV7                                  | 14557        | 010  | MC3             | 5,000,000.00          | 5,026,237.43          | 5,025,985.15          | 01/23/2024    | 3.500                   | 3.412            | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN             | 5,000,000.00          | 5,083,187.58          | 5,082,555.52          | 04/01/2025    | 3.375                   | 3.073            | 14,062.50                  | -1,223.34               | 12,839.16                  |
| 49327M2X1                                  | 14560        | 010  | MTN             | 5,000,000.00          | 5,023,697.91          | 5,023,289.78          | 02/01/2022    | 3.300                   | 3.139            | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3             | 5,000,000.00          | 5,148,408.40          | 5,146,938.54          | 12/06/2023    | 3.750                   | 3.021            | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 91159HHU7                                  | 14562        | 010  | MC3             | 5,000,000.00          | 5,266,217.08          | 5,264,396.09          | 11/17/2025    | 3.950                   | 2.989            | 16,458.33                  | -3,524.49               | 12,933.84                  |
| 20030NBN0                                  | 14563        | 010  | MTN             | 5,000,000.00          | 5,074,815.74          | 5,074,282.32          | 08/15/2025    | 3.375                   | 3.124            | 14,062.50                  | -1,032.42               | 13,030.08                  |
| 747525AT0                                  | 14564        | 010  | MTN             | 5,000,000.00          | 4,966,791.32          | 4,967,089.03          | 05/20/2024    | 2.900                   | 3.101            | 12,083.33                  | 576.20                  | 12,659.53                  |
| 751212AC5                                  | 14566        | 010  | MC3             | 5,000,000.00          | 5,175,032.02          | 5,173,801.08          | 09/15/2025    | 3.750                   | -0.560           | 0.00                       | -2,382.47               | -2,382.47                  |
| 375558BF9                                  | 14570        | 010  | MTN             | 5,000,000.00          | 5,156,738.92          | 5,155,713.83          | 03/01/2026    | 3.650                   | 3.121            | 15,208.33                  | -1,984.04               | 13,224.29                  |
| 233851CU6                                  | 14574        | 010  | MTN             | 3,725,000.00          | 3,835,721.82          | 3,835,080.26          | 01/06/2027    | 3.450                   | 3.004            | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851CU6                                  | 14571        | 010  | MTN             | 5,000,000.00          | 5,085,133.64          | 5,084,640.34          | 01/06/2027    | 3.450                   | 3.211            | 14,375.00                  | -954.77                 | 13,420.23                  |
|                                            |              |      | <b>Subtotal</b> | <b>317,968,500.00</b> | <b>328,809,079.72</b> | <b>324,138,266.91</b> |               |                         | <b>2.315</b>     | <b>624,717.40</b>          | <b>-8,024.85</b>        | <b>616,692.55</b>          |
|                                            |              |      | <b>Total</b>    | <b>317,968,500.00</b> | <b>328,809,079.72</b> | <b>324,138,266.91</b> |               |                         | <b>2.315</b>     | <b>624,717.40</b>          | <b>-8,024.85</b>        | <b>616,692.55</b>          |



**Pooled Investment - Long Term  
Interest Earnings  
Sorted by Fund - Fund  
July 1, 2019 - July 31, 2019  
Yield on Average Book Value**

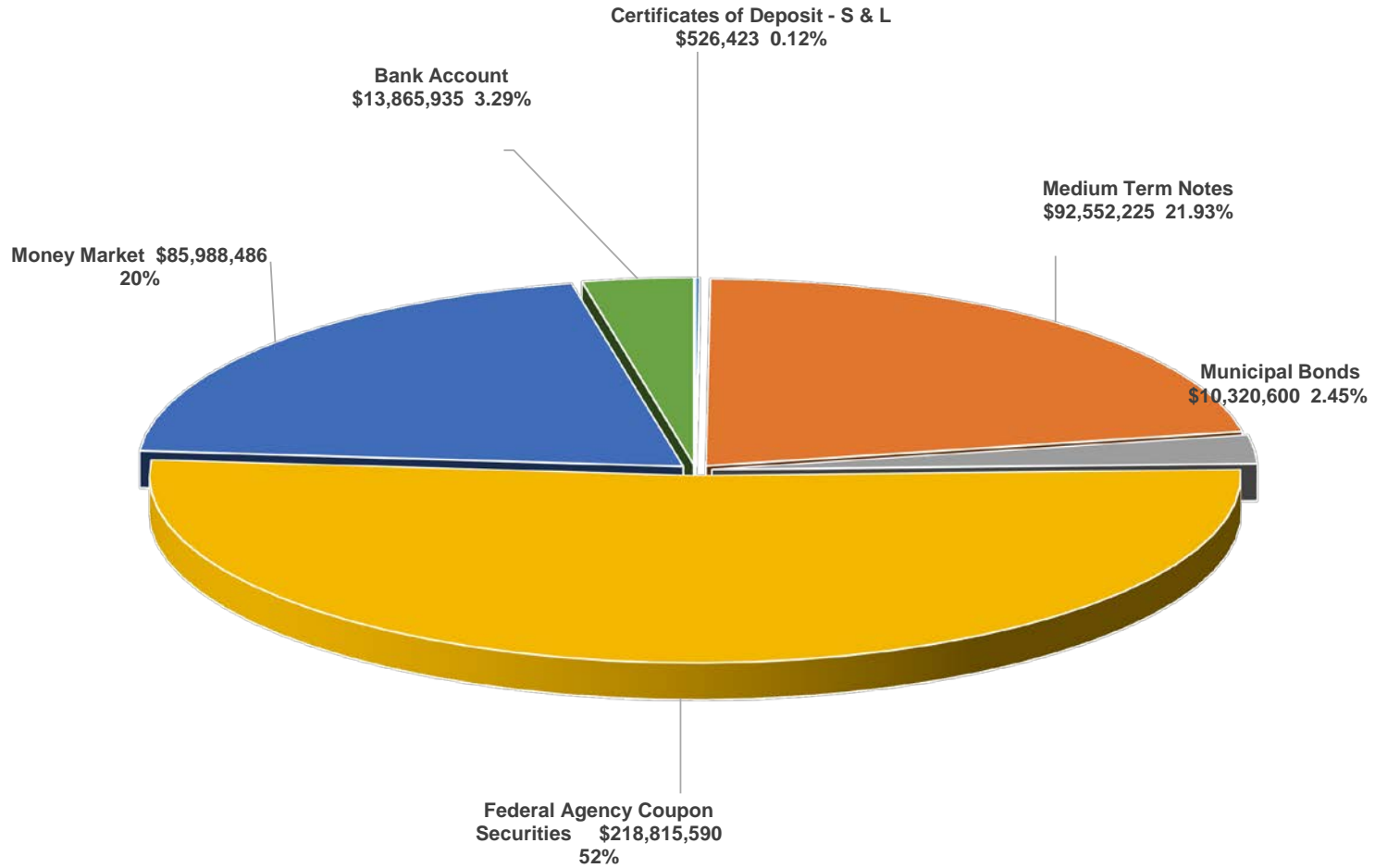
| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AFKR7                                  | 14550        | 010  | MC4           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/28/2023    | 3.100                   | 3.042 | 12,916.67                  | 0.00                    | 12,916.67                  |
| 3130ADUB6                                  | 14533 T1     | 010  | FAC           | 21,000,000.00    | 21,000,000.00        | 21,000,000.00      | 12/19/2019    | 2.320                   | 2.276 | 40,600.00                  | 0.00                    | 40,600.00                  |
| 3130AAJZ2                                  | 14513        | 010  | MC5           | 3,742,500.00     | 3,742,500.00         | 3,742,500.00       | 04/27/2020    | 1.750                   | 1.717 | 5,457.81                   | 0.00                    | 5,457.81                   |
| 3130A9YW5                                  | 14512        | 010  | MC5           | 5,000,000.00     | 4,999,869.44         | 4,999,884.23       | 11/22/2019    | 1.190                   | 1.174 | 4,958.33                   | 27.78                   | 4,986.11                   |
| 3130AAS82                                  | 14519        | 010  | FAC           | 10,000,000.00    | 9,999,591.64         | 9,999,621.97       | 02/06/2020    | 1.550                   | 1.528 | 12,916.67                  | 56.98                   | 12,973.65                  |
| 3130ABTD8                                  | 14526        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 10/18/2019    | 1.450                   | 1.423 | 18,125.00                  | 0.00                    | 18,125.00                  |
| 3130ADKF8                                  | 14529        | 010  | FAC           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 01/30/2020    | 2.100                   | 2.060 | 26,250.00                  | 0.00                    | 26,250.00                  |
| 3130AGQV0                                  | 14575        | 010  | MC5           | 35,000,000.00    | 0.00                 | 19,193,548.39      | 07/15/2020    | 2.100                   | 2.004 | 32,666.67                  | 0.00                    | 32,666.67                  |
| 3130AGTJ4                                  | 14579        | 010  | MC5           | 5,000,000.00     | 0.00                 | 483,870.97         | 04/29/2021    | 2.100                   | 1.419 | 583.33                     | 0.00                    | 583.33                     |
| 3130AGT54                                  | 14578        | 010  | MC5           | 5,000,000.00     | 0.00                 | 483,870.97         | 04/29/2021    | 2.100                   | 1.419 | 583.33                     | 0.00                    | 583.33                     |
| 3133EHBA0                                  | 14520        | 010  | FAC           | 6,500,000.00     | 6,500,000.00         | 6,500,000.00       | 03/02/2020    | 1.520                   | 1.491 | 8,233.33                   | 0.00                    | 8,233.33                   |
| 3133EG7F6                                  | 14517        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 02/16/2021    | 1.750                   | 1.717 | 7,291.67                   | 0.00                    | 7,291.67                   |
| 3133EKQZ2                                  | 14573        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/17/2021    | 2.370                   | 2.325 | 9,875.00                   | 0.00                    | 9,875.00                   |
| 3133EKJB3                                  | 14565        | 010  | MC5           | 0.00             | 5,000,000.00         | 3,548,387.10       | 07/23/2025    | 3.040                   | 3.082 | 9,288.89                   | 0.00                    | 9,288.89                   |
| 3133EKQT6                                  | 14572        | 010  | FAC           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 09/13/2023    | 2.490                   | 2.443 | 10,375.00                  | 0.00                    | 10,375.00                  |
| 3133EHQB2                                  | 14527        | 010  | FAC           | 9,001,000.00     | 9,001,000.00         | 9,001,000.00       | 07/06/2020    | 1.550                   | 1.521 | 11,626.29                  | 0.00                    | 11,626.29                  |
| 3133EJAD1                                  | 14528        | 010  | FAC           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 12/23/2020    | 2.150                   | 2.110 | 17,916.67                  | 0.00                    | 17,916.67                  |
| 3133EGAW5                                  | 14504        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 08/19/2019    | 1.250                   | 1.226 | 5,208.33                   | 0.00                    | 5,208.33                   |
| 3134GSVB8                                  | 14547        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 09/13/2023    | 3.250                   | 3.189 | 13,541.67                  | 0.00                    | 13,541.67                  |
| 3134GTK69                                  | 14577        | 010  | MC5           | 10,000,000.00    | 0.00                 | 967,741.94         | 07/29/2022    | 2.200                   | 1.487 | 1,222.22                   | 0.00                    | 1,222.22                   |
| 3134GTL92                                  | 14576        | 010  | MC5           | 5,000,000.00     | 0.00                 | 1,129,032.26       | 07/25/2024    | 2.450                   | 2.129 | 2,041.67                   | 0.00                    | 2,041.67                   |
| 3137EAAE5                                  | 14516        | 010  | FAC           | 5,000,000.00     | 4,999,907.02         | 4,999,914.60       | 01/17/2020    | 1.500                   | 1.475 | 6,250.00                   | 14.23                   | 6,264.23                   |
| 3134G7S77                                  | 14358        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 10/29/2020    | 2.000                   | 1.962 | 8,333.33                   | 0.00                    | 8,333.33                   |
| 3135G0S46                                  | 14515        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 01/27/2020    | 1.650                   | 1.619 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3135G0T29                                  | 14522        | 010  | FAC           | 10,000,000.00    | 9,990,973.84         | 9,991,581.97       | 02/28/2020    | 1.500                   | 1.608 | 12,500.00                  | 1,142.55                | 13,642.55                  |
| 3135G0S46                                  | 14514        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 01/27/2020    | 1.650                   | 1.619 | 6,875.00                   | 0.00                    | 6,875.00                   |
| 3136G4LP6                                  | 14518        | 010  | MC5           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 08/28/2020    | 1.800                   | 1.766 | 7,500.00                   | 0.00                    | 7,500.00                   |
| 3135G0T29                                  | 14521        | 010  | FAC           | 3,500,000.00     | 3,500,000.00         | 3,500,000.00       | 02/28/2020    | 1.500                   | 1.472 | 4,375.00                   | 0.00                    | 4,375.00                   |
| 672319CA6                                  | 14282        | 010  | MUN           | 5,000,000.00     | 5,000,000.00         | 5,000,000.00       | 12/15/2019    | 3.267                   | 3.206 | 13,612.50                  | 0.00                    | 13,612.50                  |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,854,475.77         | 4,856,157.17       | 05/03/2023    | 2.400                   | 3.191 | 10,000.00                  | 3,158.99                | 13,158.99                  |

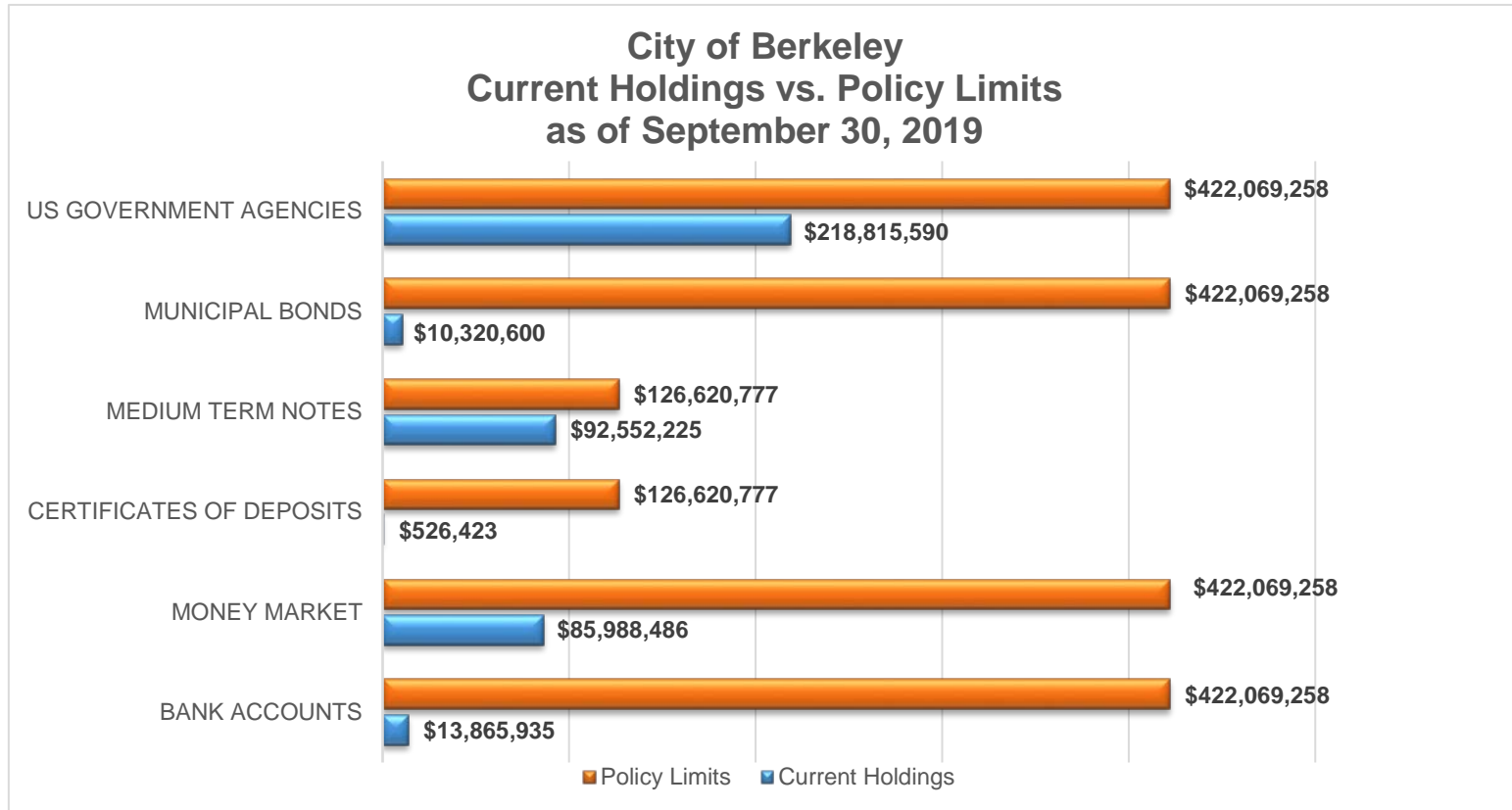
**Pooled Investment - Long Term  
Interest Earnings  
July 1, 2019 - July 31, 2019**

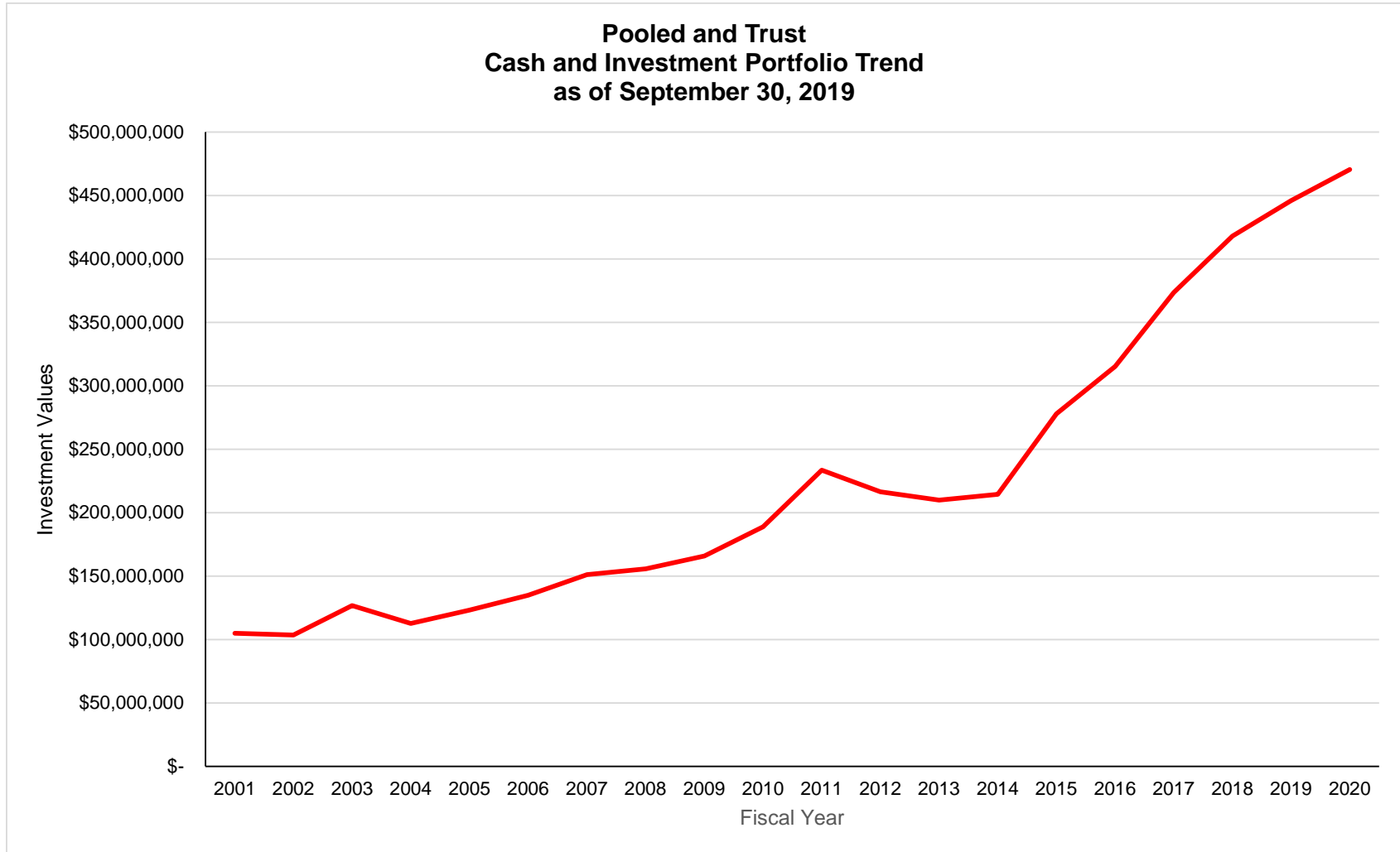
Exhibit 2-B.3

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 254673RD0                                  | 14539        | 010  | SCD             | 250,000.00            | 250,000.00            | 250,000.00            | 07/05/2023    | 3.300                   | 3.300            | 700.68                     | 0.00                    | 700.68                     |
| 06406HBY4                                  | 14538        | 010  | MC3             | 3,542,000.00          | 3,577,612.81          | 3,576,903.76          | 09/23/2021    | 3.550                   | 3.011            | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 06406FAB9                                  | 14541        | 010  | MC3             | 1,458,000.00          | 1,432,229.66          | 1,432,851.25          | 05/03/2021    | 2.050                   | 3.006            | 2,490.75                   | 1,167.84                | 3,658.59                   |
| 795450T47                                  | 14540        | 010  | SCD             | 250,000.00            | 250,000.00            | 250,000.00            | 07/03/2023    | 3.300                   | 3.300            | 700.68                     | 0.00                    | 700.68                     |
| 084670BJ6                                  | 14542        | 010  | MTN             | 5,000,000.00          | 4,974,897.09          | 4,975,205.43          | 02/11/2023    | 3.000                   | 3.095            | 12,500.00                  | 579.30                  | 13,079.30                  |
| 31422BAR1                                  | 14553        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 12/27/2023    | 3.230                   | 3.169            | 13,458.33                  | 0.00                    | 13,458.33                  |
| 3132X04Z1                                  | 14544        | 010  | MC5             | 5,000,000.00          | 5,000,000.00          | 5,000,000.00          | 08/15/2023    | 3.250                   | 3.189            | 13,541.67                  | 0.00                    | 13,541.67                  |
| 589331AT4                                  | 14545        | 010  | MTN             | 5,000,000.00          | 4,905,647.09          | 4,906,952.64          | 09/15/2022    | 2.400                   | 2.988            | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN             | 5,000,000.00          | 5,041,662.23          | 5,041,204.69          | 07/15/2023    | 3.625                   | 3.327            | 15,104.17                  | -859.61                 | 14,244.56                  |
| 24422EUM9                                  | 14554        | 010  | MTN             | 5,000,000.00          | 5,068,636.82          | 5,067,925.61          | 10/12/2023    | 3.650                   | 3.223            | 15,208.33                  | -1,336.21               | 13,872.12                  |
| 540424AQ1                                  | 14555        | 010  | MTN             | 5,000,000.00          | 4,870,229.13          | 4,871,715.61          | 05/15/2023    | 2.625                   | 3.318            | 10,937.50                  | 2,792.77                | 13,730.27                  |
| 693475AV7                                  | 14557        | 010  | MC3             | 5,000,000.00          | 5,026,725.72          | 5,026,465.83          | 01/23/2024    | 3.500                   | 3.302            | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN             | 5,000,000.00          | 5,084,410.93          | 5,083,759.79          | 04/01/2025    | 3.375                   | 2.974            | 14,062.50                  | -1,223.35               | 12,839.15                  |
| 49327M2X1                                  | 14560        | 010  | MTN             | 5,000,000.00          | 5,024,487.84          | 5,024,067.39          | 02/01/2022    | 3.300                   | 3.037            | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3             | 5,000,000.00          | 5,151,253.29          | 5,149,739.07          | 12/06/2023    | 3.750                   | 2.922            | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 91159HHU7                                  | 14562        | 010  | MC3             | 5,000,000.00          | 5,269,741.58          | 5,267,865.64          | 11/17/2025    | 3.950                   | 2.891            | 16,458.33                  | -3,524.50               | 12,933.83                  |
| 20030NBN0                                  | 14563        | 010  | MTN             | 5,000,000.00          | 5,075,848.15          | 5,075,298.64          | 08/15/2025    | 3.375                   | 3.023            | 14,062.50                  | -1,032.41               | 13,030.09                  |
| 747525AT0                                  | 14564        | 010  | MTN             | 5,000,000.00          | 4,966,215.11          | 4,966,521.80          | 05/20/2024    | 2.900                   | 3.001            | 12,083.33                  | 576.21                  | 12,659.54                  |
| 751212AC5                                  | 14566        | 010  | MC3             | 5,000,000.00          | 5,177,414.49          | 5,176,146.40          | 09/15/2025    | 3.750                   | -0.542           | 0.00                       | -2,382.47               | -2,382.47                  |
| 375558BF9                                  | 14570        | 010  | MTN             | 5,000,000.00          | 5,158,722.96          | 5,157,666.94          | 03/01/2026    | 3.650                   | 3.019            | 15,208.33                  | -1,984.04               | 13,224.29                  |
| 233851CU6                                  | 14574        | 010  | MTN             | 3,725,000.00          | 3,836,963.56          | 3,836,302.64          | 01/06/2027    | 3.450                   | 2.906            | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851CU6                                  | 14571        | 010  | MTN             | 5,000,000.00          | 5,086,088.41          | 5,085,580.23          | 01/06/2027    | 3.450                   | 3.107            | 14,375.00                  | -954.77                 | 13,420.23                  |
|                                            |              |      | <b>Subtotal</b> | <b>327,968,500.00</b> | <b>273,817,104.58</b> | <b>294,619,284.92</b> |               |                         | <b>2.262</b>     | <b>574,037.61</b>          | <b>-8,024.86</b>        | <b>566,012.75</b>          |
|                                            |              |      | <b>Total</b>    | <b>327,968,500.00</b> | <b>273,817,104.58</b> | <b>294,619,284.92</b> |               |                         | <b>2.262</b>     | <b>574,037.61</b>          | <b>-8,024.86</b>        | <b>566,012.75</b>          |

**Pooled Cash and Investments  
(Market Value)  
as of September 30, 2019**









**Summary of Pooled Cash and Investments - Trust Funds**  
**(Market Value)**  
**As of September 30, 2019**

|                                         |                                       | <u>Pooled Cash</u>  | <u>Investments<br/>(Book Value)</u> | <u>Gain/Loss on<br/>Investments</u> | <u>Pooled Cash<br/>&amp; Investments<br/>(Market Value)</u> |
|-----------------------------------------|---------------------------------------|---------------------|-------------------------------------|-------------------------------------|-------------------------------------------------------------|
| <b>Retiree Medical Trust Fund</b>       |                                       |                     |                                     |                                     |                                                             |
| <b>Fund No.</b>                         |                                       |                     |                                     |                                     |                                                             |
| 941                                     | BHA                                   | \$ 88,894           | \$ 310,142                          | \$ 10,855                           | \$ 409,891                                                  |
| 942                                     | M1=IBEW                               | (4,996)             | 168,374                             | 9,564                               | 172,942                                                     |
| 943                                     | M2=Local 1                            | 1,403,014           | 6,845,689                           | 394,166                             | 8,642,869                                                   |
| 944                                     | MUI=Z1                                | 213,329             | 1,725,351                           | 110,003                             | 2,048,683                                                   |
| 945                                     | MUI=Z2 to Z6                          | 301,029             | 2,264,381                           | 134,379                             | 2,699,789                                                   |
| 946                                     | M535= Local 535                       | 1,046,449           | 7,236,178                           | 455,913                             | 8,738,540                                                   |
| 947                                     | M3=Local 790                          | 664,140             | 5,120,881                           | 234,537                             | 6,019,558                                                   |
| <b>Total Retiree Medical Trust Fund</b> |                                       | <b>3,711,859</b>    | <b>23,670,996</b>                   | <b>1,349,417</b>                    | <b>28,732,273</b>                                           |
| <b>Fire Medical Trust Fund</b>          |                                       |                     |                                     |                                     |                                                             |
| 949                                     | Fire Medical Trust Fund               | 407,166             | 10,727,003                          | 395,073                             | 11,529,242                                                  |
| <b>Total Fire Medical Trust Fund</b>    |                                       | <b>407,166</b>      | <b>10,727,003</b>                   | <b>395,073</b>                      | <b>11,529,242</b>                                           |
| <b>Police Medical Trust Fund</b>        |                                       |                     |                                     |                                     |                                                             |
| 903                                     | Police EE Retiree HLT Assistance Plan | 102,101             | 2,025,019                           | 392,740.64                          | 2,127,120                                                   |
| 905                                     | Safety Members Pension Fund           | (1,602)             | -                                   | -                                   | (1,602)                                                     |
| 950                                     | Police Medical Trust Fund             | (42,525)            | 5,805,389                           | (148,421.38)                        | 5,614,442                                                   |
| <b>Total Police Medical Trust Fund</b>  |                                       | <b>57,974</b>       | <b>7,830,407</b>                    | <b>244,319</b>                      | <b>8,132,701</b>                                            |
| <b>Total Trust Funds</b>                |                                       | <b>\$ 4,176,999</b> | <b>\$ 42,228,407</b>                | <b>\$ 1,988,809</b>                 | <b>\$ 48,394,216</b>                                        |



**Retiree Medical Trust Fund  
Fund 941 - 947  
Interest Earnings  
July 1 to September 30, 2019**

| Investments<br>September 30, 2019           |              |                             |                         |                         |                         |                         |               |                | Interest Earnings<br>July 1 to September 30, 2019 |                  |                      |                         |                            |
|---------------------------------------------|--------------|-----------------------------|-------------------------|-------------------------|-------------------------|-------------------------|---------------|----------------|---------------------------------------------------|------------------|----------------------|-------------------------|----------------------------|
| CUSIP                                       | Investment # | Issuer                      | Par Value               | Beginning Book Value    | Ending Book Value       | Market Value            | Maturity Date | Moody's Rating | Adjusted Interest Earnings                        |                  |                      |                         |                            |
|                                             |              |                             |                         |                         |                         |                         |               |                | Current Rate                                      | Annualized Yield | Interest Earned      | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                    |              |                             |                         |                         |                         |                         |               |                |                                                   |                  |                      |                         |                            |
| 06744CUS8                                   | 14530        | Barclays Bank PLC           | 6,000,000.00            | 6,000,000.00            | 6,000,000.00            | 6,019,500.00            | 02/08/2028    | A2             | 3.125                                             | 3.100            | 46,875.00            | -                       | 46,875.00                  |
| 61747WAF6                                   | 14224        | Morgan Stanley              | 1,666,666.67            | 1,682,117.44            | 1,679,651.89            | 1,743,966.67            | 01/25/2021    | A3             | 5.750                                             | 5.069            | 23,958.33            | (2,465.55)              | 21,492.78                  |
| <b>Federal Agency Coupon Securities</b>     |              |                             |                         |                         |                         |                         |               |                |                                                   |                  |                      |                         |                            |
| 3133EFQT7                                   | 14361        | Fed Farm Credit Bank        | 2,600,000.00            | 2,611,642.09            | 2,611,187.32            | 2,748,512.00            | 11/25/2025    | AAA            | 2.700                                             | 2.597            | 17,550.00            | (454.77)                | 17,095.23                  |
| <b>Federal Agency Continuously Callable</b> |              |                             |                         |                         |                         |                         |               |                |                                                   |                  |                      |                         |                            |
| 3130HOCE1                                   | 14567        | Farmer Mac                  | 3,556,000.00            | 3,556,000.00            | 3,556,000.00            | 3,573,282.16            | 05/01/2029    | N/A            | 3.400                                             | 3.372            | 30,226.00            | -                       | 30,226.00                  |
| 3134GAWD2                                   | 14510        | Fed Home Loan Mortgage Corp | 1,500,000.00            | 1,500,000.00            | 1,500,000.00            | 1,498,530.00            | 11/27/2019    | AAA            | 1.300                                             | 1.289            | 4,875.00             | -                       | 4,875.00                   |
| <b>Municipal Bonds</b>                      |              |                             |                         |                         |                         |                         |               |                |                                                   |                  |                      |                         |                            |
| 672319CC2                                   | 14283        | OAKGEN                      | 2,750,000.00            | 2,737,697.34            | 2,738,949.87            | 2,835,772.50            | 12/15/2021    | AA3            | 3.800                                             | 3.967            | 26,125.00            | 1,252.53                | 27,377.53                  |
| 786091AG3                                   | 14316        | SACGEN                      | 5,000,000.00            | 5,328,715.55            | 5,315,206.69            | 6,330,850.00            | 08/01/2025    | A3             | 7.250                                             | 5.742            | 90,625.00            | (13,508.86)             | 77,116.14                  |
| <b>Savo Island Loan</b>                     |              |                             |                         |                         |                         |                         |               |                |                                                   |                  |                      |                         |                            |
| SYS10988                                    | 10988        | EMPMED                      | 270,000.00              | 304,000.00              | 270,000.00              | 270,000.00              | 09/01/2025    |                | 8.000                                             | 7.667            | 5,874.77             | -                       | 5,874.77                   |
| <b>Total</b>                                |              |                             | <b>\$ 23,342,666.67</b> | <b>\$ 23,720,172.42</b> | <b>\$ 23,670,995.77</b> | <b>\$ 25,020,413.33</b> |               |                |                                                   | <b>3.863</b>     | <b>\$ 246,109.10</b> | <b>\$ (15,176.65)</b>   | <b>\$ 230,932.45</b>       |

|                                                                |                         |
|----------------------------------------------------------------|-------------------------|
| <b>Total Investments (Book Value)</b>                          | <b>\$ 23,670,995.77</b> |
| <b>Gain/Loss on Investments</b>                                | <b>1,349,417.56</b>     |
| <b>Total Investments (Market Value)</b>                        | <b>25,020,413.33</b>    |
| <b>Temporarily Invested with Pooled Cash &amp; Investments</b> | <b>3,711,859.00</b>     |
| <b>Total Pooled Cash and Investments</b>                       | <b>\$ 28,732,272.33</b> |





**Fire Retiree Medical  
Fund 949  
Interest Earnings  
July 1 to September 30, 2019**

| Investments<br>September 30, 2019           |              |                            |                                |                                |                                |                                |               |               | Interest Earnings<br>July 1 to September 30, 2019 |                  |                            |                             |                             |                            |
|---------------------------------------------|--------------|----------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|---------------|---------------|---------------------------------------------------|------------------|----------------------------|-----------------------------|-----------------------------|----------------------------|
| CUSIP                                       | Investment # | Issuer                     | Par Value                      | Beginning Book Value           | Ending Book Value              | Market Value                   | Maturity Date | Credit Rating | Current Rate                                      | Annualized Yield | Adjusted Interest Earnings |                             |                             |                            |
|                                             |              |                            |                                |                                |                                |                                |               |               |                                                   |                  | Interest Earned            | Amortization/<br>Accretion  | Adjusted Interest Earnings  |                            |
| <b>Medium Term Notes</b>                    |              |                            |                                |                                |                                |                                |               |               |                                                   |                  |                            |                             |                             |                            |
| 06744CUS8                                   | 14531        | Barclays Bank PLC          | 2,000,000.00                   | 2,000,000.00                   | 2,000,000.00                   | 2,006,500.00                   | 02/18/2028    | A2            | 3.125                                             | 3.100            | 15,625.00                  | -                           | 15,625.00                   |                            |
| 6174467X1                                   | 14318        | Morgan Stanley DW DTC#0015 | 2,000,000.00                   | 2,049,384.71                   | 2,047,454.79                   | 2,241,180.00                   | 11/24/2025    | BAA2          | 5.000                                             | 4.466            | 25,000.00                  | (1,929.92)                  | 23,070.08                   |                            |
| 61747WAF6                                   | 14225        | Morgan Stanley             | 1,666,666.67                   | 1,682,117.44                   | 1,679,651.89                   | 1,743,966.67                   | 01/25/2021    | A3            | 5.750                                             | 5.069            | 23,958.33                  | (2,465.55)                  | 21,492.78                   |                            |
| <b>Federal Agency Coupon Securities</b>     |              |                            |                                |                                |                                |                                |               |               |                                                   |                  |                            |                             |                             |                            |
| 3133EFQT7                                   | 14362        | Fed Farm Credit Bank       | 2,300,000.00                   | 2,310,298.78                   | 2,309,896.48                   | 2,431,376.00                   | 11/25/2025    | AAA           | 2.700                                             | 2.597            | 15,525.00                  | (402.30)                    | 15,122.70                   |                            |
| <b>Federal Agency Continuously Callable</b> |              |                            |                                |                                |                                |                                |               |               |                                                   |                  |                            |                             |                             |                            |
| 3130H0CE1                                   | 14568        | Farmer Mac                 | 2,190,000.00                   | 2,190,000.00                   | 2,190,000.00                   | 2,200,643.40                   | 05/01/2029    | N/A           | 3.400                                             | 3.372            | 18,615.00                  | -                           | 18,615.00                   |                            |
| 3130A9WA5                                   | 14508        | FHLB                       | 500,000.00                     | 500,000.00                     | 500,000.00                     | 498,410.00                     | 04/27/2020    | AAA           | 1.300                                             | 1.289            | 1,625.00                   | -                           | 1,625.00                    |                            |
| <b>Total</b>                                |              |                            | <b><u>\$ 10,656,666.67</u></b> | <b><u>\$ 10,731,800.93</u></b> | <b><u>\$ 10,727,003.16</u></b> | <b><u>\$ 11,122,076.07</u></b> |               |               |                                                   |                  | <b><u>3.532</u></b>        | <b><u>\$ 100,348.33</u></b> | <b><u>\$ (4,797.77)</u></b> | <b><u>\$ 95,550.56</u></b> |

|                                                     |                                |
|-----------------------------------------------------|--------------------------------|
| Total Investments (Book Value)                      | <b>\$ 10,727,003.16</b>        |
| Gain/Loss on Investments                            | <b><u>395,072.91</u></b>       |
| Total Investments (Market Value)                    | <b>11,122,076.07</b>           |
| Temporarily Invested with Pooled Cash & Investments | <b><u>407,166.00</u></b>       |
| Total Pooled Cash and Investments                   | <b><u>\$ 11,529,242.07</u></b> |



**Police Retiree Medical  
Fund 903, 950 and 970  
Interest Earnings  
July 1 to September 30, 2019**

| Investments<br>September 30, 2019           |              |                                |                               |                                |                               |                               |               |               |              | Interest Earnings<br>July 1 to September 30, 2019 |                            |                            |                             |                            |
|---------------------------------------------|--------------|--------------------------------|-------------------------------|--------------------------------|-------------------------------|-------------------------------|---------------|---------------|--------------|---------------------------------------------------|----------------------------|----------------------------|-----------------------------|----------------------------|
| CUSIP                                       | Investment # | Issuer                         | Par Value                     | Beginning Book Value           | Ending Book Value             | Market Value                  | Maturity Date | Credit Rating | Current Rate | Annualized Yield                                  | Adjusted Interest Earnings |                            |                             |                            |
|                                             |              |                                |                               |                                |                               |                               |               |               |              |                                                   | Interest Earned            | Amortization/<br>Accretion | Adjusted Interest Earnings  |                            |
| <b>Medium Term Notes</b>                    |              |                                |                               |                                |                               |                               |               |               |              |                                                   |                            |                            |                             |                            |
| 06744CUS8                                   | 14532        | Barclays Bank PLC              | 2,000,000.00                  | 6,000,000.00                   | 2,000,000.00                  | 2,006,500.00                  | 02/08/28      | A2            | 3.125        | 3.100                                             | 15,625.00                  | -                          | 15,625.00                   |                            |
| 6174467X1                                   | 14319        | Morgan Stanley DW DTC#0015     | 500,000.00                    | 2,049,384.71                   | 511,863.70                    | 560,295.00                    | 11/24/25      | BAA2          | 5.000        | 4.466                                             | 6,250.00                   | (482.48)                   | 5,767.52                    |                            |
| 61747WAF6                                   | 14226        | Morgan Stanley                 | 1,666,666.67                  | 1,682,117.44                   | 1,679,651.89                  | 1,743,966.67                  | 01/25/21      | A3            | 5.750        | 5.069                                             | 23,958.33                  | (2,465.55)                 | 21,492.78                   |                            |
| <b>Federal Agency Coupon Securities</b>     |              |                                |                               |                                |                               |                               |               |               |              |                                                   |                            |                            |                             |                            |
| 3133EFQT7                                   | 14363        | Fed. Farm Credit Banks Funding | 2,300,000.00                  | 2,611,642.09                   | 2,309,896.48                  | 2,431,376.00                  | 11/25/25      | AAA           | 2.700        | 2.597                                             | 15,525.00                  | (402.30)                   | 15,122.70                   |                            |
| <b>Federal Agency Continuously Callable</b> |              |                                |                               |                                |                               |                               |               |               |              |                                                   |                            |                            |                             |                            |
| 3130HOCE1                                   | 14569        | Farmer Mac                     | 829,000.00                    | 3,556,000.00                   | 829,000.00                    | 833,028.94                    | 05/01/29      | N/A           | 3.400        | 3.372                                             | 7,046.50                   | -                          | 7,046.50                    |                            |
| 3130A9YW5                                   | 14511        | Federal Home Loan Banks        | 500,000.00                    | 499,986.94                     | 499,995.28                    | 499,560.00                    | 11/22/19      | AAA           | 1.190        | 1.187                                             | 1,487.50                   | 8.34                       | 1,495.84                    |                            |
| <b>Total</b>                                |              |                                | <b><u>\$ 7,795,666.67</u></b> | <b><u>\$ 16,399,131.18</u></b> | <b><u>\$ 7,830,407.35</u></b> | <b><u>\$ 8,074,726.61</u></b> |               |               |              |                                                   | <b><u>3.370</u></b>        | <b><u>\$ 69,892.33</u></b> | <b><u>\$ (3,341.99)</u></b> | <b><u>\$ 66,550.34</u></b> |

|                                                     |                        |
|-----------------------------------------------------|------------------------|
| Total Investments (Book Value)                      | \$ 7,830,407.35        |
| Gain/Loss on Investments                            | <u>244,319.26</u>      |
| Total Investments (Market Value)                    | 8,074,726.61           |
| Temporarily Invested with Pooled Cash & Investments | <u>57,974.00</u>       |
| Total Pooled Cash and Investments                   | <u>\$ 8,132,700.61</u> |





Office of the City Manager

INFORMATION CALENDAR

March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: Audit Status Report: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal

INTRODUCTION

The Office of the City Auditor presented to the City Council a July 1, 2014 Report: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal<sup>1</sup> (Audit Report). The City Auditor conducted the Audit Report at the Public Works Director's request to assess Public Works' Zero Waste Division progress towards the Year 2020 Zero Waste Goal. This is the fourth Information Calendar Update on the efforts made to implement the Audit Report's recommendations.

CURRENT SITUATION AND ITS EFFECTS

The Audit Report noted fifteen (15) recommendations for the Public Works Department (PWD) and its Zero Waste Division (ZWD) to review, implement and report to Council. The first set of seven (7) recommendations were related to zero waste goals and ZWD's operational components and the second set of eight (8) recommendations focused on PW/ZWD working with the Department of Information Technology (IT) to utilize technology to interface with routes, staff and the customers.

As of the writing of this Audit Report, three recommendations have been implemented, eight recommendations are partially implemented; three recommendations remain unimplemented; and one recommendation has been declined with a will not implement status.

At the September 17, 2019 City Council Work Session, Public Works, Zero Waste Division and its consultant presented a five (5) year Zero Waste Fund Rate Review that will support funding for additional resources for the Zero Waste Division work to meet the City's Zero Waste Goal. The Rate Review includes funding for additional staffing at the Division for implementation and/or compliance with the State's and StopWaste.org

---

<sup>1</sup> [https://www.cityofberkeley.info/uploadedFiles/Auditor/Level\\_3\\_-\\_General/A%202\\_RPT\\_Zero%20Waste\\_Final.pdf](https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/A%202_RPT_Zero%20Waste_Final.pdf)

recycling mandates, Single Use Disposal Foodware and Litter Reduction Ordinance<sup>2</sup>; an RFP solicitation for the development of a Strategic Plan that will identify the City's path to meet its Zero Waste Goal; and next steps needed to replace the existing Solid Waste & Recycling Transfer Station<sup>3</sup>. Please see Attachment 1 for a detailed table of audit report recommendations, corrective actions and implementation progress. The next Council report is anticipated on March 23, 2021 to update progress on the remaining audit items.

### BACKGROUND

On March 22, 2015, the Berkeley City Council adopted Zero Waste Resolution No. 62,849-N.S reaffirming its commitment to meet the Alameda County Measure D goal of reducing waste sent to landfills by 75%, and setting a goal of zero waste sent to landfills by year 2020. The Resolution does not define a specific zero waste percentage expectation for Berkeley, but the language used therein implies that the Council's intention is diversion of 100 percent of waste from landfills.

In its October 17, 2017 presentation of the Zero Waste Strategic Plan to the City Council, the Zero Waste Commission recommended the City move forward immediately to meet our Zero Waste Goal by updating the Zero Waste Goal for current feasibility and issuing an RFP to hire a consultant to develop a Zero Waste Strategic Plan intended to lead the City toward that goal. The City Council consented to this recommendation.

### ENVIRONMENTAL SUSTAINABILITY

The increased diversion of recyclable materials, such as, cardboard, paper, plastic, etc., from the wastes being landfilled is an essential part of the City's Zero Waste Goal as described in the City's 2009 Climate Action Plan.

### POSSIBLE FUTURE ACTION

The Zero Waste Commission and the Zero Waste Division are continuing to address the remaining nine recommendations in the Audit.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There will be fiscal impacts for the procurement of software, hardware, and professional services necessary to complete the Audit findings. Public Works will continue to update the Council on a periodic basis on the progress, resources available or to be made available, and/or additional funding needs in subsequent updates assessing Zero Waste Division's efforts.

---

<sup>2</sup>

[https://www.cityofberkeley.info/Public\\_Works/Zero\\_Waste/Berkeley\\_Single\\_Use\\_Foodware\\_and\\_Litter\\_Reduction\\_Ordinance.aspx](https://www.cityofberkeley.info/Public_Works/Zero_Waste/Berkeley_Single_Use_Foodware_and_Litter_Reduction_Ordinance.aspx)

<sup>3</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/11\\_Nov/City\\_Council\\_11-05-2019\\_-\\_Special\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/11_Nov/City_Council_11-05-2019_-_Special_Meeting_Agenda.aspx)

CONTACT PERSON

Greg Apa, Solid Waste & Recycling Manager (510) 981-6359

Attachment:

1. Audit Findings and Recommendations Response Form

ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |                                                                                                                                                                                                                                                                                        |                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept.                                                                                                                                                                                                                                                                             | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Finding 1: Insufficient data and resources (for planning, strategy, or execution) dedicated to Berkeley's zero waste by 2020 resolution</b>  |                                                                                                                                                                                                                                                                                        |                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 1.1                                                                                                                                             | Request the City Council to redefine and then reaffirm its commitment to zero waste (i.e., the percentage that the Council considers to be success), and to ensure sufficient resources to fund appropriate staffing and the necessary infrastructure to achieve stated goals by 2020. | Public Works                                                       | <p>Agree</p> <p>This is consistent with the strategic approach the Public Works Department has taken to correct operational deficiencies and create an organization more capable of continuing the work to reach the City's zero waste goal.</p> <p>The Department is poised to undertake an open search for a new ZWD Manager whose input, perspective, and anticipated professional expertise will be essential in analyzing the resources necessary to achieve the goal and drafting suitable recommendations to Council.</p> | <p>June 2015</p> <p>June 2019</p> <p>June 2019</p> <p>December 2019</p> <p>November 2020</p> <p>5/09/2017 Status: not submitted<br/> <b>January 23, 2018 Update:</b><br/> <u>Not Implemented</u><br/>                     The Zero Waste Commission submitted to the City Council its recommendation for the City to develop an RFP to: 1) develop a Zero Waste Strategic Plan (Plan) to delineate terminology, 2) define and clarify what the City's Zero Waste Goal will be, and 3) develop plan for the Public Works - Zero Waste Division to implement to attain that goal. The City Council concurred with this recommendation which was an item on its October 17, 2017 Action Calendar for the Zero Waste Division to develop the RFP for the development of the Plan.<br/> <b>6/04,2018 Update:</b><br/> <u>Not Implemented</u><br/>                     The RFP is in development and should be released to solicit proposals to be submitted during the second quarter FY2019.<br/> <b>March 12, 2019</b><br/> <u>Partially Implemented</u><br/>                     ZWD has developed an RFP to: 1) develop a Zero Waste Strategic Plan (Plan) to delineate terminology, 2) define and clarify what the City's Zero Waste Goal will be, and 3) develop plan for the Public Works - Zero Waste Division to implement to attain that goal. The RFP is in administrative review.<br/> <b>March 10, 2020 Update</b><br/> <u>Partially Implemented</u><br/>                     At the September 17, 2019 City Council Work Session, Public Works and its consultant presented the proposed 5 year Rate Review that includes additional staffing for implementation and compliance with State and StopWaste.org mandatory recycling and food waste. The Council provided input on the Rate Review in review and adjusted Rates with be presented to the City Council mid-2020.</p> |

## ATTACHMENT No. 1

| <b>Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal</b>                                                                                                                                                                                                                                                                                                                                                                                              |                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Expected or Actual Implementation Date</b>                                           | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>1.2 Draft and obtain Council approval of a written strategic plan to achieve zero waste by 2020, including annual or biennial interim waste diversion goals.</p> <p>Topics that the strategic plan should discuss include:</p> <ul style="list-style-type: none"> <li>• Objectives and long-term and interim goals</li> <li>• Actions to be taken</li> <li>• Responsible parties</li> <li>• Expected cost and impact of implementation</li> <li>• Performance measures</li> <li>• External factors affecting performance and progress</li> </ul> | Public Works      | <p>Agree</p> <p>The Public Works Department has taken a strategic approach to solving the structural deficit and making progress toward our zero waste goal. The Department improved the efficiency of operations, followed the strategies in the Climate Action Plan, is currently completing a commercial franchise study, and in May 2014 completed a Prop 218-compliant rate increase. PW will continue to focus on maintaining efficient operations, high quality customer service, and improvements to waste diversion efforts.</p> <p>The Department will take the next step toward zero waste by reassessing the current situation, and developing a strategic plan intended to guide the Department through the increasingly difficult path to zero waste. Part of this process requires evaluating the existing Transfer Station infrastructure, along with what might be required to reach the zero waste goal as defined.</p> <p>The strategic plan will be flexible so that annual work plans can be designed to address changing conditions.</p> <p>Public Works will build upon relevant content in the 2005 Solid Waste Management Plan, the 2009 Climate</p> | <p>June 2015</p> <p>June 2019</p> <p>June 2019</p> <p>December 2019</p> <p>May 2021</p> | <p>5/09/2017 Status: not submitted</p> <p><b><u>January 23, 2018 Update:</u></b><br/><b><u>Not Implemented</u></b></p> <p>The City's Solid Waste Management Plan (1998) and Source Reduction and Recycling Element (1992) are the City's most recent documents guiding the City's actions toward the goal of zero waste. Although the City's Solid Waste Management Plan Update (2005) wasn't formerly adopted by the City, it was designed to achieve the 2010 goal of reaching 75% diversion. The City is currently achieving 76% diversion based on FY2015 information.</p> <p>The Zero Waste Commission and the City Auditor each concluded independently that a comprehensive, written strategic plan that clearly defines roles and responsibilities and assigns sufficient resources is needed to guide the City towards the goal of achieving zero waste. The Zero Waste Commission recommended and the City Council concurred at its October 17, 2017 Action Calendar concurred with Zero Waste Commission's recommendation for Public Works' Zero Waste Division to develop an RFP to: develop a Zero Waste Strategic Plan to delineate terminology, define and clarify what the City's Zero Waste Goal will be, and develop plan to attain the defined Strategic Plan's Zero Waste Goal.</p> <p><b><u>6/04,2018 Update:</u></b><br/><b><u>Not Implemented</u></b></p> <p>These issues will be included in the development of RFP that will be advertised for proposals the second quarter FY2019.</p> <p><b><u>March 12, 2019</u></b><br/><b><u>Partially Implemented</u></b></p> <p>ZWD has developed an RFP to: 1) develop a Zero Waste Strategic Plan (Plan) to delineate terminology, 2) define and clarify what the City's Zero Waste Goal will be, and 3) develop plan for the Public Works - Zero Waste Division to implement to attain that goal. The RFP is in administrative review.</p> <p><b><u>March 10, 2020 Update</u></b><br/><b><u>Partially Implemented</u></b></p> <p>When implemented, the Zero Waste Division's new management software will provide accurate and verifiable customer information (i.e., something the current software cannot do). A Zero Waste strategic plan would be strongly informed by accurate and verifiable</p> |





ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |              |                                                                                                                                                             |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept.   | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan                                                                                          | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                                                                                                                                                 |              |                                                                                                                                                             | May 2022                               | <p>the Citywide Strategic Plan. Once the new ZW software system is in place and the Strategic Plan has been completed, a more accurate work plan could be created that would include performance measures.</p> <p><b>March 10, 2020 Update</b><br/> <b>Partially Implemented</b><br/>                     When implemented, the Zero Waste Division’s new management software will provide accurate and verifiable customer information (i.e., something the current software cannot do). A Zero Waste strategic plan would be strongly informed by accurate and verifiable customer data, so a Request for Proposals (RFP) for strategic plan preparation is contingent upon the new software being fully in-place. The implementation is projected to be complete in late 2020. After both the software installation and the Zero Waste strategic plan are completed, the City can issue an RFP for a new user-friendly routing system. The new Routing system will enable development of reliable, verifiable and accurate performance metrics. The cost of these systems and additional staffing required have been included in projected budgets</p>                                                               |
| 1.4                                                                                                                                             | Public Works | <p>Agree</p> <p>Prepare an annual report to Council, highlighting progress toward strategic plan and work plan goals to achieve zero waste in Berkeley.</p> | December 2019                          | <p>5/09/2017 Status: not submitted</p> <p><b>January 23, 2018 Update:</b><br/> <b>Partially Implemented</b><br/>                     With the newly re-staffed ZWC and new management at Zero Waste Division and once the Strategic Plan is completed and as part of the Strategic Plan, the Work Plan with goals, budget, timelines, FTEs and measurements will be developed. Then, Public Works will initiate annual reporting to Council. Nonetheless progress has been made, such as: the ZWD has undertaken a City Facilities Greening Project to ensure that all City-owned facilities have the appropriate containers with signage for trash, recyclables (bottles/cans and fiber), and organics; and that City staff receive training on the acceptable materials to place in each container type. The recent, May through September 2017, renovation of 1947 Center Street is being used as a pilot for this Project.</p> <p>In celebration of Earth Day 2017, the ZWD hosted a Zero Waste Earth Day Fair for City employees to get answers to all of their recycling-related questions, play games, enjoy zero waste snacks, and talk trash with ZWD staff. This event was attended by more than 100 City</p> |

ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |                                                                                                                                                                                                                                                                                                                                     |                                                                    |                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept.                                                                                                                                                                                                                                                                                                                          | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date                                                                                                                                                                                                                                                              | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                     |                                                                    | November 2021                                                                                                                                                                                                                                                                                       | <p>employees.</p> <p><b><u>March 12, 2019</u></b><br/> <b><u>Partially Implemented</u></b><br/>                     City staff have been encouraged to participate in the visioning sessions for the Transfer Station Redesign January 16, 17, and 18, 2019. Also, ZWD has developed an RFP to: 1) develop a Zero Waste Strategic Plan (Plan) to delineate terminology, 2) define and clarify what the City's Zero Waste Goal will be, and 3) develop plan for the Public Works - Zero Waste Division to implement to attain that goal. The RFP is in administrative review. Once the strategic plan is completed, it will be shared with City staff.</p> <p><b><u>March 10, 2020 Update</u></b><br/> <b><u>Partially Implemented</u></b><br/>                     At the Council's Work Sessions for Rate Review (September 17, 2019) and Solid Waste &amp; Recycling Transfer Station Feasibility Study (November 5, 2019), the Public Works department informed Council of the need for additional RFPs, staffing, funding and facility requirements to meet the City's zero waste goal.</p>                                                                                                                                                                                                                     |
| 1.5                                                                                                                                             | Determine if additional funds are needed for the education, outreach, compliance, and enforcement necessary to reach zero waste goals. If sufficient funds are not available, propose to Council a separate fee to cover those costs for the City's zero- waste program, such as a regulatory fee as allowed under Proposition 218. | Public Works                                                       | Agree<br>The Public Works Strategic Plan process will evaluate and identify the necessary resources, and if funding is insufficient, a recommendation will be made to consider an Integrated Waste Management Fee or other appropriate mechanism to fund additional staffing and/or outreach needs. | <p>December 2019</p> <p>5/09/2017 Status: not submitted</p> <p><b><u>January 23, 2018 Update:</u></b><br/> <b><u>Partially Implemented</u></b><br/>                     Since September 2016, Public Works has hired the Zero Waste Division's Solid Waste &amp; Recycling Manager, Greg Apa, and Recycling Program Manager, Heidi Obermeit, who have 29 and 10 years, respectively, of solid waste industry experience. With their extensive background in the solid waste industry, they are in the process of reviewing, assessing and addressing Zero Waste's current efforts to educate and as needed the expansion of educational outreach to the community members and commercial businesses, both existing and new. Outreach educational materials are somewhat dated and these materials may be updated and customized as required with more current graphics and narratives.<br/>                     In addition, the ZWD has hired a Field Service Representative who assists ZWD's education and compliance efforts with all community members and businesses.<br/>                     In 2018, the current Council approved rate structure will require an updated rate study including the cost of increased educational outreach and training for handling of recyclable materials to ensure a</p> |

ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |              |                                                                    |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------------------------------------------------------------|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept.   | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                                                                                                                                 |              |                                                                    | November 2020                          | <p>sustainable rate structure to achieve the zero waste goals that the Council has set for Public Waste and Zero Waste Division.</p> <p><b><u>March 12, 2019</u></b><br/> <b><u>Partially Implemented</u></b><br/>                     Public Works has determined through internal budget process that Zero Waste needs two additional full time staff members to oversee the education, outreach, compliance, and enforcement necessary to reach zero-waste goals. The Zero Waste Division will be determining additional funding beyond staffing needed to increase education, outreach, compliance, and enforcement during the strategic planning process. The RFP for the strategic plan process is currently under administrative review. This process will also identify if the current levels of fees can cover the costs of the City's Zero Waste program or if Public Works will need to assess additional fees.</p> <p><b><u>March 10, 2020</u></b><br/> <b><u>Partially Implemented</u></b><br/>                     July 2019, City Council approved hiring two additional full time staff members to oversee the education, outreach, compliance, and enforcement necessary to reach zero waste goals. At a September 17, 2019 City Council Work Session on the current Rate Review Study, Council provided Public Works and its consultant direction to provide ongoing and additional services to be funded by the Zero Waste Fund. An update of the Rate Review Study will be scheduled with the City Council mid-2020.</p> |
| 1.6                                                                                                                                             | Public Works | Agree                                                              | October 2016                           | <p>5/09/2017 Status: not submitted</p> <p><b><u>January 23, 2018 Update:</u></b><br/> <b><u>Implemented</u></b><br/>                     With the hiring of the Recycle Program Manager, ZWD is continuously streamlining and updating the City's and ZWD's website to include: guidelines to recycle plant debris and food waste; information on the mandatory recycling requirements for businesses and multi-family properties in Alameda County; and links to other recycling resources in the area. Further, the ZWD has made available guidelines to help designers of multifamily, commercial, and mixed-use buildings plan for recycling collection when designing new buildings or renovations. In conjunction with the City's Public Information Officer, the ZWD has distributed press releases to educate the general public about the appropriate material to place in their refuse, recycling and green</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

## ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal                                                                                                                                                                                                                                                                                     |              |                                                                                                                                                                                                                                             |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                                                                                                                                                                                                                                                                                                        | Lead Dept.   | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan                                                                                                                                                                          | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>recovery facility.</p> <ul style="list-style-type: none"> <li>Zero waste goals and progress toward those goals.</li> </ul> <p><a href="http://StopWaste.org">StopWaste.org</a> is a good example and has resources that Berkeley can direct customers to use.</p> <p>Updates should be made as changes are made to the list of materials accepted through each waste stream.</p>                                                 |              |                                                                                                                                                                                                                                             |                                        | compost carts, extra pick-up bags, proper cart placement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 1.7 Engage in discussions with the California Department of Resources Recycling and Recovery to obtain permission to collect garbage biweekly instead of weekly while maintaining weekly collection of compostables. Perform additional education and outreach prior to implementing biweekly garbage service to educate the public on the change. Alternatively, seek permission to implement a pilot project for biweekly garbage | Public Works | <p>Agree</p> <p>The ZWD will investigate the process of obtaining legal permission to pilot biweekly rubbish collection. We will identify the operational and outreach preparation necessary to evaluate the feasibility of this pilot.</p> | N/A                                    | <p>5/09/2017 Status: not submitted</p> <p><b>January 23, 2018 Update:</b></p> <p><b>Will not be Implemented</b></p> <p>Although a Solid Waste &amp; Recycling Manager and Recycling Program Manager is on staff, the Zero Waste Division, as an enterprise funded collection service division, is unstaffed and inexperienced to engage in the process change of State Law, which requires weekly collection of refuse. In addition, this would require significant lobbying of CalRecycle to approve a pilot program to collect refuse other than on a weekly basis.</p> <p>The Audit Report states that there is the potential of \$496,000 annual cost savings by switching to biweekly garbage service. However and as noted in the Audit Report, this is based on assumptions which:</p> <p>1) State law requires the refuse shall not remain on any premises more than seven (7) days. Berkeley would need to revise the State law, request a waiver or seek permission for a pilot program. This waiver or revision of State law will potentially require substantial lobbying members of City Council, State House of Representative(s) and Senator(s), as well as, of all the many County and State permitting and health agencies that would be involved to amend State law.</p> |



## ATTACHMENT No. 1

| <b>Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal</b> |                                                                                                                                                                                                                                                                    |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                    | <b>Lead Dept.</b>                                                                                                                                                                                                                                                  | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| service.                                                                                                                                               |                                                                                                                                                                                                                                                                    |                                                                           |                                               | 2) Require additional staff and funding to support a community educational outreach to ensure that refuse is not just reallocated by community members to the recycling and plant debris carts.<br>3) Public Works would need to enter into negotiations with the employee bargaining unit to an agreement whether positions can be eliminated through attrition or reassignment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Finding 2: Limited use of available technologies affects operational efficiencies</b>                                                               |                                                                                                                                                                                                                                                                    |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 2.1                                                                                                                                                    | Work with the Department of Information Technology to configure the CRM system with a required field that auto populates valid route information based on address and service delivery type so that route specific data can be collected on a going-forward basis. | Public Works                                                              | Agree                                         | <p>5/09/2017 Status: not submitted</p> <p><b>January 23, 2018 Update:</b><br/>Not implemented<br/>Currently the City is implementing an Enterprise Resource Planning (ERP) project to replace the FUND\$ system including the CRM application. ERP is a software with financial (accounting, billing, budget, contracts) and human resource (time entry, personnel, payroll, benefits) applications. As part of this project, ZWD has been working with IT and its consultant during the needs assessment phase to ensure that RouteSmart™ will interface with the selected software.</p> <p><b>June 4, 2018 Update:</b><br/><b>Not implemented</b><br/>IT with ZWD is soliciting many companies to demonstrate their invoicing, customer service, and routing systems. With the conclusion of the demonstrations, IT will develop an RFP that will soloist proposals for systems that will integrate with erma.</p> <p><b>December 2019</b><br/><b>March 12, 2019</b><br/><b>Not Implemented</b><br/>IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. As the FUND\$ system is in the process of being replaced, a new system was deemed necessary and IT issued an RFP for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019.<br/>The new system will require route optimization and will have an onboard system for drivers containing route information based on address and service delivery type so that route-specific data can be</p> |



## ATTACHMENT No. 1

| <b>Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal</b> |                                                                                                                                                                                                                                                                                                                                    |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                    | <b>Lead Dept.</b>                                                                                                                                                                                                                                                                                                                  | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                    |                                                                           | November 2022                                 | implementing a new computerized maintenance management system. Once that vendor has been selected, then 311 will issue an RFP for a new Customer Relationship Management system that will integrate with the Zero Waste solutions.<br><b><u>March 10, 2020 Update:</u></b><br><b>Not Implemented</b><br>After evaluating various applications and discussions between IT and PW, we have concluded that a link between RouteSmart and CRM cannot be installed. Therefore, the first step of soliciting a new Zero Waste software management system must address this. Then, a RFP for new routing software will be issued; IT-Customer Service will be soliciting a new CRM system. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 2.3                                                                                                                                                    | Appoint individuals at the management, supervisory, and line staff levels to meet and identify Zero Waste Division operational and analytical reporting needs based on the performance goals at each level of the organization. Work with IT staff to determine responsibility and establish timelines for developing the reports. | Public Works                                                              | Agree.                                        | September 2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 5/09/2017 Status: not submitted<br><b><u>January 23, 2018 Update:</u></b><br><b>Implemented</b><br>ZWD along with IT, 311 Call Center, and Revenue Collection have established a monthly meeting to address operational and reporting needs; and create action plans to address those identified needs. These monthly reports included reviewing and analyzing as a Group: 1) monthly 311 calls on various the community members zero waste issues, 2) develop resolutions on community members' zero waste issues (reviewed weekly by 311 and ZWD personnel), and 3) review and resolve community members' LAGAN cases created by 311 calls. |
| 2.4                                                                                                                                                    | Designate a business-line expert within the Zero Waste Division and require that expert to develop internal capacity to configure optimal collection routes and produce standardized reports for                                                                                                                                   | Public Works                                                              | Agree                                         | December 2018                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 5/09/2017 Status: not submitted<br><b><u>January 23, 2018 Update:</u></b><br><b>Not Implemented</b><br>In late 2016 and with RouteSmart™ staff input, ZWD reviewed its current staff capability to implement complete routing needs. And it was determined, the ZWD staff is not currently capable of this effort. ZWD has only recently achieved sufficient fund balance to have the funding ability to budget and requisition this job classification with its annual budget. With the completion of the optimization of                                                                                                                    |





## ATTACHMENT No. 1

| <b>Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal</b>                                                                                                                                                                                                                                                       |                   |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                          | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| confer with union representatives.<br>Purchase the software and hardware if cost beneficial.                                                                                                                                                                                                                                                                                                                 |                   |                                                                           | January 2021                                  | Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. These systems will utilize onboard mobile hardware. In addition, this system will integrate with the new GPS solution which will integrate with the Zero Waste solution allowing for real time decision making and route information. Exact capabilities of both systems will be validated and coordinated as part of the contracting process once the vendors are selected.<br><b><u>March 10, 2020 Update</u></b><br><b>Partially Implemented</b><br>IT released an RFP for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System will allow a follow-up RFP for Route Optimization System on October 18, 2018. One proposal was received. IT and Legal are in the process of finalizing a contract with the vendor with software installation to follow. Once this system is installed and operating, an RFP for onboard truck/route/customer reporting system may be released. |
| 2.6 Work jointly with the Department of Information Technology and the Department of Finance to develop and automate script flows in the CRM system to ensure that all cases undergo the appropriate reviews before a case can be closed. The final step in the script flow should be a final review by someone who has authority to verify that all required steps have occurred before the case is closed. | Public Works      | Agree                                                                     | October 2016                                  | 5/09/2017 Status:<br>not submitted<br><b><u>January 23, 2018 Update:</u></b><br><b>Implemented.</b><br>ZWD, IT, 311 Call Center, and Finance have developed script flows with use of the CRM tracking systems to ensure all cases receive appropriate review prior to closing. These cases are compiled and reviewed weekly and monthly by ZWD, IT, 311 Call Center, and Finance staff.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |            |                                                                    |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------|--------------------------------------------------------------------|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept. | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                                                                                                 |            |                                                                    | <p>June 2020</p> <p>January 2022</p>   | <p>Currently the City is implementing an Enterprise Resource Planning (ERP) project to replace the FUNDS system and to update the City website. With the installation of the selected ERP, then the CRM system can be integrated with the ERP system. This integration would allow community members' to track their issues, such as, missed pickups, cost of service, etc. only.</p> <p><b><u>March 12, 2019</u></b><br/> <b><u>Not Implemented</u></b></p> <p>IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018 for a complete Zero Waste Solution. Software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019. Subsequently, IT will be issuing an RFP for a new 311 system to replace LAGAN that will integrate with the Zero Waste solution. One of the objective of these new systems is to provide customers the ability to track their requests.</p> <p><b><u>March 10, 2020 Update</u></b><br/> <b><u>Partially Implemented</u></b></p> <p>IT released an RFP for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System will allow a follow-up RFP for Route Optimization System on October 18, 2018. One proposal was received. IT and Legal are in the process of finalizing a contract with the vendor with software installation to follow. Once this system is installed and operating, an RFP for onboard truck/route/customer reporting system may be released. With an onboard system linked to Customer Relationship Management (CRM) reporting system, customers could track status of their cases, such as, missed pickups, late routes, etc.</p> |





Office of the City Manager

INFORMATION CALENDAR  
March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Public Works

Subject: Audit Status Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity

INTRODUCTION

The Office of the City Auditor presented to the City Council a September 20, 2016 Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity<sup>1</sup>. The City Auditor conducted the audit to assess whether the City of Berkeley is correctly billing customers based on their actual refuse collection levels; whether all Berkeley residents are signed up to receive refuse, recycling and plant debris collection service as required by the Berkeley Municipal Code; and whether there are opportunities for improving both refuse and service delivery operations. The City Auditor requested the City Manager report back to Council on the status of recommendations until fully implemented or otherwise addressed.

CURRENT SITUATION AND ITS EFFECTS

The Audit Report included twelve (12) recommendations for the Office of the City Manager and Departments of Finance, Information Technology, and Public Works to review, implement, and report to Council regarding the status of recommendations. This is the fourth status report on those recommendations: six have been implemented; four have been partially implemented; and two will not implemented due to significant market changes and the unit's current priorities and staffing

The Solid Waste & Recycling Manager and Recycling Program Manager continues the review of the zero waste programs and, as needed, updated and/or revised them. City Council recently approved the Single Use Disposal Foodware and Litter Reduction Ordinance<sup>2</sup>, which has many program elements, such as, education, technical

<sup>1</sup> [https://www.cityofberkeley.info/uploadedFiles/Auditor/Level\\_3\\_-\\_General/A.2\\_RPT\\_Refuse%20Billing\\_Issue%20Fiscal%20Year%202016.pdf](https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/A.2_RPT_Refuse%20Billing_Issue%20Fiscal%20Year%202016.pdf)

<sup>2</sup>

[https://www.cityofberkeley.info/Public\\_Works/Zero\\_Waste/Berkeley\\_Single\\_Use\\_Foodware\\_and\\_Litter\\_Reduction\\_Ordinance.aspx](https://www.cityofberkeley.info/Public_Works/Zero_Waste/Berkeley_Single_Use_Foodware_and_Litter_Reduction_Ordinance.aspx)

assistance, waiver program, etc., that need to be implemented by existing staff upon adoption, thus delaying implementation of other previously approved City and State regulations, ordinances, and programs, including audit recommendations. Please see Attachment 1 for a detailed table of audit report recommendations, corrective actions and implementation progress. The next status report and anticipated final report to Council will be scheduled to be submitted in March 23, 2021. The twelve months of additional time between audit updates will allow Zero Waste to focus on actions that will close the audit.

### BACKGROUND

Berkeley's community members, residential and commercial, have reduced landfilled refuse from 86,000 tons in 2007 to approximately 67,000 tons in 2015. The materials not landfilled have been reallocated to recyclable material streams. While the portion of material going to landfills has decreased, the Department of Public Works' Zero Waste Division's Transfer Station is managing almost the same volume of total material. For example, plant debris and food waste are no longer accepted in the gray/black refuse container, but instead are disposed of in the green container for collection turned into compost for beneficial reuse.

In 2015, the City of Berkeley's Solid Waste Management Facility Transfer Station accepted and transported to its contractors, approximately 67,000 tons of refuse (landfilled), 33,000 tons of plant debris and food waste (composted), 15,000 tons of fibers (diverted) and 30,000 tons of construction and demolition debris (diverted for sorting and reuse). Materials that were once bound for the landfill have been successfully separated by both residential and commercial community members into materials that are now recycled, reused and diverted from the landfill.

In addition, Zero Waste's collections operations include collection of four different material types, delivery and collection of carts and/or bins, managing customer requests for service and concerns, and increasing and decreasing service levels. It is a complex enterprise involving various departments' systems, including Finance and Information Technology, and both manual and automated collection services and revenue collection partners.

### ENVIRONMENTAL SUSTAINABILITY

With the implementation of the Audit's recommendations, the Zero Waste Division will continue to help reduce the volume of waste landfilled and:

- Increase residential composting, recycling, and source reduction.
- Increase commercial composting, recycling, and source reduction.
- Increase recycling of construction and demolition (C&D) debris.
- Expand efforts to eliminate waste at its source.
- Increase waste diversion in public buildings.

All of these above noted items promote the City's zero waste goal and are included in the approved Climate Action Plan Goals for Waste Reduction and Recycling.

POSSIBLE FUTURE ACTION

Department of Public Works will continue to take timely and focused action(s) to address those recommendations that remain outstanding and partially implemented. The Zero Waste Division is in the process of working with Information Technology and Finance to select the necessary software solution(s) that will facilitate the implementation of the Audit recommendations.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The Department of Public Works will update Council on a periodic basis on the progress, resources available or additional funding needs to address those recommendations that remain outstanding and partially implemented.

CONTACT PERSON

Greg Apa, Solid Waste and Recycling Manager, (510) 981-6359  
Heidi Obermeit, Recycling Program Manager, (510) 981-6357

Attachment:

1. Audit Findings and Recommendations Response Form



## ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                               |                                               |                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|-----------------------------------------------|----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                | <b>Lead Dept.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b>                     | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Finding: Integrated thinking about zero waste operations will help ensure accurate billings and customer equity</b>             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                               |                                               |                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1.1                                                                                                                                | Agree to a common and unified vision for zero waste operations. Discuss the long-term zero waste goals, objectives, and key initiatives and share that information with those responsible for day-to-day operations. Use meetings and informal communications to regularly encourage staff to embrace a unified view of zero waste operations.                                                                                                                                                                                              | City Manager's Office and Team<br>Response: Public Works, Finance, and Information Technology | Agree                                         | October 2016                                                                           | <b>January 23, 2018 Update Implemented</b><br>Since late 2015, Zero Waste, 311, and IT (called collectively the Customer Solutions Group or Group) have met on a monthly basis to discuss operational issues that affect the three divisions. Given that this Group was already in place and per the Auditor's recommendation, the Group opted to include Finance as a participant instead of creating of a separate team and meeting.<br>The meetings' monthly agenda identifies that the Group's primary focus is the development and continuous implementation of a common approach by all members to ensure a unified vision for zero waste operations for all community members. In addition, the meetings' agenda details those customers' issues as they occur, so that, the Group's members resolve them. These resolutions are applied by the Group to continue its efforts to strive towards the City's zero waste goals and the initiatives needed to attain these goals.                   |
| 1.2                                                                                                                                | Form a zero waste team comprised of managers and line staff involved with zero waste operations (i.e., waste collection, billings, customer calls, systems support). Include a diverse pool of people who can share ideas, resources, and knowledge. Have the team members' work collectively to evaluate their respective functions; the interrelationships among their departmental activities; and the practices, policies, and procedures they use to perform their zero waste account management and operations functions. Ensure that | Team<br>Response: Public Works, Finance, and Information Technology                           | Agree                                         | October 2016                                                                           | <b>September 20, 2016 Update Implemented</b><br>Zero Waste, 311, and IT meet on a monthly basis to discuss operational issues that affect the three divisions. This meeting schedule has been in existence for over one year.<br>Since there was already a setup in place, we decided to include Finance as a participant versus create a separate team. We expanded the group and meeting scope to accommodate the Auditor's recommendations. At every meeting, it will be the first agenda item to make sure all participants are made aware of the team's concept. We will consider this completely implemented by October 2016, as at that time we will have met twice within the capacity required by this audit recommendation. This will be a regular meeting for the foreseeable future. The team members do understand that the Zero Waste operation is an enterprise with different parts and that the success of the operation depends on each of these distinctive units working together. |

ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                  |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Lead Dept.</b>                                                | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| the team understands that their goal is to develop and support a holistic approach to zero waste operations not only to ensure billing accuracy, but also to help accomplish zero waste by 2020 and ensure continued efficient and effective operations beyond that achievement.                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                  |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1.3 Require the zero waste team formed in response to recommendation 1.2 to develop written procedures that clearly support cross- departmental strategies and help staff perform their work, as well as understand how their work contributes to success. Include information that helps promote the unified view of zero waste operations, while also explaining the individual tasks that take place within the departments and how those connect. Examples include, but are not limited to, describing the process for routing customer cases from 311 calls, and detailing in layman’s terms the monthly updates that take place to align the CX and RouteSmart systems. Also see recommendation 1.2. | Team Response: Public Works, Finance, and Information Technology | Agree                                                                     | Originally Expected December 2017             | <p><b>September 20, 2016 Update</b><br/>Staff from the Zero Waste Division, 311 Customer Service Center, Information Technology, and Finance Revenue Collection are reviewing and updating standard operating procedures for refuse and recycling services; reconfiguring and updating webpages; and creating technical assistance tools for zero waste customers. In July 2016, the group participated in an IT Strategic Plan Workshop to review the start of service process using the Rapid Workflow Process Model. The group will use this model to review other critical workflow processes.</p> <p><b>January 23, 2018 Update</b><br/><b>Partially Implemented</b><br/>The Customer Solutions Group is constantly reviewing and updating standard operating procedures for refuse and recycling services; reconfiguring and updating webpages; and creating technical assistance tools for its zero waste customers. An example of this effort is Zero Waste and 311 identified issues related to responding to the community members complaints related to collection services. Zero Waste and 311 developed 311’s scripted response and Solid Waste Supervisor response flow chart to ensure these issues were addressed within a 48 hour time frame.<br/>In July 2016, the Group participated in an IT Strategic Plan Workshop to review the start of service process using the Rapid Workflow Process Model. And as of this date, the ERP implementation schedule hasn’t reached its scheduled timeline to integrate CX and RouteSmart systems. Nonetheless, the Group will use this Model to review other critical workflow processes to ensure that updates are developed in layman’s terms in its monthly updates.</p> |

ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                               |                                           |                                                                           |                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                              | <b>Lead Dept.</b>                         | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b>             | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                                                                                                  |                                           |                                                                           | <p>July 2019</p> <p>December 2019</p> <p>January 2021</p> | <p><b><u>September 25, 2018 Update</u></b><br/> <b>Partially Implemented</b><br/>                     IT administration, IT-311 and Zero Waste have commenced efforts, such as, an As-Is (existing software) review to improve customer interface with the City and a To-Be (future software) for the development of an RFP to solicit new software for new customer interface, refuse billing and routing systems. These reviews were facilitated by the City's software consultant, Third Wave. The RFP is tentatively scheduled for a late 2018 release.<br/>                     Rather than the purchase of another software system to integrate the existing inefficient (i.e., requires another software program to be bolted on to existing software), and inadequate software, a new routing and customer billing system would replace the CX and RouteSmart™ systems, integrate with ERMA and would be customer driven resolution and coordinated billing system.</p> <p><b><u>March 12, 2019 Update</u></b><br/> <b>Partially Implemented</b><br/>                     IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. The RFP was for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019</p> <p><b><u>March 10, 2020 Update</u></b><br/> <b>Partially Implemented</b><br/>                     Information Technology Department and Legal are in the process of finalizing a contract with the vendor ACMS. Staff anticipate that the new software will be installed by late 2020. This new software will improve the City's billing and analysis of many metrics needed to assess accomplishing the City's Zero Waste Goal.</p> |
| 1.4 Require the zero waste team formed in response to recommendation 1.2 to have regular meetings, e.g., quarterly, to share information about their operations and the known or | Team Response: Public Works, Finance, and | Agree                                                                     | October 2016                                              | <p><b><u>September 20, 2016 Update</u></b><br/> <b>Implemented.</b> As we mentioned in response to recommendation 1.2, we expanded our existing monthly meeting to include Finance. The purpose of those meetings has always been to share information about operational and staff challenges. We expanded the meeting to include the specific suggestions of this recommendation. This initiative will be a continuous process that will be put in place for years to come as</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

ATTACHMENT No. 1

| Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                         |                                                                    |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|--------------------------------------------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Lead Dept.                              | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>expected changes and events that may impact cross-functional efforts. These meetings may need to be more frequent at first and less frequent over time. The team should use their meeting time to:</p> <ul style="list-style-type: none"> <li>▪ Identify continued barriers to change.</li> <li>▪ Decide on solutions that will help overcome barriers.</li> <li>▪ Share information about the challenges preventing staff from meeting operational objectives.</li> <li>▪ Make cross-departmental decisions to improve processes and customer service.</li> </ul> <p>Also see recommendation 1.2.</p> | Information Technology                  |                                                                    |                                        | it becomes part of managing the operations of Zero Waste.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>1.5 In collaboration with Information Technology and as part of Enterprise Resource Planning, budget for, select, and install an account management system designed for zero waste activities. Use information from the zero waste team evaluation (recommendation 1.2) and zero waste strategy analyses (recommendation 1.8) to identify the critical business needs that should be included in the purchase</p>                                                                                                                                                                                      | Team Response: Public Works and Finance | Agree                                                              |                                        | <p><b>January 23, 2018 Update</b><br/> <b>Not Implemented</b><br/>                     The current Customer Relationship Management (CRM) system will not integrate with RouteSmart™ due to both FUNDS and CRM system limitations. The City is currently engaged in the Enterprise Resource Planning process to replace the FUNDS and then integrate the CRM system, which according to the current schedule by June 2019. The long term solution will be to procure a new customer management, operations and billing software that will fully integrate the RouteSmart™ with the new ERP. Zero Waste Division and the Customer Solutions Group is actively engaging with IT to ensure that the new ERP system recognizes that Zero Waste Division is an enterprise funded operation. That is, it would be desirable to utilize RouteSmart system’s capabilities to generate customer driven service requests (work orders), whereas the current ERP system is a City staff internally generated system input. IT has recognized that to provide seamless CRM service that a Request for Proposals (RFP) for an application that delivers the most efficient financial and operational software system</p> |

ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                                                |                                        |                                                                           |                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                               | <b>Lead Dept.</b>                      | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b>             | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>of new zero waste account management system, or that should be considered when determining whether sufficient middleware options exist to fully integrate existing systems with the new account management software. Also see recommendations 1.2 and 1.8.</p> |                                        |                                                                           | <p>July 2019</p> <p>December 2019</p> <p>January 2021</p> | <p>that specifically handles the Zero Waste collection services will be written in FY2018 as part of Phase 2 of the ERP project.</p> <p><b>September 25, 2018 Update</b><br/><b>Partially Implemented</b><br/>IT administration, IT-311 and Zero Waste have commenced efforts, such as, an As-Is (existing software) review to improve customer interface with the City and a To-Be (future software) for the development of an RFP to solicit new software for new customer interface, refuse billing and routing systems. These reviews were facilitated by the City’s software consultant, Third Wave. The RFP is tentatively scheduled for a late 2018 release.<br/>Rather than the purchase of another software system to integrate the existing inefficient (i.e., requires another software program to be bolted on to existing software), and inadequate software, a new routing and customer billing system would replace the CX and RouteSmart™ systems, integrate with ERMA and would be customer driven resolution and coordinated billing system.</p> <p><b>March 12, 2019 Update</b><br/><b>Partially Implemented</b><br/>IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. The RFP was for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019.</p> <p><b>March 10, 2020 Update</b><br/><b>Partially Implemented</b><br/>Information Technology Department and Legal are in the process of finalizing a contract with the vendor ACMS. Staff anticipate that the new software will be installed by late 2020. This new software will improve the City’s billing and analysis of many metrics needed to assess accomplishing the City’s Zero Waste Goal.</p> |
| <p>1.6 Incorporate systems thinking into the hiring process for both competitive and promotional recruitments:</p> <ul style="list-style-type: none"> <li>Describe the interdependent</li> </ul>                                                                  | <p>Team Response: Public Works and</p> | <p>Agree<br/>Difficult to implement I and II because</p>                  | <p>October 2016</p>                                       | <p><b>September 20, 2016 Update</b><br/>Public Works is currently recruiting for zero waste and using the interview techniques described. Finance and IT, however, are not in the process of, or able to identify when they will be, recruiting for a position for which this recommendation applies. Therefore, we cannot identify a future implementation date. However, both IT and</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                                                                                                                                       |                   |                                                                                                                                                                                                                                                                                             |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                      | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b>                                                                                                                                                                                                                   | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>nature of zero waste operations in job announcements.</p> <ul style="list-style-type: none"> <li>Highlight the cross-functional responsibilities and relationships in job descriptions. Discuss cross-functional experiences during job interviews to gain an understanding of an applicant's mindset about shared accountability.</li> </ul>         | Finance           | some classifications are not specific to Zero Waste operations but are general classification that are Citywide Item III – During job interviews for Zero Waste functions, questions are tailored to potential hires about the working conditions specifically as the relate to Zero Waste. | October 2016                                  | <p>Finance applied these concepts in recent hires. Additionally, all the departments intend to use the concepts described in the recommendation as much as allowable and consider this recommendation implemented.</p> <p>During the interview process, candidates are provided an overview of Zero Waste Division operations including relationships with other departments, the strategic priorities used to guide our everyday thinking and application of resources, and owning the commitment to excel in the areas of courtesy, knowledge, promptness, and teamwork.</p> <p>To the extent possible and allowable by the City's recruitment practices, we will include in our recruitment materials information that conveys to applicants for general classifications that their work will include cross-functional responsibilities and shared accountability.</p> <p><b>January 23, 2018 Update</b><br/><b>Implemented</b></p> <p>The Departments of Public Works and Human Resources have reviewed the process of development of job announcements, such as, the recent hiring of Zero Waste Division Operations Manager to directly address the issues noted in this Recommendation. With this job description for the Operations Manager and future Zero Waste management, administrative and operation staff positions will include a description of the interdepartmental nature of zero waste operations, and highlight cross-functional responsibilities.</p> |
| <p>1.7 Require that someone other than the person who manually calculated the zero waste rates and entered the updated rates into the CX module perform an independent review of the calculations and data entry for accuracy. Have the reviewer report back on any errors. Ensure that management is also notified of the errors, verifies that the</p> | Finance           | Agree                                                                                                                                                                                                                                                                                       | May 2015                                      | <p><b>September 20, 2016 Update</b><br/>Completed. For FY 2016 updates, which was input in 2015, Finance implemented a Quality Assurance process in which an error report was produced by IT. The Supervisor reviewed the report and made corrective changes. The report was re-produced two other times to make sure all the error were fixed and the Manager of the unit signed off on the final report before finalizing system changes.</p> <p><b>January 23, 2018 Update:</b><br/><b>Implemented</b></p> <p>The initial base rates were approved by Resolution No. 66,600-N.S. effective July 1, 2014 for FY2015. The Department of Public Works administration calculates the next</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |





ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                             |                   |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                            | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                                                                                                                                                                                                                                                |                   |                                                                           | <p>December 2019</p> <p>January 2021</p>      | <p>software were identified. Additionally, IT facilitated the key departments to complete an As-Is analysis of existing software to identify areas of improvement. The departments have completed s To-Be analysis of future software which was the basis for a Request For Proposals (RFP) to solicit new software for new customer interface, refuse billing and routing systems. Both the CX (customer account management and billing software) and RouteSmart™ (collection routing software) systems are planned for replacement within the next year. These reviews were facilitated by the City’s software consultant, Third Wave. The RFP is tentatively scheduled for late 2018 release. IT administration, IT-311 and Zero Waste are collaborating to ensure a unified approach.</p> <p>This new routing and customers billing software will the CX and RouteSmart™ Systems and integrate with Erma, the City’s new financial software system. The new software will be customer driven and provide enhanced, coordinated billing system.</p> <p><b>March 12, 2019 Update</b><br/><b>Partially Implemented</b><br/>IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. The RFP was for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019.</p> <p><b>March 10, 2020 Update</b><br/><b>Partially Implemented</b><br/>Information Technology Department and Legal are in the process of finalizing a contract with the vendor ACMS. Staff anticipate that the new software will be installed by late 2020. This new software will improve the City’s billing and analysis of many metrics needed to assess accomplishing the City’s Zero Waste Goal.</p> |
| <p>1.9 Perform, or contract for, a fully comprehensive route audit to align service delivery with billing rates. Use the route audit to:</p> <ul style="list-style-type: none"> <li>Make CX module and/or RouteSmart system updates</li> </ul> | Public Works      | Agree                                                                     | Originally expected: July 2018                | <p><b>September 20, 2016 Update</b><br/>As part of the route audit, actual service levels will be compared against data in the CX module and appropriate updates made to ensure that all residential and commercial accounts are receiving required services and billed correctly for those services. Route books will also be updated to reflect the results of the route audit.</p> <p><b>January 23, 2018 Update</b><br/><b>Not Implemented</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |



ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                                                                                                                                                                                                                                             |                   |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>to ensure customers are billed correctly for their City-provided services.</p> <ul style="list-style-type: none"> <li>▪ Ensure that all residential accounts are receiving required services.</li> <li>▪ Ensure that the commercial accounts that the City is responsible for receive and pay for the zero waste services required by City policy. Verify that roll-off bin customers serviced by the Zero Waste Division are accurately billed.</li> </ul> |                   |                                                                           | December 2019                                 | <p>IT has created a table for monthly routing development that extracts customer information from the FUNDS and provides the data to be then downloaded into RouteSmart™. Due to the FUNDS system limitations, this link takes hours to download information into RouteSmart™. The company, RouteSmart™, has stated that this integration process should take minutes. The City will be replacing the ERP system in June 2019 and then the CRM system would be upgraded or replaced. The long term solution is to integrate the new customer management, operations and billing software with RouteSmart™. With RouteSmart™ full utilization and the integration of a work order system, the invoicing system could be customer based, i.e. customers' billing and services are directly linked with the new EFP implementation, to allow the City to more easily reconcile services provided with customers' invoices.</p> <p><b><u>September 25, 2018 Update</u></b><br/> <b>Partially Implemented</b></p> <p>IT facilitated the key departments to complete an As-Is analysis of existing software to identify areas of improvement. The departments have completed a To-Be analysis of future software which was the basis for a Request For Proposals (RFP) to solicit new software for new customer interface, refuse billing and routing systems. Both the CX (customer account management and billing software) and RouteSmart™ (collection routing software) systems are planned for replacement within the next year. These reviews were facilitated by the City's software consultant, Third Wave. The RFP is tentatively scheduled for late 2018 release. IT administration, IT-311 and Zero Waste are collaborating to ensure a unified approach.</p> <p>This new routing and customers billing software will the CX and RouteSmart™ Systems and integrate with Erma, the City's new financial software system. The new software will be customer driven and provide enhanced, coordinated billing system.</p> |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                   |                                                                           | December 2019                                 | <p><b><u>March 12, 2019 Update</u></b><br/> <b>Partially Implemented</b></p> <p>IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. The RFP was for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                   |                                                                           | January 2021                                  | <p><b><u>March 10, 2020 Update</u></b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

## ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b> |                   |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                                                                                                                    |                   |                                                                           |                                               | <b>Partially Implemented</b><br>Information Technology Department and Legal are in the process of finalizing a contract with the vendor ACMS. Staff anticipate that the new software will be installed by late 2020. This new software will improve all billing information and then will allow the City to release an RFP for a Routing Software system that is user friendly. This new Routing system will then ensure accurate data for efficient route audit.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 1.10                                                                                                                               | Public Works      | Agree.                                                                    | December 2016                                 | <b>September 20, 2016 Update</b><br>We agree that the actual service levels should be compared against route books but believe that enforcing the policy to have drivers do onsite comparisons is no longer an efficient use of our drivers' time. We are exploring other options, such as using student interns to do the comparisons.<br><b>January 23, 2018 Update</b><br><b>Implemented</b><br>The Zero Waste drivers are reminded monthly to verify actual service levels with the route books for their collection routes by the Zero Waste Management Team. The Zero Waste dispatcher(s) are in constant communication with the drivers to ensure service levels are correct. If service levels are not corrected, Zero Waste Supervisor(s) undertake appropriate corrective actions to ensure verification.                                                                                                                                                                                                                                                                                                                                                                                       |
| 1.11                                                                                                                               | Public Works      | Agree                                                                     | Originally Expected: December 2017            | <b>September 20, 2016 Update</b><br>The City has contracted with a consultant to assess development and implementation costs related to the City's planned in-house commercial hauling system, and evaluate the financial and operational impacts of that system on the City and on existing commercial customers. The study will look at future franchise agreements for waste collection services and will include these factors.<br><b>January 23, 2018 Update</b><br><b>Not Implemented</b><br>The City Council approved a recommendation to replace the current non-exclusive franchise collection system for commercial refuse and recyclables with in-house commercial refuse and recycling collection services except for roll-off service. In FY19, Public Works' will be issuing an RFP to solicit a consultant to review all Transfer Station and residential and commercial community members' rates. Once contracted, the consultant will assess development and implementation costs related to redesigning the franchise commercial hauling system to provide for roll-off and compactor services. Then, the consultant will evaluate the financial and operational impacts of that system |

ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b> |                                                                                                                                                                                 |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                | <b>Lead Dept.</b>                                                                                                                                                               | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                                                                                    |                                                                                                                                                                                 |                                                                           | July 2019                                     | <p>on the City and on existing commercial customers.</p> <p><b><u>January 23, 2018 Update</u></b><br/> <b>Not Implemented</b><br/>                     No changes since last report, but progress continues on this item.</p> <p><b><u>September 25, 2018 Update</u></b><br/> <b>Not Implemented</b><br/>                     No changes since last report, but progress continues on this item.</p> <p><b><u>March 12, 2019 Update</u></b><br/> <b>Not Implemented</b><br/>                     With Zero Waste Division successful completion in March 2018 of the integration of commercial accounts (440 +) formerly collected under the existing Non-Exclusive Commercial Hauler Franchise Agreement system, revision of the existing system is not required. Zero Waste does not anticipate issuing new Franchise Agreements but will work with the three existing Franchisees during the next Franchise Agreement renewal process in 2020 to enhance reporting requirements. Public Works will also evaluate the published fees as set by resolution as listed in 9.60.260 of the Municipal Code.</p> <p><b><u>March 10, 2020 Update</u></b><br/> <b>Will Not Implement</b><br/>                     With the inclusion of these commercial accounts collected by Zero Waste, revision of the existing Non-Exclusive Commercial Hauler Franchise Agreement (NECGF) will not be conducted. These agreements represent 0.8% (8/10 of 1%) of the City's total recycling material volume, and the severe reduction in market values of these materials since mid-2009, this effort would require significant staff (which is not currently budgeted) with a small amount of revenue that may be recovered.<br/>                     Without the addition of 2 or 3 positions in Zero Waste, this rewrite and expansion of the NECGF would require significant staff time (which is not currently budgeted) to develop, implement and enforce agreements to regulate commercial roll-off boxes, i.e., eight (8) cubic yards or larger.</p> |
| 1.12                                                                                                                               | Continue to investigate whether the franchise hauler erroneously removed recyclables from its fee calculations and, if so, back bill as allowable, per state law and city code. | Public Works                                                              | Partially Agree                               | <p>Originally Expected; December 2016</p> <p><b><u>September 20, 2016 Update</u></b><br/>                     City Council Approved a Public Works <u>Action Calendar Item</u> to replace the current non-exclusive franchise collection system. Public Works' long-term plan is for the department to take over all commercial zero waste services except for roll-off containers and compactors. Given the planned changes, it is not practical or cost-effective to undertake the task of investigating the past fee calculations. However, moving forward, for any franchise hauler agreements we may have, we will require</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b> |                   |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                                                                                                                    |                   |                                                                           | <p>October 2018</p> <p>June 2020</p>          | <p>that staff have written procedures in place that describe the correct calculations for determining what that haulers owe the City, and that staff review invoices for accuracy in comparison to those calculation requirements.</p> <p><b><u>January 23, 2018 Update</u></b><br/> <b><u>Alternative Implemented</u></b><br/>                     At its May 26, 2015<sup>1</sup>, the City Council approved a Department of Public Works Action Calendar Item to replace the current non-exclusive franchise collection system. The Council's approved Public Works' long-term plan for in-house collection of these non-exclusive commercial waste collection services except for roll-off and compactor services. This in-house commercial waste collection by Zero Waste Division is scheduled to start March 1, 2018 as detailed at the October 10, 2017 Council Worksession<sup>2</sup>. Given the approved action with the non-exclusive franchisees termination, it would be neither practical nor cost-effective to undertake the task of investigating the past fee calculations. ZWD staff agrees for any future franchise hauler agreements for roll-off and compactor services that staff will have written procedures in place that describe the correct calculations to determine what that owe the City, and that staff will review invoices for accuracy in comparison to those calculation requirements.</p> <p><b><u>September 25, 2018 Update</u></b><br/> <b><u>Partially Alternately Implemented</u></b><br/>                     Beginning in March 2018, the Zero Waste Division began collecting commercial waste, recyclables and compost in-house, except for roll-off and compactor services. Written procedures that describe the correct calculations are in progress concurrence with the implementation of Erma, the City new financial software system, to start October 1<sup>st</sup>.</p> <p><b><u>March 12, 2019 Update</u></b><br/> <b><u>Partially Alternately Implemented</u></b><br/>                     Given the roll-out issues associated with the November 1st implementation of the City's new enterprise resource planning system, "Erma", staff time has been rerouted to resolve. This project is on hold.</p> |

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2015/05\\_May/Documents/2015-05-26\\_Item\\_34\\_Zero\\_Waste.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2015/05_May/Documents/2015-05-26_Item_34_Zero_Waste.aspx)

<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2016/09\\_Sep/Documents/2016-09-13\\_WS\\_Item\\_01\\_Zero\\_Waste\\_Worksession.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2016/09_Sep/Documents/2016-09-13_WS_Item_01_Zero_Waste_Worksession.aspx)

ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b> |                   |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                                                                                                                                    |                   |                                                                           |                                               | <p><b>March 10, 2020 Update</b><br/> <b>Will Not Implement</b><br/>                     With the inclusion of these commercial accounts collected by Zero Waste, investigation of the existing Non-Exclusive Commercial Hauler Franchise Agreement (NECGF) paying franchise fees on recyclables will not be conducted. Currently the City is collecting estimated 128 tons of recyclable material (12/2017 vs. 12/2018) from these 440+ commercial accounts. Given this volume, which is 0.8% (8/10 of 1%) of the City's total recycling material volume, and the severe reduction in market values of these materials since mid-2009, this effort would require significant staff (which is not currently budgeted) with a small amount of revenue that may be recovered.</p> |



Commission on Disability

## INFORMATION CALENDAR

March 10, 2020

To: Honorable Mayor and Members of the City Council

From: Commission on Disability

Submitted by: Alex Ghenis, Chairperson, Commission on Disability

Subject: Proposed Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley

### INTRODUCTION

The Commission on Disability recently agreed upon a series of priorities for 2019 and early 2020. One of these priorities is a proposed “Navigable Cities” framework to guide investments, regulations, and other actions in the City of Berkeley. An initial Navigable Cities framework was approved by the Commission in its meeting on April 3, 2019. The framework features three (3) Principles of Navigable Cities and four (4) initiatives that the Commission on Disability will pursue throughout 2020. The full Navigable Cities outline is attached to this informational item.

The Commission on Disability requests that the City Council review and support the Navigable City framework, principals and initiatives. The Commission will provide updates to the City Council on progress moving forward, including any information discovered by the Commission, proposed action items for the City Council, etc. (Item approved 5/1/2019 to be submitted with photos. Motion: Singer, Second: Ramirez, Walsh: Aye, Smith: Aye, Ghenis: Aye, Weiss: Aye, Leeder: LOA, Abstain: 0. Photos approved 11/6/2019: Motion: Leeder, Second: Singer, Smith: Aye, Walsh: Aye, Ghenis: Aye, Ramirez: Aye, Absent: 0 Abstain: 0)

The full principles and initiatives of Navigable Cities are featured in the attached document. They are summarized here:

#### Principles:

1. All people residing in and/or visiting the City of Berkeley have the right to efficient, convenient and barrier-free movement.
2. People with disabilities (PWDs) often have distinct transportation-related needs and may be less able to navigate around items obstructing pathways.

3. Changes to commercial activities and government policies (whether in Berkeley, the Bay Area, the State of California, or the United States as a whole) can have notable impacts on navigability.

#### Initiatives:

1. Support smooth, barrier-free pathways frequently used by PWDs.
2. Ensure that new transportation services provide appropriate access to PWDs and do not negatively impact navigability.
3. Provide appropriate input on plans to adjust the layout of neighborhoods, urban centers, streets, pathways, etc.
4. Address the availability and accessibility of appropriate parking options, especially in city-owned and/or city-maintained parking lots/garages.

#### CURRENT SITUATION AND ITS EFFECTS

Proposed “navigable cities” framework for ensuring access and freedom-of-movement for people with disabilities in Berkeley is a Strategic Plan Priority Project, advancing our goal to champion and demonstrate social and racial equity.

The City of Berkeley contains hundreds of miles of streets, sidewalks and other public spaces (e.g. outdoor plazas and parks). Many streets, sidewalks, bicycle pathways and other public spaces do not provide smooth navigation for people with disabilities (PWDs), who collectively represent around 15% of the City’s residents and visitors. In addition, Berkeley features many transportation options including pedestrian and bicycle pathways, BART, buses, paratransit, nonprofit transportation services, transportation network companies (TNCs, e.g. Uber & Lyft), bike-sharing services, etc.; however, not all of these provide full access to people with disabilities, endangering independence and potentially violating civil rights. Examples of inaccessibility include:

- Not all sidewalks feature “curb cuts” at intersections, meaning that individuals using wheelchairs or scooters must essentially take detours – either a full block, or to a nearby driveway. Exiting through driveways may present dangers, such as a lack of visibility to oncoming cars.
- Many sidewalks are excessively uneven, for example as tree roots push soils upward and displace sections of sidewalk. The exact nature of sidewalk damage varies across the City – some feature clear vertical breaks between sidewalk segments, while some sidewalks have “bumps” and cracks.
- Construction of new buildings and maintenance to pathways blocks sidewalks, forcing individuals to use designated temporary pathways or cross streets entirely. Certain pathways do not feature appropriate accessibility – such as ramps from sidewalks to street-level pathways – or are otherwise difficult to navigate.

- “Shared mobility” services – e.g. ride-sharing and shared bicycles (Ford Go-Bike, etc.) – do not always feature fully-accessible products and services. For example, TNCs have only recently introduced wheelchair-accessible vehicles, which still feature delays compared to TNCs’ regular time frames. Bike-sharing services do not provide alternative, accessible options for individuals with limited balance who could otherwise ride tricycles. Proposed motorized scooters likewise do not provide accessible options, and scooter-riders on sidewalks present dangers to many PWDs.
- Items which are present in the middle of sidewalks and other public spaces may pose barriers to some PWDs; these items include the large sign downtown announcing BART and bus schedules, as well as informational kiosks being explored by City Council and staff. Barriers are of particular concern to individuals who are blind or low-vision and have become familiar with Berkeley’s pathways without obstacles.

These items and more represent ongoing barriers and progressing problems for PWDs in Berkeley. The Commission on Disability is concerned by a lack of accessibility, in general and especially considering Berkeley’s identity as the home of the modern disability rights movement.

#### BACKGROUND

None noted, aside from the information above.

#### ENVIRONMENTAL SUSTAINABILITY

The Commission on Disability believes that pursuing a Navigable Cities framework will present opportunities to improve environmental sustainability. For example, more easily navigable pedestrian pathways and accessible alternatives to shared bicycles will enable PWDs to reduce reliance on personally-operated vehicles and related carbon emissions. The Commission will consider sustainability in its Navigable Cities initiatives.

#### POSSIBLE FUTURE ACTION

Unknown.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Unknown.

#### CONTACT PERSON

Dominika Bednarska, Disability Services Specialist  
(510) 981-6418

#### Attachments:

1: Attachments: Pictures and image descriptions of sidewalk issues.



**From:** Shira Leeder [mailto:shira@leeder.com]

**Sent:** Tuesday, September 24, 2019 2:34 AM

**To:** Helen Walsh <branach@comcast.net>; Bednarska, Dominika <DBednarska@cityofberkeley.info>; Alex Ghenis <alex.ghenis@gmail.com>

**Subject:** Re: Shira's unsafe sidewalk experience Photos and notes

Photo 1: Rose and Henry streets pass the Safeway.

Side uneven tree roots causing cracks and uneven pavement making it unsafe for wheelchair users especially those with mobility equipments and seniors, it's like a roller coaster going down a deep grade drop.

Photo 2: 2 blocks away from Rose and Henry around apt 137 uneven side walk by tree. Side walk goes up then angles down very unsafe for wheelchair uses and those with mobility devices.

Photo 3: Up from last photo uneven sidewalk pavement unsafe for wheelchair and those with mobility devices and baby strollers.

Photo 4: by bus stop Berryman street uneven pavement unsafe for wheelchair, mobility devices and baby strollers to pass. The sidewalk needs to be repaved the entire block because the sidewalk is bumpy and dangerous and too narrow. I have to go in the streets where vehicles are and it is risky because of taking chances of being hit and killed.

Photo 5: Sutter and Amador streets by bus stop uneven pavement bump in front of curb cut making it unsafe to pass. I have to use bike lane against traffic or with traffic depending on where I am going especially going home when going toward Solano Avenue. That whole two or three blocks of that since from Shattuck and Rose going toward Sutter street needs to be repaved and put several stop signs or pedestrians safely signals.

Photo 6: No curb cut, drive way cracked sidewalk and street, gravel ditch my wheelchair has to go up or down. This is by the bus stop. The sidewalks are too narrow and at a down incline.

Photo 7: Using bike lane in opposite direction no other cross walks or ways to get to sidewalk. I have to ride in the streets / bike lanes if the sidewalks are too bumpy and hazardous and if there are tree roots issues or construction zones,

Photo 8: No curb cut from bike lane using only cross walk to cross street, no stop sign cars go fast and not stop especially at night time with no street lights and signal to walk in the crosswalk without risking of being hit and killed by vehicles passing by.

On Monday, September 23, 2019, 3:25:08 PM PDT, Helen Walsh <[branach@comcast.net](mailto:branach@comcast.net)> wrote:

Photo 1: Rose and Henry

side uneven tree roots causing cracks and uneven pavement making it unsafe for wheelchair users.

Photo 2: 2 blocks away from Rose and Henry around apt 137 uneven side walk by tree. Side walk goes up then angles down very unsafe for wheelchair uses.

Photo 3: Up from last photo uneven sidewalk pavement unsafe for wheelchair.

Photo 4: by bus stop Berryman street uneven pavement unsafe for wheelchair to pass.

Photo 5: Sutter street by bus stop uneven pavement bump in front of curb cut making it unsafe to pass. I have to use bike lane against traffic or with traffic depending on where I am going.

Photo 6: No curb cut, drive way cracked sidewalk and street, gravel ditch my wheelchair has to go up or down. This is by bus stop.

Photo 7: using bike lane in opposite direction no other cross walks or ways to get to sidewalk.

Photo 8: no curb cut from bike lane using only cross walk to cross street. no stop sign cars go fast.

iSent from the Event Horizon





































**From:** MARTHA SINGER [mailto:marthasinger@me.com]  
**Sent:** Wednesday, November 06, 2019 3:06 PM  
**To:** Bednarska, Dominika <DBednarska@cityofberkeley.info>  
**Subject:** sidewalk obstacles domingo ave



MARTHA SINGER MD  
[marthasinger@mac.com](mailto:marthasinger@mac.com)



Peace and Justice Commission

## INFORMATION CALENDAR

March 10, 2020

To: Honorable Mayor and Members of the City Council  
 From: Peace and Justice Commission  
 Submitted by: Igor Tregub, Chairperson, Peace and Justice Commission  
 Subject: FY 2019-2020 Peace and Justice Commission Work Plan

### INTRODUCTION

At its January 6, 2020 meeting, the Peace and Justice Commission adopted its Fiscal Year (FY) 2019-2020 Work Plan (Attachment 1).

### CURRENT SITUATION AND ITS EFFECTS

The Peace and Justice Commission began discussing updates to its FY 2017-2018 Work Plan (the last time it had been updated) in July 2019. On February 3, 2020, it adopted the attached work plan through the action detailed below.

### **Approve Final Fiscal Year 2019-2020 Peace and Justice Commission Work Plan**

**M/S/C:** al-Bazian, Morizawa

**Ayes:** al-Bazian, Bohn, Lippman, Maran, Meola, Morizawa, Pierce\*, Tregub

**Noes:** None

**Abstain:** None

**Absent:** Askary, Gussman, Pancoast, Rodriguez

**Excused:** None

\*Commissioner was not eligible to participate.

### BACKGROUND

In 2016, the City Council adopted direction to commissioners to submit a work plan annually.

### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental sustainability impact associated with the adoption of this work plan.

### POSSIBLE FUTURE ACTION

The commission is working on several priorities in alignment with this work plan, and may bring them to the Council for action in the future.



FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Fiscal impacts will depend on the actions recommended and the Council's decision.

CONTACT PERSON

Nina Goldman, Interim Secretary, City Manager's Office, (510) 981-7537

Attachment 1: FY 2019-2020 Work Plan

## Appendix 1: Peace and Justice Committee Fiscal Year 2019-2020 Work Plan

### Mission Statement:

The Peace and Justice Commission advises the Berkeley City Council and the Berkeley Unified School District Board on all matters relating to the City of Berkeley's role in issues of peace and social justice. (BMC Section 3.68.070.A.) Under its mandate, the Commission also helps create citizen awareness around issues of social justice, holds public hearings and community forums, initiates and encourage research programs, develops ways to resolve conflict which do not involve violence, acts as a liaison between community groups organizing around issues of peace and social justice and City government, and assists the Director of Finance in the evaluation of financial institutions for socially responsible investing.

#### I. Resolutions and communications to Council and the Board of Education.

The Commission will continue to discuss and, where appropriate, recommend for action resolutions, letters, and other action items on international, federal, state, and local issues that are consistent with BMC Section 3.68.070.A. Address homelessness, racial and gender justice, policing policy (including external BPD relationships), protection of Ohlone sacred sites, civil liberties, international peace with justice, and other social issues as they arise throughout the year with proposals and communications as appropriate.

#### II. Other existing responsibilities and subcommittees.

- a. Continue the established responsibility for Nuclear Free Berkeley Act oversight and waiver process, as proposals are submitted to the Commission by City staff. Continue to collaborate with the international movement against nuclear weapons.
- b. Socially Responsible Investing and Procurement Policy Subcommittee (SRIPP).
  - i. Improve and institutionalize the City's commitment to Socially Responsible investing, banking, and procurement.<sup>1</sup>
  - ii. Implement the Commission-generated resolution – passed by the City Council in July 2019 – to develop a Socially Responsible Investment and Procurement Policy.
  - iii. Work with the Berkeley Unified School District (BUSD) Board Policy Committee to establish an effective Sweatshop-Free Berkeley Schools Policy.
- c. Through a subcommittee initiated in 2019, engage with the BUSD student community on issues of common concern, including but not limited to voter registration, sexual

---

<sup>1</sup> BMC Section 3.68.070.K: "The [Peace and Justice] Commission shall perform the following functions...K. Assist the Director of Finance in the annual evaluation of financial institutions for qualification of City investments...and advise the City Council on matters relating to the responsible investment of public funds in accordance with the responsible investment policy established by Resolution No. 55,141A-NS.

harassment, relationship between BUSD and the Berkeley Technology Academy, issues of diversity and representation at Berkeley High School, student safety, collaboration with the Berkeley Youth Commission on mutual concerns, and expanding resources for unhoused or housing-insecure youth in Berkeley.<sup>2</sup>

- d. Regional Sanctuary Community Working Group. The Commission is exploring ways to coordinate with other Sanctuary communities (cities and counties) through the Mayor's Sanctuary City Task Force.
- e. The Commission will continue to support the development of the African American Holistic Resource Center and its acquisition of a permanent home.
- f. The Commission will continue to support the ratification of the Convention on the Rights of People with Disabilities and to extend the City of Berkeley's long-standing focus on promoting and protecting the legal rights of persons with disabilities. The City has held a leading position in the field of disability rights for many years, and is well-known nationally and internationally as an incubator for grassroots non-profit organizations working in that field. The Commission will continue to partner on this issue with other commissions with overlapping jurisdiction, including the Commission on Disability, Commission on Aging, Mental Health Commission, and Commission on the Status of Women.

### III. Proposed new projects.

- a. The Commission will explore a proposal for a "Social Justice Framework on Human Needs in Berkeley."

#### I. Background:

##### CRPD

The Peace & Justice Commission established the Subcommittee on the Convention on the Rights of Persons with Disabilities (the Subcommittee) in 2014, in order to institutionalize the City of Berkeley's long-standing focus on promoting and protecting the legal rights of persons with disabilities. The City has held a leading position in the field of disability rights for many years, and is well-known nationally and internationally as an incubator for grassroots non-profit organizations working in that field.

Together with representatives from four other City of Berkeley Commissions: the Commission on the Status of Women, the Commission on Disability, the Commission on Mental Health, and the Commission on Aging, the Subcommittee published its Mission Statement; requested the Peace & Justice Commission to ask the City Council to write to the

---

<sup>2</sup> The BUSD Subcommittee, comprised largely of commissioners appointed by BUSD Board Members, will be requested to provide a detailed work plan that the Commission can approve in early 2020.

U.S. Senate urging ratification of the Convention on the Rights of Persons with Disabilities (duly done in 2015); and held public forums on the issue in the spring of 2018 and 2019.

### Nuclear-Free Berkeley

The Nuclear Free Berkeley Act came into force in 1986 (Chapter 12.90.070 Section 030D). The Peace & Justice Commission established the Subcommittee on The Nuclear Free Berkeley Act (NFBA) to oversee and reinforce compliance with the terms of the Act. The Subcommittee's activities have included:

- recommendation against a waiver for continuation of the Berkeley Public Library's contracts with 3M (2009-2010);
- consideration of a waiver for the City of Berkeley Public Health Division's proposal on medical supplies (2012);
- recommendation of a waiver for the SkyDeck Business Incubator-Accelerator Contract (2012);
- recommendation (February 7, 2013) to the Regents of the University of California that it phase out responsibility for operating the Nuclear Weapons Laboratories in Livermore and Los Alamos;
- a letter from the City of Berkeley to President Obama in 2014 urging support of a ban on nuclear weapons.

More recently, in light of the Award of the Nobel Peace Prize in 2017 to the International Campaign to Abolish Nuclear Weapons (ICAN), whose goal is international adherence to and full implementation of the Treaty on the Prohibition of Nuclear Weapons (the Treaty), the Peace and Justice Commission will seek to collaborate further with ICAN on activities of mutual concern. We would note that the California State Senate and the California State Assembly voted affirmatively on a bill in September 2018 to urge U.S. Senate adoption of the Treaty. Strong support comes also from the International Red Cross Red Crescent Movement; NuclearBan.US, The City of Los Angeles, California; the City of Takoma Park, Maryland; Physicians for Social Responsibility; and the U.S. Conference of Mayors, among others.

### Indigenous Peoples

Between December 2015 and January 2016, the Berkeley City Council, upon the recommendation of the Peace and Justice Commission, adopted five important resolutions supporting the treaty rights of indigenous people in Berkeley. The resolutions included: recognition of the Ohlone people as the original inhabitants of Berkeley and the Bay Area, pledging to work in good faith with Ohlone representatives; implementing the UN Declaration on the Rights of Indigenous Peoples as municipal policy; endorsing the upgrading of the Declaration to a Convention; honoring the Berkeley Shellmound

indigenous site; and urging the East Bay Regional Parks District to protect the Ohlone place of origin sacred site.

The resolution on the Berkeley Shellmound mandated that “free, prior, and informed consent of the Ohlone and other indigenous peoples of the region should be integral to any alteration planning for the Berkeley Shellmound site, in accordance with the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.”

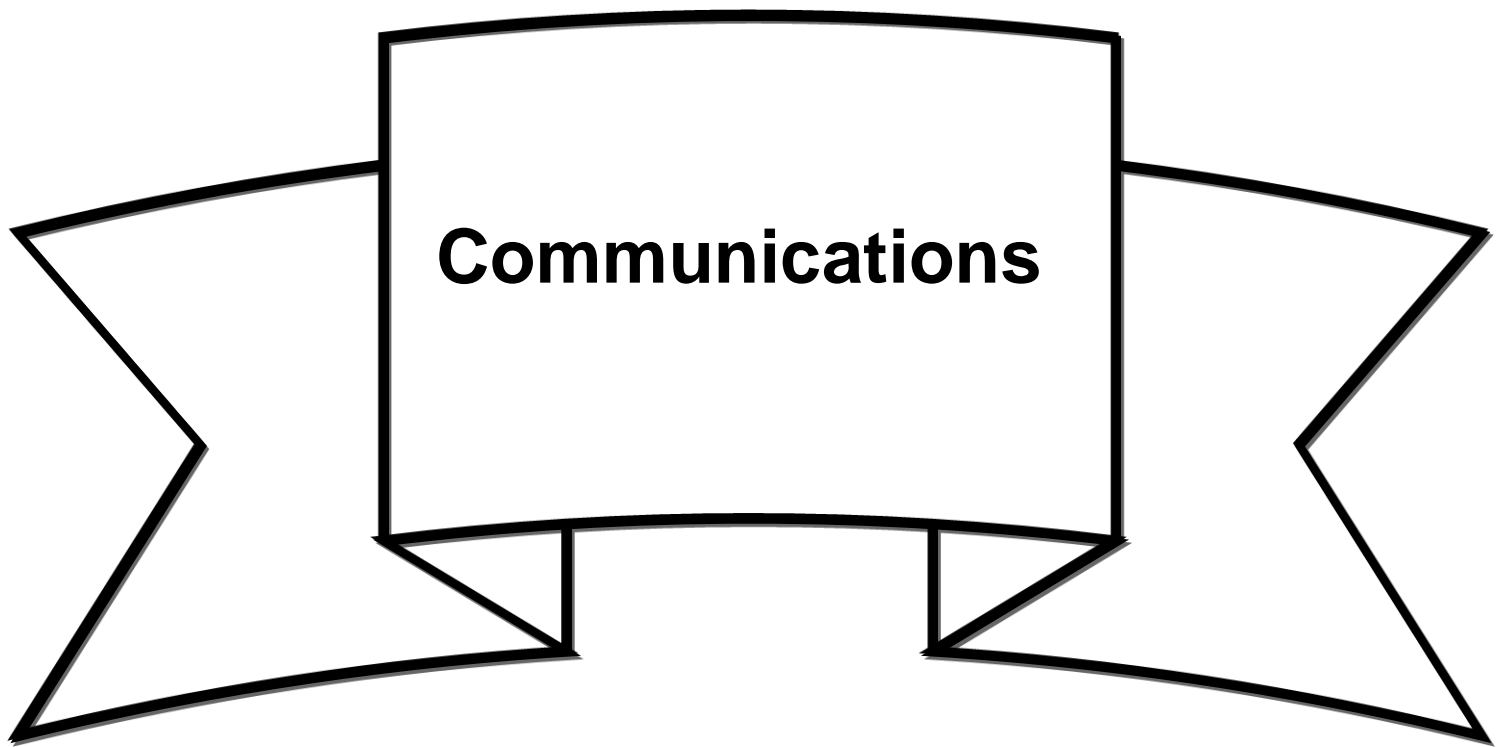
In 2020 the Peace and Justice Commission will support the implementation of these resolutions with particular attention to proposed development of the Berkeley Shellmound site.

#### Sweatshop-Free Berkeley

The Sweatshop-Free Berkeley Policy now has a zero dollar threshold per supplier per year for textile products purchased by the City. This threshold is an improvement over the previous minimum of \$1,000 purchase per supplier for the Policy to apply. However, the policy is complaint-driven, so the burden is on community members to research the supply chain for each supplier. The SRIPP Subcommittee proposes to establish a mechanism for suppliers to show that they are using Sweatshop Free products for City purchases.

The Policy governs textile purchases only. The goal is to identify sweat-free alternatives for technology purchases so tech can be covered as well.

The BUSD, through the School Board Policy Committee, is in the process of establishing a Sweatshop-Free Schools Policy for athletic supplies. The SRIPP Subcommittee and the Commission are supporting the BUSD to ensure the development of an effective policy.



All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

**City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**Records Online**

<http://www.cityofberkeley.info/recordsonline>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF